might not fit neatly into the White House messaging plan since it has been widely reported that a major part—a major part—of the Kerry-Lieberman bill was essentially written by BP.

Let me say that again: A major part of the Kerry-Lieberman bill was written by BP. This is clearly an inconvenient fact. An administration that seems to spend most of its time coming up with ways to show how angry it is with BP is pushing a proposal that BP actually helped to write. I can't understand, and I don't think the American people will understand, why the majority believes it makes sense to respond to the BP oilspill by imposing a gas tax increase on the American people that was advocated by BP.

I think the American people want us to work together to address the disaster in the gulf, not exploit it—not exploit it—for partisan political purposes. The oilspill trust fund ought to be used to clean up oilspills. The oilspill trust fund ought to be used to clean up oilspills. This is one crisis Americans will not let Democrats exploit for their policy purposes.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

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

The legislative clerk read as follows:

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

Pending:

Baucus motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Baucus amendment No. 4301 (to the amendment of the House to the amendment of the Senate to the bill), in the nature of a substitute;

Sessions/McCaskill amendment No. 4303 (to amendment No. 4301), to establish 3-year discretionary spending caps;

Cardin amendment No. 4304 (to amendment No. 4301), to provide for the extension of dependent coverage under the Federal Employees Health Benefits Program;

Franken amendment No. 4311 (to amendment No. 4301), to establish the Office of the Homeowner Advocate for purposes of addressing problems with the Home Affordable Modification Program; and

Cornyn/Kyl amendment No. 4302 (to amendment No. 4301), to increase transparency regarding debt instruments of the United States held by foreign governments, to assess the risks to the United States of such holdings.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, in a few moments I will speak on the pending business before the Senate—the American Jobs and Closing Tax Loopholes Act—but before I do, I would like to refer to the comments of the Republican leader, as well as the statement of the Senator from Louisiana that he gave yesterday.

For several months now, Americans have witnessed a massive oilspill in the Gulf of Mexico, Americans have seen the sweeping environmental damage, and Americans have seen the dramatic economic effects. It is something that is overwhelming, it is appalling, and it is incredible how much damage is being created by the BP gulf oilspill. I am sure to the average observer there might seem no better time than now to ask oil companies to contribute more to shoulder the burden of the oilspill. Actually, they have caused the spill—at least one company has—and they should bear the burden.

This, then, would seem to be an appropriate time to raise the oilspill liability tax. The oilspill liability tax is pretty small. It is 8 cents a barrel. That is all it is currently. One would have to come up with a pretty creative argument if one wanted to protect big oil companies from this fee.

Well, the Senator from Louisiana, and just now the Republican leader, have done that. They have come up with a pretty creative argument to protect the oil companies. The Senator from Louisiana, for example, has returned to the last refuge of bean counters, and he has cried double counting. The double counting argument seems to be a favorite among bean counters, Mr. President. It seems to be the argument one falls back on when one cannot argue the substance and one just wants to muddy the waters. In reality, the funds collected by raising the oilspill liability tax will strengthen the Oil Spill Liability Trust Fund. That is simple arithmetic. But opponents of raising the tax on big oil companies want to make it less attractive for doing so. They want to make it so that the funds collected by raising taxes on big oil do not count in the Federal budget. That way it will be less effective and less attractive to raise taxes on big oil.

So don't be misled by the green eyeshades talk. Don't be misled by the bogus charges of double counting. Don't buy into the arguments of those who want to protect big oil. I urge my colleagues that when we get to it later today to vote against the Vitter amendment and to reject the arguments we have been hearing today that raising the per-barrel tax for funds which go into the oilspill liability fund is somehow double counting because, clearly, that money goes into the trust fund, and funds from that trust fund are then used to pay for the cleanup and some damage that has occurred and also counts toward reducing the Federal deficit because it is extra money that goes to government debt and, therefore, is money which is not doubled counted.

I urge my colleagues to reject those arguments.

Mr. DURBIN. Will the Senator from Montana yield for a question?

Mr. BAUCUS. I will yield to the Senator.

Mr. DURBIN. I listened to the statements made today by the Republican leader about the increase in this fee that is to be paid into the Oil Spill Liability Trust Fund. I would like to ask the chairman of the Finance Committee, currently, the fee is 8 cents a barrel?

Mr. BAUCUS. That is correct.

Mr. DURBIN. And the price of a barrel of oil, as of this morning's Wall Street Journal, is $71.99 a barrel?

Mr. BAUCUS. That is correct.

Mr. DURBIN. So this is a small, tiny fraction—one-tenth——

Mr. BAUCUS. Of the current fee.

Mr. DURBIN. Of the current fee. One-tenth of 1 percent as best I can calculate it.

Mr. BAUCUS. That is true.

Mr. DURBIN. That is being paid by oil companies into a fund so that if there would be a spill and the oil company responsible couldn't pay for it, they would have at least accumulated enough money to protect the taxpayers——

Mr. BAUCUS. That is correct.

Mr. DURBIN. From this liability.

Mr. BAUCUS. That is correct. I might also say this fund was created in the wake of the Exxon Valdez spill.

Mr. DURBIN. Twenty-one years ago. I might also ask the chairman of the Finance Committee, it is my understanding that the total value of the current Oil Spill Liability Trust Fund is somewhere in the range of $1.5 billion?

Mr. BAUCUS. I think that is the amount. I am not certain, but it is about that.

Mr. DURBIN. So the effort in this bill is to increase that per-barrel tax paid by oil companies for this oilspill liability fund to——

Mr. BAUCUS. Forty-one cents.

Mr. DURBIN. Forty-one cents. So 41 cents would represent, as I calculate it, one-half of 1 percent of the current cost of a barrel of oil.

Mr. BAUCUS. The current oil priced at $71 a barrel.

Mr. DURBIN. Right. So the argument from the other side is that even if we accumulated this money and put it into this fund for cleaning up spills, we shouldn't count it as additional money being held by the Federal Government at the same time; is that correct?

Mr. BAUCUS. That is correct.

Mr. DURBIN. And if we fail to count it as an additional source of revenue being held by the Federal Government, is it not true that it would be subject to a budget point of order, which would then require 60 votes, and that would allow the oil companies to find 41 friends on the Senate floor—and I think I know where they will start looking—to defeat this effort to create this tax?

Mr. BAUCUS. I might say that is my reading of the Budget Act; that is correct.

Mr. DURBIN. Could I also ask the chairman of the Finance Committee, in this situation—where BP is clearly responsible for the mess in the Gulf of Mexico and has at least stated its responsibility; where we have a deep-pocket defendant that declared $5.6 billion in profits the first quarter of this year—if the next spill or the next accident resulting in multibillion-dollar damage to the Gulf of Mexico, or wherever, is caused by a company without deep pockets, is this fund the only place to turn to protect taxpayers?

Mr. BAUCUS. That is exactly correct.

Mr. DURBIN. And if we fail to increase this tax and increase the size of this fund, it means the taxpayers would be called on to bail out other oil companies that may be responsible for similar damage in the future?

Mr. BAUCUS. That is the precise theory of all trust funds in the first place, but now the cap needs to be raised.

Mr. DURBIN. So all the protests from the other side of the aisle about this 40-cent tax on big oil companies is basically not only to protect the big oil companies but to put the taxpayers on the hook for another bailout——

Mr. BAUCUS. That is correct.

Mr. DURBIN. If we run into another oilspill?

Mr. BAUCUS. If the fund is not large enough, that is exactly correct.

Mr. DURBIN. I thank the Senator.

Mr. BAUCUS. Mr. President, I know my friend wants to speak, but let me just set the lay of the land so my friend from Vermont can speak.

The Senate has returned to the American Jobs and Closing Tax Loopholes Act. I want to remind my colleagues this bill is about jobs. It is about helping 15 million Americans who have lost their jobs as well. We are talking about people who have worked, who want to work, and who will work again. These are our neighbors, and they need our help.

The Labor Department just reported that although things are getting better, there are still five unemployed Americans for every job opening available—five. For comparison, throughout 2007 there were fewer than two unemployed workers for every job opening. Again, today there are five. We need to do more to help create jobs. We need to continue to help those who do not have jobs to get by.

Let me also remind my colleagues that hundreds of thousands of unemployed Americans need the assistance in this bill just to get by. The Senate needs to pass this bill, and we need to do it soon. As I have noted, this bill is about jobs. This bill is about helping the 15 million Americans who have lost their jobs. I remind my colleagues about that because, so far, aside from the substitute, none of the amendments offered is about jobs or about helping the 15 million Americans who have lost their jobs.

Many of the pending amendments are worthy efforts, but I encourage my colleagues to stick to the task, to address the subject at hand, and to pass this bill. People need help.

Right now, we have five amendments pending: this Senator's amendment in the nature of a substitute, the Sessions amendment to cap appropriations, the Cardin amendment to provide for dependent coverage under the Federal Employees Health Benefits Plan, the Franken amendment to create the homeowner advocate in the Home Affordable Modification Program, and the Cornyn amendment for more reports on government debt.

The majority leader has requested that the Senate address the backlog of pending amendments before we allow more amendments to become pending. That is why I am serving notice that until we have voted on some of the pending amendments, I will be obliged to object to setting aside any of the pending amendments in order to allow further amendments to become pending. Thus, we would like to line up some of the votes, Mr. President.

If possible, we would like to have votes at least by noon or, at the very latest, 2 p.m. We very much hope we can make some progress today—not just hopefully but make progress. It is our obligation to make progress. That is our job. People elected us to do what is right for America. It is right to help extend these so-called tax extenders, the R&D tax credit, and so on and so forth, but it is also right to make sure unemployment benefits are available for those who are out of work.

I urge us to come together and do our work in these next couple of days. I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Vermont.

Mr. SANDERS. Mr. President, I want to speak briefly about an amendment I have filed and look forward to getting pending in a short while. This is an amendment which addresses many of the issues we have been hearing about this morning about which the American people are concerned.

This amendment helps us lower the record-breaking deficit this country is facing, and this amendment will help us transform our energy system away from fossil fuel—away from the oil disaster that we are seeing in the gulf right now—to energy efficiency and sustainable energy. So for all my colleagues who are concerned about record-breaking deficits, I hope they will support this amendment which I will explain in a moment. And for all of my colleagues who understand that the future of this country is not offshore drilling, I hope they will support this amendment.

Let me explain briefly what this amendment does. At a time when the profits of big oil companies are soaring, at a time when we are in the midst of the largest oilspill in our Nation's history—one of the greatest ecological disasters this country has ever experienced—at a time when we desperately need to end our dependence on oil and gas and seriously transform our energy system by investing in energy efficiency, conservation, and renewable energy, this amendment is simple and it is straightforward and I think it addresses all of those concerns.

This amendment simply repeals over $35 billion in tax breaks to the oil and gas industry. Let me repeat that. This amendment simply repeals over $35 billion in tax breaks to the oil and gas industry, all of which were recommended for elimination in President Obama's fiscal year 2011 budget. What this amendment is doing is simply bringing to the floor of the Senate the recommendations that were in President Obama's budget.

According to OMB, the repeal of these tax breaks would be equivalent to about 1 percent of domestic oil and gas industry revenues over the next decade. This is not an onerous attack on the oil industry. In other words, the cost to the oil and gas industry of repealing these tax breaks is negligible. And $25 billion of the money saved under this amendment would be used to reduce the deficit and $10 billion would be used to invest in the highly successful Energy Efficiency and Conservation Block Grant Program over a 5-year period.

This amendment does two things. For all of my friends, and every American who is concerned about a $13 trillion national debt and record-breaking deficits, this amendment says let us put $25 billion into deficit reduction. For all of us who are concerned about transforming our energy system away from fossil fuel to energy efficiency and sustainable energy, this amendment says, over the next 5 years let's put $10 billion into the Energy Efficiency and Conservation Block Grant Program, which provides funding to States, cities, and towns all over America to begin transforming energy in their communities.

This amendment is supported by Physicians for Social Responsibility, Friends of the Earth, Public Citizen, moveon.org, Center for Biological Diversity, One Sky, Environment America, the Sierra Club, and Greenpeace.

If there is anything we should be learning from the gulf disaster, the horrendous disaster we are experiencing today on the gulf coast, it is that it is time to move aggressively away from polluting and unsafe fossil fuels which are getting more and more difficult to produce as we move farther and farther offshore to drill for them. With a $13 trillion national debt, the last thing we need to be doing is giving huge tax breaks to big oil and gas companies that have been making record-breaking profits year after year.

As I indicated before, all of the oil and gas tax breaks that my amendment seeks to repeal have been targeted for elimination in President Obama's fiscal year 2011 budget. So

here we are. For all of my deficit hawk friends: $25 billion into deficit reduction by asking the oil industry, which has been hugely profitable in recent years, to start paying their fair share of taxes.

Let me quote from a speech that President Obama gave on this subject.

> Our continued dependence on fossil fuels will jeopardize our national security. It will smother our planet. And it will continue to put our economy and our environment at risk. . . . If we refuse to take into account the full cost of our fossil fuel addiction—if we don't factor in the environmental costs and national security costs and true economic costs—we will have missed our best chance to seize a clean energy future. . . . The time has come once and for all for this Nation to fully embrace a clean energy future. Now, that means . . . rolling back billions of dollars of tax breaks to oil companies so that we can prioritize investments in clean energy research and development.

That is the end of the quote from President Barack Obama. Frankly, that is what this amendment is all about.

Let me give one interesting example of the absurdity of continuing to provide tax breaks to the oil and gas industry. Last year, ExxonMobil, the most profitable corporation in the history of the world, reported to the SEC that not only did it avoid paying any Federal taxes, it actually received a $46 million refund from the IRS. How is that, folks? So, for all of the taxpayers in this country, people who are making $30,000 or $40,000 a year, who are prepared to pay their fair share of taxes, we have a situation where last year ExxonMobil, the most profitable corporation in the history of the world, reported to the SEC that not only did it avoid paying any Federal taxes, it actually received a $46 million refund from the IRS.

We have a lot of working people in the State of Vermont who make $50,000 or $60,000 a year, working 6 or 7 days a week in order to take care of their family. They pay taxes. ExxonMobil, the most profitable corporation in America, gets a refund from the IRS. If anyone thinks that makes sense I would like to hear about it.

ExxonMobil is the same huge oil company that had enough money to pay a $398 million retirement package to its outgoing CEO, Lee Raymond, a few years ago, so it is a real struggling company. They make more profits than any company in the history of the world and paid their outgoing CEO $398 million in a retirement package but they cannot afford to pay a nickel in taxes. In fact, they get a tax refund. Do you think we need to change that system? I do.

ExxonMobil is the same company that is making its profits by gouging consumers at the pump by charging higher and higher prices for gasoline even when demand is low and supply is high. In Vermont, gas is now $2.85 a gallon. That has to stop.

This amendment would begin to make sure that ExxonMobil, BP, and other big oil companies pay at least a minimal amount of their record-breaking profits in taxes to the Federal Government so we can begin to deal with our record-breaking deficit; so we can begin the process of transforming our energy system.

Let me be clear. As millions of Americans have lost their jobs, their homes, their life savings, and their ability to send their kids to college because of this horrendous Wall Street recession, we cannot continue to allow big oil companies to make out like bandits. In the first quarter—I refer people to this chart—in the first quarter of 2009, when our gross domestic product shrank by 6.4 percent and overall corporate profits decreased by 5.25 percent—that is what a recession is about; profits are down, overall corporate profits—the five largest oil companies were still able to earn over $13 billion in profits. As this chart shows, during the last 10 years the five largest oil companies—ExxonMobil, Shell, BP, ChevronTexaco, and ConocoPhillips—earned over $750 billion in profits: a 10-year period, $750 billion in profits. That is not chickenfeed.

During the first quarter of this year, big oil's profits increased by 85 percent—not bad, 85 percent. Instead of using these profits to invest in renewable energy and to prevent oilspills, big oil and gas companies are primarily using this money to buy back their own stock and enrich their CEOs. According to the American Petroleum Institute, between 2000 and 2007 the entire oil and gas industry, of all of their profits—remember, $750 billion of profits over the last 10 years—invested only $1.5 billion in North American ''nonhydrocarbon investments'' aimed at reducing the Nation's dependence on oil. That is less than one-quarter of 1 percent of their profits during this time period.

Meanwhile, the CEOs of big oil companies have received hundreds of millions in retirement packages and total compensation. Over the last 5 years, Ray Irani, the CEO of Occidental Petroleum, received over $725 million in total compensation; John Hess, the CEO of the Hess Oil Company, has received over $240 million in total compensation; David Lesar, the CEO of Halliburton, has received over $114 million in total compensation; James Mulva, the CEO of ConocoPhillips, has received over $95 million in total compensation; and Rex Tillerson, the CEO of ExxonMobil, made over $30 million in total compensation over that 5-year period. Further, since 2002, the five largest oil companies have repurchased almost $270 billion of their own stock.

It is important for the American people to understand how excessively we are subsidizing fossil fuels and benefiting big oil. It is not only that they are making record-breaking profits; it is not only that they are not paying their fair share of taxes; it is not only that they are not investing in renewable energy so we can break our dependency on fossil fuel and clean up this planet, but in addition to that, they are receiving huge amounts of taxpayer subsidies. These guys who tell us how terrible the big government is are not hesitant to be running here to Capitol Hill to get their fair share of their welfare payments.

As this chart shows, according to the Environmental Law Institute, from 2002 to 2008, the U.S. Government provided more than $70 billion in fossil fuel subsidies compared to just over $12 billion for wind, solar, geothermal, biomass, and other renewable energies which in fact are the future of this country in terms of energy. This set of priorities is totally absurd. We have to put an end to the outrageous tax breaks and subsidies that have been given to big oil and gas companies.

But that, again, is not all this amendment would do. It is not only $25 billion in deficit reductions. This amendment begins to move us away from fossil fuel to energy efficiency and renewable energy by investing $10 billion into the Energy Efficiency and Conservation Block Grant Program. The stimulus package provided $3.2 billion for this highly successful program, and that money is filtering throughout 50 States in America. Hundreds and hundreds and thousands of communities are now making energy efficiency improvements in their townhalls, in their schools, and they are moving toward sustainable energy as a result of this program. We would put $10 billion more, over a 5-year period, into a program which finally moves us away from fossil fuel to sustainable energy and energy efficiency.

Let me give an example of how this program is working. This program is helping to build wind turbines in Carmel, IN, to power its city sewer treatment plant. It is being used in Salt Lake City, UT, to provide loans to businesses to make energy efficiency upgrades. It is being used in Columbus, OH, to make 29 public buildings more energy efficient.

I think, as everybody knows, the most significant thing we can do today, the best return on our dollar, is energy efficiency. That is what they are doing in Columbus, OH. That is what they are doing in Vermont. That is what they are doing, in fact, all over this country, as a result of programs such as the Energy Efficiency Block Grant Program. It is being used in Portland, ME, to retrofit 55 public buildings. It is being used in Miami, FL, to convert landfill gas into the production of electricity. Methane gas out of rotting organic matter in a landfill provides electricity. What can be smarter than that? It is being used in New York City to help homeowners and businesses with energy efficiency and renewable energy loans, among many other projects we are seeing all over America, 50 States utilizing this program, young people getting involved in thinking about energy, energy efficiency, sustainable energy. We need to keep

these investments in energy efficiency and conservation going and that is what this amendment does.

Finally, this amendment would dedicate $25 billion for deficit reduction. At a time of record-breaking deficits and debt, we simply cannot continue to give oil and gas companies huge tax breaks.

When it comes down to it, this amendment asks a very simple question: Which side are you on? Which side are you on? Are you on the side of big oil and gas companies or are you on the side of reducing the deficit, reducing our dependence on oil, saving consumers and businesses money on their energy bills, and saving the planet we live on? I would hope most of our colleagues here are on the side of doing what is right for the American people. That is what this amendment is about. I understand that anytime you stand up to big oil and to big gas companies, there is going to be a lot of political push back. We know that since 1990 the oil and the gas industry has made over $238 million in campaign contributions, and over the past 2 years alone, they spent over $210 million on lobbying. With the BP disaster in the gulf coast, my guess is these guys are all over the place now lobbying and sending out their campaign contributions. But this amendment is the right thing to do. It should bring together all of us who are concerned about transforming our energy system, all of us who are concerned about lowering our record-breaking deficits.

I intend to be offering this amendment. I look for widespread support on both sides of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

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

FOREIGN LAW AND THE U.S. CONSTITUTION

Mr. COBURN. Mr. President, I send to the desk to have printed in the RECORD a letter I sent to Justice Sonia Sotomayor dated the day before yesterday. The reason for that concern is our Supreme Court process has broken down.

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

U.S. SENATE,
COMMITTTEE ON THE JUDICIARY,
Washington, DC, June 8, 2010.

Justice SONIA SOTOMAYOR,
Supreme Court of the United States, Washington, DC.

DEAR JUSTICE SOTOMAYOR: I write to inquire about your decision to join Justice Anthony Kennedy's opinion in the case of *Graham* v. *Florida*, No. 08–1224. In that case, a 5–4 majority of the Court ruled that sentencing a juvenile offender to life in prison without parole for a nonhomicide crime is unconstitutional.

In Justice Kennedy's opinion, he employs a methodology similar to that used in *Roper* v. *Simmons*. In *Roper* and *Graham*, the majority relies on what five Justices perceive to be ''evolving standards of decency'' in concluding that the punishment in question violates the Eighth Amendment's ban on cruel and unusual punishment. In arriving at this conclusion, Justice Kennedy looked to both the sentencing practices of the states and the federal government and to the ''judgments of other nations.'' Justice Kennedy's opinion in *Graham*, which you joined, states, ''[the] global consensus against the sentencing practice in question'' provides ''support for our conclusion'' that the punishment is unconstitutional. He further writes, the ''judgments of other nations and the international community'' and the ''climate of international opinion'' are ''not irrelevant'' to determining the ''acceptability of a particular punishment.'' Specifically, the opinion notes, '''the overwhelming weight of international opinion against' life without parole for nonhomicide offenses committed by juveniles 'provide[s] respected and significant confirmation for our own conclusion'' ' that it violates the Eighth Amendment.

Given your testimony at your confirmation hearing, I have serious concerns about your decision to join Justice Kennedy's opinion, which extensively cites foreign law, At your hearing. I asked you the following question: ''[W]ill you affirm to this Committee and the American public that, outside of where you are directed to do so through statute or through treaty, refrain from using foreign law in making the decisions that you make that affect this country and the opinions that you write?'' You responded: ''I will not use foreign law to interpret the Constitution or American statutes. I will use American law, constitutional law to interpret those laws, except in the situations where American law directs a court.'' I sought further clarification and asked: ''So you stand by it? There is no authority for a Supreme Court justice to utilize foreign law in terms of making decisions based on the Constitution or statutes?'' You responded: ''Unless the statute requires you or directs you to look at foreign law . . . the answer is no.''

Your decision to join Justice Kennedy's opinion that uses foreign law to ''support'' its conclusion conflicts with your pledge to the Judiciary Committee and the American public not to ''use foreign law to interpret the Constitution.'' In light of that conflict. I respectfully request that you explain why you chose to join the majority's opinion in *Graham*. I recognize that Justice Kennedy's opinion does not rely on foreign law as precedent for its decision; however, if foreign law is of no value to the reasoning of the opinion and did not influence the final outcome, then please explain why you supported its inclusion in the opinion. These questions are particularly relevant as the Senate is faced with evaluating another Supreme Court nominee in the coming months. Accordingly, I would appreciate a prompt response.

Sincerely,

TOM COBURN, M.D.,
U.S. Senator.

Mr. COBURN. I want to read you some quotes of the Justice, and then I want to read you the answers she gave to my queries during her hearing on the Judiciary Committee. I think it is going to be plain to see that we have to change what we are doing on Supreme Court nominees.

Previous quotes from Judge Sotomayor on foreign law; the use of foreign law to interpret the U.S. Constitution, which is forbidden under the Constitution, except in those international treaties where it is so directed under statute and treaty.

Statement of Judge Sotomayor:

To suggest to anyone that you can outlaw the use of foreign or international law is a sentiment that is based on a fundamental misunderstanding. What you would be asking American judges is to close their minds to good ideas. Nothing in the American legal system prevents us from considering the ideas.

That is true.

The international law and foreign law will be very important in the discussion of how we think about unsettled issues in our own legal system. It is my hope that judges everywhere will continue to do this. Within the American legal system, we are commanded to interpret our law in the best way we can. That means looking to what anyone has said to see if it has pervasive value.

Well, that is wrong. The Constitution defines what judges look at in considering their decisions. So I asked her the following questions during her confirmation hearing before the Judiciary Committee:

[W]ill you affirm to this Committee and the American public that outside of where you are directed to do so through statute or through treaty, refrain from using foreign law in making the decisions that you make that affect this country and the opinions that you write? [or concur with.]

Sotomayor's response:

I will not use foreign law to interpret the Constitution or American statutes. I will use American law, constitutional law to interpret those laws, except in situations where American law directs a court [to do otherwise.]

So you stand by it?

These are my words.

There is no authority for a Supreme Court Justice to utilize foreign law in terms of making decisions based on the Constitution or our statutes?

Here is her response.

Unless the statute requires you or directs you to look at foreign law, the answer is no.

So her statements before she comes before the committee are totally opposite of what she tells the committee, and then what she has done since proves that her testimony before the committee was totally meaningless.

On May 17, Justice Sotomayor joined an opinion citing the ''judgments of other nations'' when interpreting the eighth amendment to prohibit sentencing of a juvenile offender. The opinion states the following:

[The] global consensus against the sentencing practice in question provides support for our conclusion.

Well, either she was dishonest with us in the committee or she does not know what she is signing on to, which tells you that our process for intervening and holding Supreme Court candidates is a failure.

The opinion further states that:

The judgments of other nations and the international community [and the] climate of international opinion are not irrelevant to determining the acceptability of a particular punishment.

That is a total violation of the U.S. Constitution and its statutes. It is a total negation of what she told the committee as she came through the

committee process. That is one of the reasons I did not believe her, because I believed her earlier statements to be her true feeling.

So what we have before the Judiciary Committee—and we have another nominee coming up now—is the ability for Justices to say whatever we want to hear, and then do whatever they want to do and ignore the U.S. Constitution, as she did, and in her testimony before the committee.

As journalist Stuart Taylor recently wrote in The Atlantic—this opinion that she cosigned onto:

> The opinion was based on little more than the personal policy preferences of the five majority justices. And it looked abroad for consensus that so plainly does not exist here and violates our own U.S. Constitution.

So it did not matter what she told the committee. She did exactly the opposite of what she told the committee as she signed onto this opinion. We are going to need more than promises from the next nominee. An acceptable Supreme Court nominee must have a demonstrated record of adhering to the Constitution and their judicial oath by strictly interpreting the Constitution, according to our Founders' intent, not international opinion or consensus. It has no role in the interpretation of our Constitution. Senators cannot simply accept pledges from Supreme Court nominees that they will not use foreign law when interpreting the U.S. Constitution. The nominee to come before us, Solicitor General Kagan, wrote the following:

> There are some circumstances in which it may be proper for judges to consider foreign law sources in ruling on constitutional questions.

Oh, really? Is that what our Constitution says? Is that what this candidate believes? Here is what she said. What is she going to say before us in committee, that she will not? What value is that if, in fact, she knows that to be the law, she admits that is what the U.S. Constitution says, and as soon as she is affirmed, does exactly the opposite? The process has to be changed. We can no longer take it on faith because, in fact, the process under which—since Bork actually spoke what he believed, since him, nobody has said what they believe. They have all chiseled on what they believe. They will not be accountable to what they believe. So we have to change that process.

The other concerning thing about Nominee Kagan is that when she went to Harvard, she made international law mandatory in terms of getting a degree out of law school at Harvard. But do you realize Harvard does not require its lawyers to take constitutional law? You can graduate from Harvard Law School and never have studied U.S. constitutional law. That tells you the trend this country is going in; we are abandoning our Constitution and the very wisdom that gives us the freedom we have today.

I will finish by saying, the consideration of any judge in the future, in terms of this Senator, is going to be borne out by what they have said before they got to the committee, not what they say to the committee, because we can no longer, as a body, trust what the nominees say in committee.

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

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

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

Mr. DURBIN. Mr. President, pending before the Senate is a bill that includes many provisions. It is known in shorthand as the extenders bill because each year there are portions of the Tax Code which expire, and they relate to a lot of different things we kind of take for granted—the biofuels tax credit, for example—and other things. Each year, Congress extends or reauthorizes those portions of the Tax Code, and most of them are noncontroversial.

The obvious question many people ask who are affected by them is, Why do you do this every year and go through this exercise? It is an honest and legitimate question. I just say that the honest answer is, Because the extenders themselves are not controversial; they are popular. They become the spoonful of sugar that helps the medicine go down because they usually accompany other things that have more controversy with them. That is the way politics works. That is the way the Congress works, and that is what we do each year. This year is no exception, and we are considering the extension of portions of the Tax Code and including with it other things that will have an impact on the country and on the economy.

When I look at what is included in this bill, which is going to be important, there are several provisions that I think are critically important for the economy.

Most of us believe we would be better off in America if we stopped exporting good-paying American jobs overseas. So the President has said repeatedly and many of us have said in our speeches on the floor and back home that we want to stop rewarding in the Tax Code companies that decide it is to their economic advantage to locate overseas, closing down a factory in Galesburg, IL, and moving over to Europe or Japan or China or India or wherever it happens to be. So this bill, first and foremost, eliminates major tax cuts and loopholes available to U.S. corporations that want to relocate their business operations overseas. I think that is eminently sensible. Why would we in our Tax Code reward companies that want to leave the country, companies that want to eliminate American jobs? That is the No. 1 thing this extenders package does, in addition to extending some of the tax provisions I mentioned earlier.

It also provides help for small businesses across America. If we are going to get out of this recession sooner rather than later, we really need to depend on small businesses in America that will be able to step up and hire more people. We all think about the big company that is going to locate its new plant in our hometown and create 1,000 or 2,000 jobs. Occasionally, that happens. But more likely than not, the job growth in most communities and most cities will be when smaller businesses can hire 1 or 2 people or maybe 10 or 20 people. Cumulatively, those efforts result in a growth in the American workforce. This bill, as a second part, creates tax incentives and help for small businesses to hire more people in this weak economy.

Those are the two pillars of the bill: stop the export of American jobs by eliminating the tax incentives in our American laws that reward companies for sending jobs overseas and, secondly, create an environment in our Tax Code and programs that help small businesses retain and hire more American workers. I cannot think of two better things to do in a weak economy. Yet it seems there is opposition to this bill from the Republican side of the aisle. There are some who may support it, and I hope they do. I hope it genuinely becomes a bipartisan bill.

But there is a genuine concern about some other provisions that I would like to address.

I don't know that there is an American alive today who is unaware of what is going on in the Gulf of Mexico. I don't know what day we are in—60, 61—of this terrible environmental disaster where the BP rig blew up, killing 11 innocent people, and then the oil started spewing into the Gulf of Mexico. British Petroleum came in and has been trying vainly to stop this oil from flowing into the gulf. They have said repeatedly that they will make this all whole at the end of the day; they will stop the oil from flowing and set about repairing the damage, which is extensive.

Twenty-one years ago, I was on a congressional trip up to Prince William Sound in Alaska. The Exxon Valdez, a large tanker, had run aground because the captain, they think—it was alleged—had been drinking and didn't pay attention. It gashed the hull of the boat and ended up spewing oil in every direction. I will never forget that as long as I live because there was this black, dirty, sludgy oil all over everything. We went out on a Coast Guard ship and looked at it. You would see these horrible situations where, in this pristine Alaskan environment, everything would be covered with this black oil, and you would look down into the rocks and you could see as deep as you could see that there was more and more of that oil.

I asked Senator MURKOWSKI of Alaska what Prince William Sound is like

21 years later, and she said things have gotten back to a more normal state but some things have changed forever. Some species of fish, such as the herring, are just gone from this particular place. Maybe at some distant point in the future, they will return, but for the last 20 years, they have been extinct and gone. I hope Mother Nature takes care of that over time. You can see that it will take a long period of time.

We don't know what is going to happen in the Gulf of Mexico, but we know it will be expensive, first, in terms of human life—losing 11 people—and, second, in terms of the environmental damage, which is incalculable at this moment; that is, the economic cost of the damage.

If there is any encouraging thing—and there isn't much—in this whole conversation, it is the fact that British Petroleum is a very wealthy company. In the first 3 months of this year, they announced $5.6 billion in profits. When they say they can pay for the damage, it is clear that they have deep pockets and they can pay. And they will pay. The taxpayers will not pay.

There is a provision in this bill relating to this issue that has become controversial on the floor. We decided back in the time of the Exxon Valdez spill that we would create an oilspill liability fund. In other words, we would collect money and put it into a ''rainy day fund'' that would be there in case of an environmental disaster to pay for the damage. We collect, under current law, 8 cents for every barrel of oil to put into this fund. This morning's paper tells us that a barrel of oil is selling for $71.99, so 8 cents represents about one-tenth of 1 percent of the cost of a barrel of oil. It is a tiny, small amount.

Over time, with all the oil that has been explored and produced, we have collected over $1 billion into this oilspill liability fund, thinking we were prepared for the worst. We couldn't imagine what happened in the Gulf of Mexico, where $1.5 billion wouldn't even come close to paying for the damage that has been created by this BP disaster. So this bill will increase the amount of tax on a barrel of oil to 41 cents a barrel.

Remember, the price of a barrel of oil is $71.99, and we are going to charge 41 cents to be put into this oilspill liability fund. There is an objection to this from the Republican side of the aisle. Their objection is a little hard to follow because they are kind of tied up in a budgetary argument here. I think it is pretty clear to see what the choices will be. If we don't collect this money for every barrel of oil and put it into an oilspill liability fund, God forbid if there is another environmental disaster; there won't be enough money to pay for it.

Today, British Petroleum has its slimy fingerprints all over this mess. We know they are going to end up holding the bag, as they should. They have the money to pay for the damages associated with it. But what about tomorrow? What if the company involved is not as well off as BP? What if they are bankrupted by an environmental disaster and they go out of business? Who then is going to compensate the shrimpers, the oystermen, the fishermen, the tourist industry, the resorts, and all the others who are affected by all this? At that point in time, you would look to this oilspill liability fund. But the $1.5 billion it currently holds is not enough to do the job. That is why this bill increases the amount per barrel of oil from 8 to 41 cents, so instead of one-tenth of 1 percent, it is about one-half of 1 percent of the current cost of a barrel of oil that will be set aside as an insurance fund.

The Republicans are objecting to this. You have to ask them, what is the alternative? If the oil companies don't pay so that we have an insurance fund for the next environmental disaster, who will pay? I think we know the answer. It will require another taxpayer bailout, which means taxpayers across America will be called on to come up with the emergency disaster funds to pay for the next environmental disaster, God forbid it ever occurs. Isn't it better to have the industry drilling for oil building up the reserves in this oilspill liability fund so that the taxpayers don't end up ultimately paying for the cleanup? It is obvious to me. The alternative is unacceptable, but the alternative is what is being argued for on the Republican side of the aisle. They want to step aside from what is the clear responsibility of the big oil companies and those who would drill.

Yesterday, we had a hearing in the Senate Judiciary Committee, and we talked about the liability of the oil companies in this situation. It turns out that Senator PATRICK LEAHY, of Vermont, and Senator SHELDON WHITEHOUSE, from Rhode Island, did some research on it and found that most of the law that governed this situation was ancient law—150, 160 years old. The law, for example, for the 11 people who died on this oil rig in the explosion limits the recovery of their surviving families to the actual monetary losses—in other words, how much future income will be lost to that family because of the death of that worker. They cannot collect for any loss of companionship due to the death of a father or husband, and they cannot collect punitive damages, except to the amount of the actual compensatory damages—one to one. There is a limit to what they can recover.

Yesterday, Christopher Jones testified about his brother Gordon, who died as a result of the explosion on this rig in the Gulf of Mexico. He showed us photos of the family, the two little boys—one born after the father died and another young boy and his mom. It was so compelling.

The argument was made by a man representing the oil and energy industry that it would be reckless for us to expand the liability of oil companies beyond the current limitations in the law. I think it is reckless for us to consider allowing anybody to drill in the Gulf of Mexico who doesn't have the bonding and wherewithal to stand up for any damages they should incur. Why in the world would we allow anybody to go out in this circumstance, when we can see what happens when it goes wrong, and do it again without having some sort of insurance that protects those involved working there, as well as those who are affected by the environment around the Gulf of Mexico? They have no business drilling, as far as I am concerned, if they are not financially responsible and if they cannot stand behind their operations to make sure the taxpayers don't end up in a situation where they are vulnerable.

The Republican position that says we should not impose a new tax on oil companies to make sure there is enough money in an oilspill fund so that the taxpayers won't have to pay for these disasters in the future is a position that is indefensible. It is a position that makes no sense.

They argue, incidentally, that if we collect this money, we should somehow say it won't be used for any other purpose. Well, the money will be used for the purpose of oilspill cleanup, but because it will be a new asset of the Federal Government, it will be shown on the books on the positive side. We are collecting the tax, gaining the asset, and increasing in a small way our budget picture on the positive side. I think they are lost in a budgetary argument that really is, in effect, trying to protect the oil companies from this new tax.

I hope my colleagues won't be discouraged in this debate but will stand by the efforts of the committee to impose this new tax responsibility. I hope that as Members of the Senate consider this bill—and I see my friend from Ohio here, and I will yield momentarily to him—they will try to understand how difficult it might be to explain why they voted against a bill that eliminates tax breaks for American companies that want to locate their businesses overseas and why they voted against a bill that provides help for small businesses in America to hire more workers in a time of high unemployment. Those are the two most important elements in this so-called extension bill. I hope—wouldn't it be a great day—we could have bipartisan support for those two basic ideas and at the end of the day do something on the floor to create jobs in America and, in the process, do it in a sensible way that builds for our future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I stand here a bit incredulous about the comments of Senator DURBIN, the assistant majority leader, about the oil industry and Republican opposition to simply making them pay for potential problems they cause.

I say I am incredulous, but as I think a little longer, I realize that is par for the course. I have only been in the Senate 3½ years. I have seen the Republicans side with the insurance companies on health care reform. I have seen them side with the drug companies on Medicare issues. I have seen them side with big Wall Street banks on Wall Street reform. Now they side with the oil industry, with BP, with Exxon and these companies that have had—literally, BP's profits were over $1 billion, several billion, multibillion-dollar profits per quarter. And my friends on the other side of the aisle—I don't know if it is the campaign contributions, social connections, what it is with the oil industry—it is always the oil industry first, taxpayers second, and the consuming public third with them. I don't get that.

COBRA SUBSIDY PAYMENTS

I wish to talk about an amendment Senator CASEY is offering and of which I am a primary cosponsor dealing with COBRA, the health insurance issue. When this recession started and unemployment began to spike, most of us in Congress acted to help those in clear need with the stimulus package and with the extension of unemployment insurance.

Remember, it is insurance; it is not welfare. People pay into the unemployment insurance fund when they are working, and when they lose their jobs, through no fault of their own, they get assistance from the unemployment insurance fund.

Another part of that is, when someone in Joliet or Cleveland or Springfield, IL, or Springfield, OH, loses their job, they all too often lose their insurance. There is a Federal program, a Federal law, that you can continue to draw health insurance when you lose your job if you, the employee, pay for your part of it and you pay the employer contribution for your health insurance, which at least doubles, sometimes triples the amount of money you were paying for health insurance when you were working.

That means simply, when you are working, you are paying X dollars, which is never cheap. When you lose your job, you are paying 2X or 3X, and almost nobody can afford that. If you have lost your job, how can you pay more money for health insurance than before you lost it?

That is why in the Recovery Act a year and a half ago, I wrote legislation, later amended in the bill, to give a significant subsidy to those people who lost their job but are trying and struggling to keep their insurance. It allows newly unemployed workers to stay on their former employer's health plan with that subsidy.

I have received countless letters and e-mails from Ohioans who describe how COBRA is more expensive than rent or food. That is why we stepped in. We did a 65-percent subsidy. In other words, if you lose your job, instead of paying your part of the insurance and your employer's part, instead of paying that combined amount, which was Federal law for years, we are subsidizing 65 percent of that amount.

I cannot count the number of people I have talked with in the last year who have come up to me and said: I still have insurance because I was able—it is still difficult; it is not as though money is growing on trees for these people who lost their jobs. It is still difficult. But so many people have come up to me and said: I still have my insurance because of that subsidy.

In this legislation, the House took away the COBRA subsidy under the view that we simply cannot afford this subsidy anymore. The Casey-Brown amendment says: Yes, we can, and we are going to do it.

A recent report by the U.S. Department of Treasury concludes COBRA ''has been an important source of insurance coverage during the recession, especially for the middle class.''

It said that COBRA has ''significantly slowed the growth of the uninsured population, which had been skyrocketing through February 2009.'' In other words, this government report showed what we are doing is working. A lot more people have insurance as a result of the COBRA subsidy, just as a lot more people have jobs today because of the stimulus package.

Granted, it is not good. There are too many people who have lost their insurance and too many people who have lost their jobs. More people have jobs because of the stimulus package and a whole lot more people have health insurance and are not a burden on the State, their community, or their families because they actually have insurance through COBRA.

The COBRA subsidy expired for newly unemployed Americans on May 31, 9 days ago. The managers' amendment includes an extension of the unemployment insurance program, which is a good thing, but it does not include an extension of COBRA.

This absence is striking, given the fact that a recent survey shows that 15 percent of unemployed insurance recipients rely on COBRA for affordable coverage. Unemployment insurance is an important lifeline. Of course, we need to do that. But it does not give enough money for a family to pay for their insurance.

Again, look at the math. Your unemployment insurance is less than you were making when you were working. Your insurance payment for COBRA, if we do not subsidize it, is a lot more, a factor of two or three times, in most cases, what you were paying for insurance when you were working. You have less income and significantly higher health care costs. That is why that subsidy is so very important. That is why I am joining with Senator CASEY in offering an amendment that will extend the COBRA Premium Assistance Program for another 6 months.

Let me conclude with a couple letters from Ohioans who explain the personal side of this issue. We all come to the floor and talk about policy. We all are a little geeky sometimes. I like to come to the floor and read letters from people I represent in my State.

Robert and Rachel are from Montgomery County. That is Dayton, Kettering, Huber Heights, West Carrollton—those communities:

> One month after I was laid off, my wife, a registered nurse, had a stroke.
>
> Since that time, we have struggled but managed to keep our heads above water because of the COBRA subsidy. We have four children, and simply cannot live without health insurance, because the cost can be devastating.

Understand, too, if you lose your insurance, trying to get insurance again is so difficult and so expensive. We do not want this interrupted.

Robert writes:

> We feel the need to be one more voice encouraging your colleagues to speak out for the families that have been hurt the most by this economic disaster.
>
> Please keep fighting for us.

Montgomery County, Dayton, has been inflicted with a GM plant closing. National Cash Register, NCR, one of the oldest companies people associate with the city of Dayton—the CEO did not talk to anybody. He pulled the company up, left, and moved to Atlanta. DHL, a large cargo carrier, a German company, pulled out of Wilmington nearby. That was several thousand jobs. They have had that kind of economic hardship in Dayton.

We absolutely need to extend the COBRA subsidy for people such as Robert and Rachel.

The last note I wish to read is from Mary from Cuyahoga County, which is the northeastern Ohio area:

> I live in northeast Ohio and have been out of work 13 months. I live alone with no dependents, yet I can barely meet my monthly financial challenges.
>
> I became a cancer victim last year, but when my COBRA subsidy is stopped, it will feel like an additional cancer in my life.
>
> The COBRA subsidy has bought me time to explore what I hope to be an improving job market.

We are seeing good signs in northeast Ohio of increased job numbers and companies hiring people.

> The COBRA subsidy has bought me time to explore what I hope to be an improving job market. And not only would it buy me time, it would renew my faith in government.

I urge my colleagues to support this amendment to continue the COBRA subsidy. It clearly is the right thing to do. It is going to matter to so many families.

I don't understand why so many on the other side would oppose something such as this. It simply makes sense. I urge my colleagues to support the Casey-Brown amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CASEY. Mr. President, I rise today to speak about an urgent issue that faces the American people, and it is an issue the Senate as well as the House must deal with, in my judgment; that is, the issue of extending COBRA premium assistance, health insurance assistance, to many Americans who, through no fault of their own, are out of work; in many instances, millions of Americans who have been out of work for a long time.

Mr. President, I ask unanimous consent to add the following Senators as cosponsors of an amendment I have that extends COBRA premium assistance. These are Senators who will be added beyond those who were original cosponsors.

They are Senators FRANKEN, STABENOW, REED of Rhode Island, and GILLIBRAND.

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

Mr. CASEY. Mr. President, I rise today to speak about the basic issue to have health insurance coverage for those who have been out of work. I know I join Senator BROWN and the other cosponsors of this amendment to urge support for the extension of the eligibility period of the COBRA Premium Assistance Program, which was authorized under the Recovery and Reinvestment Act of 2009.

I do want to commend and note my appreciation for the support of Senators BEGICH, WHITEHOUSE, LAUTENBERG, KERRY, WYDEN, HARKIN, LEVIN, BURRIS—the Presiding Officer—FRANKEN, REED of Rhode Island, and STABENOW, who have cosponsored the amendment.

We continue to recover from this economic recession, a horrific chapter in American history almost too difficult or too complicated for some of us to fully understand because we haven't lived through it ourselves. We in the Senate haven't lost our jobs or lost our health insurance. But we hear from and know of people who have, and that is one of the main reasons we are here to talk about this issue today.

We are recovering but we haven't recovered fully, and now is not the time to pull up the ladder on people who are still hanging on, in some cases to the last rung of the ladder. These basic, and I would argue, vital safety net programs—whether it is unemployment insurance or COBRA premium assistance for health care—are programs that we can't short-circuit. We can't cut people off at this point.

The American people agree with us, by the way. They understand we have made progress on economic recovery, but the unemployment rate is still far too high. It has just been a little bit less than 10 percent for far too long. In my home State of Pennsylvania, fortunately it is lower than that. It has been lower than 9 percent a long time but has bumped up to around 9. But that doesn't really matter. The percentage doesn't really tell the story. In our State, we have over 580,000 people out of work, and the total number or the percentage number is a lot higher in many other States. So we just can't pull up the ladder and pretend we have fully recovered, that we can begin to transition to a different strategy.

For millions of Americans out of work, through no fault of their own, medical costs continue to rise while their personal savings dwindle or in some cases have been wiped out because of this recession, leaving millions of Americans without adequate health care coverage and leading many to refuse necessary treatment due to the high cost.

Americans who lose their coverage through job loss cannot be expected to purchase expensive health care plans while they are unemployed. It is difficult enough for someone who has a job to pay for health insurance. We know that is difficult. A lot of small businesses were telling us about that throughout the health care debate. But just imagine if you are out of work and you are trying to survive and you are called upon or required to pay for an expensive health care plan. So we should act, and we should act now, to provide an extension for COBRA subsidies to ease the economic strain of expensive health care coverage for the unemployed.

The amendment I have offered, and that today I am just speaking about, will provide much needed relief at a very difficult time for many families as unemployed workers focus on finding new employment rather than having to worry—and worry doesn't even begin to describe the anguish people feel—about receiving adequate health care coverage for themselves and their families. We ought to provide them some peace of mind so they can concentrate on finding a job instead of worrying about whether they, someone in their family, or a loved one is going to get the medical treatment they deserve.

The COBRA Premium Assistance Program has already been successful in ensuring that Americans receive quality health care. Let me give one example from a letter I received from Susan, in LeHigh County, PA. She is a cancer survivor, but due to her treatments she has been diagnosed with congestive heart failure as well. She is on five different medications. Susan has relied upon her husband's health insurance, but in September of 2009 her husband lost his job.

What I am describing has happened to millions of people. This isn't isolated. This isn't anecdotal. This is a situation that millions of Americans, if not tens of thousands, at a minimum, in a State such as Pennsylvania have faced. So what does Susan do at that point? She has to rely upon her husband's health insurance, he loses his job, and now they have nothing. They have no coverage at all.

So Susan and her husband were able to utilize the COBRA Premium Assistance Program as a means to keep their health insurance. Thank goodness the Recovery Act provided that kind of help. When my office followed up with Susan, we were happy to learn her husband had found a new job and they were off of their COBRA Premium Assistance Program and on her husband's new health insurance. Fortunately, that has a good ending, but a lot of stories don't end that way.

Susan's story is a perfect example of the purpose behind the COBRA Premium Assistance Program which helps people transition.

Here is another letter, which I will refer to in pertinent part. This is a letter I received from another constituent in Pennsylvania by the name of Lisa. I will not read her full name because I don't have permission, but this is a letter she sent to us in early March, and here, in pertinent part, is what she wrote about her own health care situation. She said:

> I have been receiving chemotherapy nearly every other week for the past 18 months. The treatments were covered by my COBRA benefits and has kept me alive.

So she is not saying the premium assistance from COBRA was something that just gave her a little help when she needed it. She isn't just saying: Thank goodness the COBRA premium assistance can pay for my treatments—the chemotherapy that she needed. She is saying the COBRA benefits ''kept me alive.'' That is a direct quotation from her letter. Then she says:

> I must continue chemotherapy but ran into a problem when an extension of my COBRA coverage was denied.

In this country, with all the challenges we have, some things aren't difficult to solve. If we pass an extension of COBRA premium assistance, Lisa doesn't have to worry whether she is going to be able to continue her chemotherapy treatments. Why should she have to worry when we can help her here?

I know we will hear from people in Washington—a lot of hot air, a lot of lecturing, a lot of speeches—that it is time to transition; that the economy is getting better and it is time to transition now and let Lisa get her treatments on her own. We hope she lives. But some people in Washington may not want to help her any longer.

We know the American people support this extension. We know they understand what real people are up against because, guess what, they are living with it. People in Washington who come to the Senate every day and are Senators and Congressmen, they do not quite understand this sometimes. We don't have a full appreciation for how difficult it is for Lisa and her chemotherapy treatments. We don't have a full appreciation here for how difficult it has been for Susan. Thank goodness her husband was able to get a job, but it was pretty tough when they didn't have a job and they didn't have health insurance.

So COBRA helps a lot of people, and we should know what the consequences

are of inaction, without the extension of the COBRA Premium Assistance Program. A report from the National Employment Law Projects predicts that as many as 150,000 Americans each month will lose out on the subsidies necessary to afford quality health care. A study by Families USA shows that 4 million Americans, including almost 100,000 in Pennsylvania, lost their employer-based coverage due to job loss in 2009 alone—4 million Americans.

The average cost of COBRA family coverage is three-fourths of the monthly unemployment benefits in Pennsylvania and 40 other States. So the good news is you have unemployment coverage if you lost your job, but the bad news is three-fourths of that goes for your health insurance. We shouldn't force people to be in those situations.

In some States, health premiums actually cost more than the monthly unemployment benefits, slowly driving families further into debt. Providing continued relief for Americans is not just necessary, it is essential to keep some people alive, literally—no exaggeration—as Lisa's letter tells us. Giving people assistance in their greatest time of need will allow them to focus on finding employment, caring for their families rather than avoiding expensive treatments or teetering on the brink of bankruptcy.

In conclusion, besides the amendment that Senator BROWN and I have been working on, along with our cosponsors, we circulated a letter that will be delivered to Senator REID and Senator BAUCUS this afternoon that urges both to support the extension of the program and also the pleas from people in Pennsylvania and a lot of other States who are telling us how important this is—to provide an extension through the end of November for COBRA premium assistance, so people can have health care and in a larger sense, I guess, to have peace of mind to know even though they are out of work we care about them, we are going to fight for them, and we are going to make sure they have health insurance coverage as they try to go from joblessness to transition into having a job.

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

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

The legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. Madam 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. 4303

Mrs. MCCASKILL. Madam President, today, once again, the Senate is going to consider the Sessions-McCaskill discretionary spending cap. I wish to take a couple of minutes and try to, once again, talk some common sense about Congress and our spending habits and about this very modest baby step we must take if we are ever going to do the right thing when it comes to spending in the U.S. Government.

What is this amendment about? Well, at its heart, this amendment is about trying to regain the trust of the American people. We have had to do big, bold things because of an economic crisis. No question this President inherited a mess, and that we had to do some big, bold things to try to get out of the ditch.

But in the process, we have also, I hope, begun to realize that there is a two-step here. One is, big, bold things we had to do to get the economy back on track, and the other is beginning to recognize, maybe for the first time in a long time, that the path we are on is unsustainable.

Chairman Bernanke said it yesterday. It is unsustainable, the path we are on, in terms of spending in Washington, DC. What this amendment does is something that is very responsible and, frankly, modest. It is not a cut in spending. In this economy, I understand many economists would argue it is not the time to cut spending, but is it not time we capped growth?

Think about it for a minute. Everywhere in America, whether it is at a family's kitchen table or whether it is at a school board meeting or whether it is at a city council meeting or a county legislative body meeting or a State legislative budget hearing, everywhere in America they are having to trim their sails, cut their budgets, try to find a meaningful way to do more with less.

And what are we doing here? We cannot agree to cap growth? Are you kidding me? We cannot even say to the American people, we are not going to grow by as much over the next 3 years?

This does not even try to cut spending, it tries to cap growth. There are actually people in this body who think we cannot take this small modest step to say we are not going to grow as quickly or by as much over the next several years?

How on Earth can we do hard stuff? How on Earth can we live up to our responsibility as Members of the Senate, when it comes to fiscal policy? How can we ever in the future do what we are going to have to do to rein in this government if we cannot even cap spending at a time when everybody in America is cutting? Reining in growth should not be a hard vote. It should not be a hard vote.

There are people, and I understand this, I understand there are a lot of people in this body who have made it their work to appropriate, and that has been the committee everybody wants to get on. It has been the powerful committee. Everybody knows around here, if you spend the money, you have power. I understand this is like the Earth shifting a little bit, that all of a sudden people who appropriate around here are going to have to take a different view of what their job is.

It is inevitable that that happens. Whether it happens this year, next year, or the next decade, anybody knows we cannot sustain the course we are on. But what is frustrating to me is that some of the people who are so anxious to defeat this amendment are using such old-fashioned fear tactics it is almost insulting. There are talking points that are being circulated against this amendment that I think you ought to blush if you are responsible for. The notion is that we are going to make these cuts in our most important programs. There is a talking point going around that this would make us have to cut Border Patrol. Come on. That we are going to have to cut the priorities of this government right now. No, we are not. We may have to cut back on some of the earmarking? Yes, probably. And cut that money from the budget.

Would we have to maybe cut out some low-performing government programs? Yes, we would. In fact, the President announced that he wants everyone in the executive branch to identify 5 percent of their low-performing programs. Then the next step would be that he would cut half of that, 2½ percent. He is asking them to find cuts in government.

All this amendment is doing is saying, we are going to curb growth. So this amendment is not going as far as the President has asked his executive branch to do. The other thing about this is I keep getting pushed at, well, these are priorities, our domestic discretionary spending—and this is from a lot of my colleagues on this side of the aisle. But this amendment is not just about domestic discretionary spending. It is about defense discretionary spending. It exempts out $50 billion a year for our overseas contingency operations. It clearly exempts out emergencies, and there have always been more than 67 votes when we have appropriated for emergencies in this country. It is not as though 67 votes are hard to get after a Katrina, after some kind of emergency that demands we respond to it.

The notion that we have now for the first time gotten the kind of support this amendment has received from Republican Senators to freeze the growth on defense spending is huge. It is huge. Anybody who has spent any time looking around at contracting in the Department of Defense, which I have spent a lot of time on, or the way money is spent at the Pentagon, knows there are savings there. To curb the growth in spending, in discretionary spending in the Defense Department is a wonderful step forward. So it is not just domestic that is impacted by this amendment, it is both domestic spending and defense spending, and it is time. It is time.

I hope everyone who has voted against this amendment in the past does a gut check this time and thinks of themselves in front of a bunch of people they work for in their home State, explaining to them why they could not vote to curb growth in the Federal Government's budget. I am telling you what, that is one explanation I would not want to have to give

right now at home. I would not want to tell the people in Missouri that it was impossible for us to even put a lid on the growth of the Federal Government, right now at this time in this Nation's history, with all of the economic issues that are swirling around.

I think it would have a positive impact on our economy, to send this signal. I think it would have a positive effect on our markets. I think it would have a positive global effect as we look at what is going on in Europe, that the Federal Government is finally acknowledging we have got to begin to curb the growth of our expenditures.

These votes have been close. We got 56 the first time. We got 59, and then everybody got nervous because we got 59 votes. Then the next time we got 57. Three more votes. Three more votes, and we will send the right signal to the American people that we get it. I hope today is the day we send the signal to the American people that we know there are hard decisions ahead and we are beginning to take some modest steps to show we have the guts and the fortitude to make those decisions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I stand to strongly support my amendment No. 4312, which I introduced today, along with Senators GREGG, CORNYN, ENZI, ALEXANDER, and HUTCHISON, and I urge all of my colleagues, both sides of the aisle, to support this commonsense amendment.

This is about something at issue in this present extenders bill on the floor now that is near and dear to my heart, because it is directly related to the ongoing oil disaster, the ongoing crisis in the gulf, and that is an increase in taxes to supposedly fund the Oil Spill Liability Trust Fund but which does not do that at all, which is stolen from that trust fund, used for completely unrelated purposes.

Put another way, it is double counted. It is used as a fraudulent offset to mask other spending, other deficit spending in the bill. We have a real crisis on our hands. Obviously it affects my State more than any other. But it is a national challenge and a national crisis. I have a pretty modest suggestion, in my opinion. Let's focus on the challenge. Let's meet the challenge, not use it and abuse it politically for other unrelated goals up here in Washington.

But I am afraid the Oil Spill Liability Trust Fund is being used and abused in this bill for those other completely unrelated goals. I am afraid it is a perfect example of Rahm Emanuel's now famous phrase from around February 2009, ''We are not going to let a good crisis go to waste.''

Well, this is a crisis. This is a whopper. But I take offense to not letting it go to waste, meaning to using and abusing it for other purposes. This bill proposes increasing the tax which ultimately is a consumer tax on energy products that is supposed to be for the Oil Spill Liability Trust Fund.

It increases that tax from 8 cents a barrel to 41 cents a barrel. That is an over fivefold increase. If that is necessary to clean up oilspills, to have it ready for the future, I am completely open to it. But that is not where the number came from. The number was pulled out of thin air. Because as soon as that money supposedly goes into the trust fund, it is stolen. It pays for completely unrelated spending items in the bill—for example, $15 billion over 10 years, and in this bill that is double-counted because it is used as an offset to mask deficit spending, to mask other spending items. That is wrong.

Amendment No. 4312 is simple and straightforward. It says and does two things. No. 1, it says that the revenue supposedly going into the Oil Spill Liability Trust Fund can only be used to clean up oilspills. It is supposed to be there to clean up oilspills, it is supposed to be a trust fund, so it can only be used for that purpose. Secondly, it says that it cannot be double-counted. It is not be used as an offset under the Congressional Budget Act or pay-as-you-go or anything else, as an offset for unrelated spending, to hide other deficit spending.

That is the amendment—two things, pure and simple. A number of the leadership of the majority have come to the floor concerned about this, as they should be, because it stinks, and the American people know it stinks, and have done gyrations and backflips to try to say they are not stealing the money, they are not double-counting, it will be there. If they really mean that, it is simple: No. 1, they should support my amendment. No. 2, they should publicly admit that the true deficit cost of this bill is not what they say it is. It is $15 billion more. It is not $79 billion; it is $94 billion. If they are sincere, if they mean it, great. Support my amendment and admit that the true deficit cost of the bill before us is $15 billion more. But don't steal from that trust fund. Don't use that money that is supposed to be there to clean up oilspills, such as the one that is hammering my State, for completely unrelated purposes. Don't double-count it. Don't use it as Enron accounting, a fraud to mask other spending, to artificially lower the deficit impact of this bill. That is wrong. That is using a crisis. That is ''not letting a crisis go to waste.''

We have a crisis. It is a heck of a crisis. It is a serious crisis. We should solve it. We should go at it. We should address it together as a national challenge. We should not use it and abuse it politically for an unrelated tax-and-spend agenda in Washington.

I urge all colleagues to come together, support amendment 4312, protect the Oil Spill Liability Trust Fund, prevent it from being used and abused, double-counted—Enron accounting to mask deficit spending. Do the right thing by the people of Louisiana and by the people of this Nation.

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

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

BURNING OF THE GASPEE

Mr. WHITEHOUSE. Madam President, here in this historic Chamber it is appropriate to recall those who came before us and risked their lives to create the great Republic we serve in this Senate.

Today, I would like to talk about a group of men who, 238 years ago, on this date, engaged in a daring act of defiance against the British Crown—the first bloody act of defiance in the conflict that became the American Revolution.

For many, the Boston Tea Party is considered a first act of defiance. Growing up, we were taught how, on December 16, 1773, Bostonians poured shipments of tea overboard into Boston Harbor to defend the principle, ''no taxation without representation.'' I think almost every schoolchild in America has heard of the Boston Tea Party.

Conspicuously missing from those children's education is the story of the brave Rhode Islanders who dared to challenge the British Crown more than a year before those Bostonians threw tea into the Boston Harbor. Today I would like to take us back to the real beginning of America's fight for independence and share with all of you the story of the British vessel, the HMS Gaspee, and to introduce some little known names, heroes from history, who seem now to be lost in history's footnotes.

In 1772, amidst growing tensions with American Colonies, King George, III, stationed the HMS Gaspee in Rhode Island to prevent smuggling and enforce the payment of taxes to the Crown. But to Rhode Islanders, the Gaspee quickly became a symbol of oppression.

The patronizing presence of the Gaspee was matched by the patronizing and domineering manner of its captain, LT William Dudingston. Lieutenant Dudingston was known for destroying fishing vessels and confiscating their contents and flagging down ships only to harass, humiliate, and interrogate their sailors. But on June 9, 1772, an audacious Rhode Islander named Captain Benjamin Lindsey took a stand.

Aboard his boat, the Hannah, Captain Lindsey set sail from Newport to Providence. When he was hailed by Lieutenant Dudingston to stop for a search by the Gaspee, the defiant Captain Lindsey continued on his course. Gunshots were fired, and the Hannah sped north up Narragansett Bay with the Gaspee in full chase behind.

Outsized and outgunned, Captain Lindsey drew courage and confidence from his and his crew's keen familiarity with Rhode Island waters. He led

the Gaspee into the shallow waters of Pawtuxet Cove, where the smaller Hannah cruised over the sandbars and the heavier Gaspee ran aground. The Gaspee was stranded in a falling tide, and it would be hours before high tide would again set her free.

Captain Lindsey took advantage of this favorable situation. Arriving triumphantly in Providence, Captain Lindsey visited John Brown, whose family helped found Brown University. Knowing the Gaspee's helpless state, the two men rallied a group of patriots at Sabin's Tavern—one daren't speculate on the form of refreshment they took there—in what is now the east side of Providence.

The Gaspee was universally despised by colonists who had been bullied in their own waters, and the vulnerability now of this once powerful vessel presented these patriots an irresistible opportunity. On that dark night, 60 men in longboats with muffled oars, led by Captain Lindsey and Abraham Whipple, moved quietly down the dark waters of Narragansett Bay.

As they encircled the Gaspee, Brown shouted a demand for Lieutenant Dudingston to surrender his ship. Dudingston refused and instead ordered his men to fire upon anyone who tried to board. The fearless Rhode Islanders took this as a cue to force their way onto the Gaspee and forward they charged in a raging uproar of screams, gunshots, powder smoke, and clashing swords. It was amidst this violent struggle that Lieutenant Dudingston was shot by a musket ball. Right there in Rhode Island, right then, the very first blood of the conflict that would lead to the American Revolution was drawn. Victory was soon in the hands of the Rhode Islanders.

Brown and Whipple took the captive Englishmen back to shore and returned to set the abandoned Gaspee afire. She burned prodigiously through the night, until the flames reached her powder magazine. Then, with a convulsive explosion, she was flung in pieces across the bay. The site of this historic victory would later be named Gaspee Point.

Too few people know of this bold undertaking which occurred 16 full months before the heroes of Boston painted their faces and threw tea into the Boston Harbor in the event that became known as the Boston Tea Party. I hope the tale of the Gaspee will work its way into the history books. It preceded the Tea Party. It was more significant than the Tea Party. It was more violent than the Tea Party. And I think it set the stage of conflict that led to our independence and the freedoms we enjoy today.

So I hope Americans will think not just of the date of the Boston Tea Party but will remember June 9, the day the Hannah led the Gaspee across the sandbars of Pawtuxet Cove, stranding her, and those 60 Rhode Islanders came down by oar to attack, burn, and destroy the Gaspee and engage in armed conflict with her crew.

I do know these events are not forgotten in my home State. Over the years, I have often had the chance to march in the annual Gaspee Day's parade through Warwick, RI, as every year we recall the courage and the zeal of these men who risked it all for the freedoms we enjoy today, drawing the first blood of our later Revolutionary conflict.

I hope the young pages I see in the Chamber who, I assume, have all heard of the Boston Tea Party—I see heads nodding, yes, they have—and may not have heard of the Gaspee—I see heads shaking, they have not heard of the Gaspee—at least a small audience of young people today has been educated that it was Rhode Islanders first, Rhode Islanders more energetically, Rhode Islanders more aggressively, and Rhode Islanders more defiantly than anyone else at the early stages of the Revolution.

I thank the Presiding Officer, and I yield the floor.

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

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

ISLANDS OF SECRECY

Mr. DORGAN. Madam President, this week there was a full-page advertisement in the magazine Politico. It was actually a letter to me, an open letter to Senator BYRON DORGAN, and then it says: ''Setting the Record Straight About the Cayman Islands.'' It is signed by a man named Anthony Travers, chairman of the Cayman Islands Financial Services Association. The letter says:

During the recent debate over financial regulatory reform, you—

Meaning me—

perpetuated the myth that the Cayman Islands is a tax secrecy jurisdiction with unbelievably enormous loopholes. Neither of these claims are true.

And so on. I thought I would respond to Mr. Travers. I don't know Mr. Travers from a cord of wood, but since he bothered to buy a full-page ad in the newspaper Politico setting me straight, I thought perhaps it would be useful for those who might ever have read this to know the facts.

The Cayman Islands is a wonderful place. It has I guess the nicest water I have ever seen; blue-green, beautiful water, beautiful beaches. I don't know much about the Cayman Islands. I have visited there. I know about some of the Cayman Islands from a number of things I have read and seen about their banking system. What I have done on many occasions on the floor of the Senate when I have been talking about those who have been trying to avoid paying taxes to the United States and those who want all that America has to offer them, except they don't want to meet the obligations of citizenship by paying the taxes they owe, is I have held up a picture of a house in the Cayman Islands. So I will do it again today. This is called the Ugland House. A very enterprising reporter named David Evans from Bloomberg News brought this to my attention the first time.

This is a five-story white house. It sits on Church Street in the Cayman Islands. It is a building that has 18,857 corporations that call it home.

The first time I showed this on the floor, this five-story white building on Church Street in the Cayman Islands, it had, I believe, 12,748 corporations that say this is our corporate home. Now it has grown. There are actually 18,857 companies in this five-story building. Oh, they are not there; it is just a fiction. They claim a mailbox in this little white stucco building in order to find a way to avoid responsibilities to others outside of the Cayman Islands. Many of them would be American companies searching for ways to provide secrecy for their financial transactions and presumably searching for ways to avoid paying their tax obligations.

The fellow who wrote to me, whose name is Anthony Travers—and let me describe who he is. Mr. Travers, says the Cayman Islands News Service, is chairman of CSI Stock Exchange and a former partner of Maples and Calder. Anthony Travers apparently chairs the Cayman Islands Financial Services Association. So he is a former partner of Maples and Calder. Who is Maples and Calder? The law firm of Maples and Calder is the only occupant of the Ugland House. Isn't that interesting? They have 18,857 companies that claim to be there—that is pretty crowded, right—18,857 companies claim to be crowded into this five-story white stucco building. But these companies are just there to claim a mailbox—perhaps they all use the same mailbox—to avoid their obligations to other countries, especially our country.

So Mr. Travers has an epileptic seizure because I suggest that the Cayman Islands is a place where there is tax secrecy and he writes a letter to set the record straight. He does no such thing. He doesn't have the foggiest idea what he is talking about. I know what I am talking about. This is a place he used to work. This is where the law firm he worked for existed. They are the ones that accomplished apparently the opportunity to have 18,857 companies claim a mail box as their legal address.

Well, if that is not enough, let me say this: The Wall Street Journal had an opinion piece by Robert Morgenthau in New York, he said:

There is $1.9 trillion—

He is talking about the lack of financial transparency and the activities of principals in the financial markets—

There is $1.9 trillion, almost all of it run out of the New York metropolitan area, that

sits in the Cayman Islands, a secrecy jurisdiction. Let me say that again: ''A secrecy jurisdiction.''

That is from Mr. Robert Morgenthau, who knows what he is talking about.

By the way, let me also say that McClatchy reported this:

Goldman Sachs used offshore tax havens to shuffle its mortgage-backed securities to institutions worldwide, including European and Asian banks, often in secret deals run through the Cayman Islands, a British territory in the Caribbean that companies use to bypass U.S. disclosure requirements.

Well, I guess Mr. Travers sure did set me straight, except he didn't have the facts. He knows what the facts are because he has been in this building with 18,857 corporations. One wonders where he could find a chair or even find lunch—a pretty crowded place.

Let me further then say, the Asset Protection Law Center, reportedly run out of a law firm located in California, describes this as the four main factors for being involved in the Caymans and being involved in what they are doing:

No. 1: There are no income taxes, capital gains taxes, profits tax or estate taxes.

No. 2: The bank secrecy laws are among the strictest in the world with criminal penalties for unauthorized disclosure.

No. 3: The law allows companies to be formed with a minimum of paperwork, and shares can be held anonymously in bearer form or by nominees.

No. 4: The law regarding the formation of trusts is highly developed and allows an excellent level of flexibility—

I will bet it does—

an excellent level of flexibility, asset protection, and privacy.

I guess that describes what we have in the Cayman Islands. Again, the letter from Mr. Travers to myself explains how the claims of tax secrecy jurisdictions are untrue.

Then, if I might, one more time, without being too repetitious, the five-story white building where Mr. Travers—or at least Mr. Travers' old firm—occupies and accommodated 18,857 neighbors to join them for the purpose of getting their mail there in order to claim that is where their business location exists. Is it because they have relatives in this building? No, no relatives. Is it because they visit the building from time to time? No, likely they have never seen the building. Is it because they want to claim an address in the Cayman Islands because they like blue and green water or beaches? No. It is because they need a location in an area where you have unbelievable secrecy so you can claim this is home to avoid taxes and to avoid other disclosures of what you are doing with a substantial amount of money.

Mr. Morgenthau had it correct. Mr. Morgenthau talked about $1.9 trillion that has been run around through these orifices, in this case a five-story building in the Cayman Islands. All I say to Mr. Travers is this: I have certain expectations of those who want everything that America has to offer. If you are an American citizen or an American corporation, which is an artificial person, if in those circumstances you want all that America has to offer, then I believe you have responsibilities to pay your taxes and become productive citizens and meet the responsibilities that citizens have in this country. Most of the people I represent up the street and down the block and out on the farm don't have the ability or the willingness to decide to hide their income from their government. But some of the biggest enterprises in the country do, so they find a willing partner in a little white building on Church Street in the Cayman Islands that allows them to do that. That is very unfortunate.

I would say to Mr. Travers: Next time you try to set somebody straight, use a few facts. Perhaps it will buttress your argument. But don't try to fool me or the Congress or the American people about what is going on inside of this white building. We understand what is going on inside this building, and I think the people who allow that to happen and to decide it is a legitimate way to do business ought to be ashamed of themselves.

GULF OILSPILL

Madam President, if I might—I understand some colleagues are here—I wish to make some very brief comments about a hearing we had this morning in the Energy Committee with Secretary Salazar dealing with the oilspill.

I asked this morning again about the promise and the pledge that BP has made that they will cover all of the ''legitimate'' costs that occur as a result of this oilspill. I have asked this question to the U.S. Justice Department, I talked to the President about it yesterday, and I talked to Secretary Salazar about it. Isn't it time now, on the 51st day of this gusher, for us to say to BP that we expect you to pay and we don't expect the American taxpayer to bear the burden of your mistakes? If, in fact, you have made a pledge—and they have repeatedly—to cover all legitimate costs, let us finally take steps to make that pledge binding. BP is a very large company that has made $150 billion in net profits over the last 10 years, averaging $15 billion a year. This company made $6 billion in net profits in the first quarter of this year. It is time to say to that company: If you are serious and your commitment is real, then let's make a binding commitment.

I believe we ought to ask BP to put $10 billion in a gulf coast recovery fund now, and that fund ought to be the result of a signed agreement between our government and BP. That signed agreement ought to create a special master and a special counselor from BP working together to disperse funds from that $10 billion which will be the first tranche of funds that likely will be necessary to respond to this oilspill.

As I speak, there are people standing on a dock in a small town on the gulf and they have a fishing boat at the end of a pier that is going nowhere because there is no fishing to be done. They have to make a payment on that boat at the end of this month. Also, there is likely a small cafe on that pier and the people who put their life savings into that don't have any customers. Who is going to help them? Who is going to respond to their needs, and when? It is time, in my judgment—past the time—for us to make this commitment that BP has said they will pledge a binding commitment.

The initiation of that, in my judgment—I have written to the Justice Department. I hope very much they will initiate that effort to do this. If BP says, You know what, no, we are just going to give you a pledge, I would say we have seen that pledge and heard that pledge before, and long after people are dead. I am talking about Exxon Valdez. A company that was still objecting to paying, despite the fact they made the same pledge.

I want BP to make that pledge binding, and that can be done I believe contractually through our government and BP by establishing a gulf coast recovery fund. Placing the first $10 billion into that fund and having a special master and counselor be in charge of that fund in order to respond to those people out on the dock who are wondering: How do I make my payment? How do I make my living? What do I do tomorrow, next week, next month?

This is a very important issue, and I hope in the coming days the administration and the Congress will be able to address this.

Let me make one final point. I know there are people trying to create other issues from this disaster in the gulf. This President, President Obama, did not punch that hole in the planet, he didn't drill that well, and he can't cap that well. The fact is he, his administration, and others have done everything possible.

This morning I met with Dr. Tom Hunter. I don't know whether people know Dr. Tom Hunter. He is the head of Sandia National Laboratory. He is one of the extraordinary minds, one of the really interesting people in this country. Dr. Tom Hunter had some health issues some many months ago, but I will tell my colleagues where he has spent his last 51 days. He, as a part of a group with the other best thinkers in this country, has been called by this administration to represent the core of competent people to try to figure out how to address this issue. When I heard Dr. Hunter was working on this with Dr. Steve Chu, the Energy Secretary, Ken Salazar and so many others, I told the Secretary of the Interior this morning: You know what, you look like you need 10, 12 hours of sleep.

I said: That doesn't mean you look awful; I just know how weary it has been working every day for 51 days. This administration has tried very hard, and they are continuing to try. The fact is, there are a lot of people playing politics with this oilspill. We don't need to point fingers. We need to

gather together and join hands and understand this was a national disaster, and the consequences of it will be with us for a long time.

Now our first responsibility is simply to work together to figure out how to shut off this gusher. Second, how do we deal with the problems that exist for so many people as a result? How do we begin the process of trying to clean up the environmental damage it has done? Third, it is quite clear to me things aren't going to change with respect to offshore drilling.

We need oil production. Thirty percent of our domestic production comes from offshore drilling. Perhaps there is a difference between shallow water and deep water production. There will be changes in regulations and in approaches. All of that is necessary. But first and foremost, we need to stop this gusher and then begin work to find a way to address the needs of so many people who have lost hope and their livelihoods. We can do that.

Let me just say again that this administration has done everything it can, and it continues to do that. I am pleased to see Dr. Hunter and so many of the others with the best minds in America brought together, brought to bear on this issue. If this gusher can be stopped—and it will be—it will be because some of the best people in the country have worked 51 days overtime trying to find a way to address this very significant disaster.

I apologize to my colleague for the waiting. I will perhaps come back again if Mr. Traverse from the Cayman Islands wishes to send additional information out about the Ugland House. Maybe I should visit the Ugland House, if it is not too crowded with the 18,857 companies calling it home. But that is perhaps for another speech and another day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business for 5 minutes.

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

Mr. KAUFMAN. Madam President, I enjoy it very much and I learn a lot every time the Senator from North Dakota gets up to speak. There is no one in this body who better states the issues I am concerned about than he does. This house in the Cayman Islands—maybe we should take a codel down there. Also, his comments on the gulf are absolutely right on point. Not only am I not disturbed, I enjoyed the opportunity to hear him speak once again.

IN PRAISE OF JUDGE TIMOTHY RICE

Mr. KAUFMAN. Madam President, I rise today to recognize another of our Nation's great Federal employees.

Since first embarking on this series over a year ago, I have honored so many dedicated public employees from across the executive branch. I have shared the stories of some who work in the legislative branch as well. Today, it is my distinct privilege to highlight an outstanding public servant from the Federal judiciary.

Ever since the First Congress passed the Judiciary Act of 1789, one of the hallmarks of American life has been our fair and independent judicial system. Indeed, our courts have long been the envy of the world and a model for other nations.

It has been an honor to serve on the Judiciary Committee and to participate in the confirmation of Federal judges. Over the past year in office and in my many years of working as chief of staff for the former Judiciary chairman, JOE BIDEN, I have met so many highly qualified judges.

America's Federal judges have, at times, faced great danger. From those who served on the frontier in the 19th century to those who today face ever-increasing threats from angry litigants and others, Federal judges honor us all through selfless devotion to duty.

Although they come from diverse backgrounds, judges must all share a dedication to justice and the law. For so many, these are truly a passion. They don their robes each day inspired by the biblical pronouncement: ''justice, justice, you shall pursue.''

The great Federal employee I am honoring today serves as a magistrate judge for the district court for the Eastern District of Pennsylvania. That court falls under the jurisdiction of the Third Circuit, which also covers Delaware.

Judge Timothy Rice has been a Federal magistrate judge since 2005. Before coming to the bench, Tim spent 17 years working for the Justice Department as an assistant U.S. attorney. He served as chief of the Eastern District's financial crimes section from 1995–1997 and later as chief of the public corruption section from 1997–2002. In his last 3 years as an assistant U.S. attorney, Tim served as chief of the criminal division.

While obtaining his law degree magna cum laude from Temple University, he held the position of editor-in-chief of the Temple Law Review. After graduating he clerked for Judge Anthony Scirica of the Third Circuit Court of Appeals.

Before attending law school, Tim worked for 4 years as a news reporter for the Observer-Dispatch in Utica, NY.

Despite his busy schedule presiding over a wide range of criminal and civil matters, Tim makes time to give back to his community and his country. He has taught courses at the Temple University School of Law since 1990, and he was appointed last year by Chief Justice John Roberts to serve on the Advisory Committee on Federal Rules of Criminal Procedure of the U.S. Judicial Conference.

Tim volunteers his time with a number of charitable Catholic organizations, such as the St. Vincent De Paul Society and ResponseAbility. He also works with Philadelphia Reads, a literacy mentorship program for second grade students.

As a magistrate judge, Tim cofounded the Supervision to Aid Reentry or ''STAR'' program to help reduce recidivism among ex-offenders. Not only has the 3-year-old STAR program helped dozens of ex-offenders make a smoother transition back into society, it has also saved the Federal prison system an estimated $380,000. With volunteers from the court system, the Philadelphia Bar Association, and area law schools, as well as support from local charitable organizations, the STAR program mentors ex-offenders to finish high school or college, find employment, and avoid a return to crime. Thanks in large part to Tim's commitment, energy, and vision, the STAR model is being replicated elsewhere around the country.

Tim and his wife Elaine have passed on a love of public service to their daughters, Meghan and Courtney, who work for the State Department and have been assigned to numerous overseas posts since 2005, including wartime service by both in Iraq. Their youngest daughter, Caitlin, just graduated from the College of Charleston.

Judge Timothy Rice is just one of hundreds of Federal judges across the Nation working day in and day out to fulfill the promise of our Constitution's preamble to ''establish justice'' throughout this land. I hope my colleagues will join me in thanking him and all those serving in the Federal judiciary for their tireless work to protect our lives and our liberties. They are all truly great Federal employees.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

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

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

RESOLUTION OF DISAPPROVAL

Mr. DURBIN. Mr. President, pending before us on the floor is the bill from the Senate Finance Committee, the extenders bill relating to the Tax Code, but I would like to address an issue which is to come before the Senate tomorrow. It is an issue that rarely comes here under a procedure that was designed to give Congress a voice in the determination of regulations and rules promulgated by a President and the administration.

The Senate has entered into a unanimous consent agreement to consider S.J. Res. 26 tomorrow, which would disapprove of the Environmental Protection Agency's endangerment. As a result of this action by the Senate, if we

vote, we will vote in disapproval of this endangerment. The EPA's action was in response to a Supreme Court order that it make a determination about whether greenhouse gases as pollutants could be reasonably anticipated to endanger public health or welfare.

This is an interesting story because it began with a question that was posed to Carol Browner, then head of the Environmental Protection Agency under President Bill Clinton. As I was told the story, the Republican leader in the House, Tom DeLay, asked Carol Browner of the EPA whether the Clean Air Act covered greenhouse gases, and she said she would have to get back to him because that particular question had never been directly asked or answered. After long study, she replied in the affirmative, which was not the reply the gentleman from Texas was expecting. This led to a flurry of lawsuits and questions because it really raised the question as to whether greenhouse gases, as we know them, going into the atmosphere are dangerous to the health and safety of people living on Earth and particularly here in the United States.

The EPA studied this for a long period of time. The Supreme Court considered this case, as to whether the Clean Air Act applied to greenhouse gases, and ultimately concluded that it did but left it to the EPA to make the final determination as to whether in fact these greenhouse gases were dangerous. The EPA responded to the direction provided by the Supreme Court by proposing to find that the emission of six greenhouse gases—carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluorides—threatened the public health and welfare of current and future generations and the combined emissions of these same gases from new motor vehicles and motor vehicle engines contribute to the atmospheric concentrations of these greenhouse gases and hence the threat of climate change.

So, literally, tomorrow the Senate will be debating and voting on the question of climate change and whether greenhouse gases in fact are dangerous to the environment and the health and safety of people living in the United States. This has been a long, torturous process that led us to this moment. But the resolution being offered by the Senator from Alaska, Ms. MURKOWSKI, would basically ask the Senate to find against the scientific findings linking greenhouse gases and climate change. The judgment of the EPA was based on scientific findings that showed that the concentration of greenhouse gases is at unprecedented levels compared to the recent and distant past; the effects of climate changed observed to date and projected to occur in the future will have impacts on public health and welfare; and the emissions of greenhouse gases from on-road vehicles regulated by the Clean Air Act contribute to climate change.

There are those who deny the connection between greenhouse gases and what is happening to the Earth, the world in which we live. There are some who do not believe in climate change, they do not believe in global warming, and they are very vocal in their positions.

I have had many groups come to see me on the issue from my State of Illinois. Many of them are farmers, agricultural groups, and I have made a point of asking these farmers—as they tell me they oppose any type of efforts to control carbon, to tax it or measure it in the future—a very basic question: Do you believe human activity on Earth is leading to changes in the world we live in—climate changes, the melting of glaciers, different problems with pollution, public health issues, asthma, lung problems? And I have been surprised, at least initially, to find that none of them believed it—not one. Three—after I asked this repeatedly—three said they had some questions about it, but not one said they believed it; that human activity was changing the world in which we live. I said to them: It is very difficult for us to have a conversation let alone a debate about this issue if you don't buy the premise, if you don't buy the starting point that things we are doing—the way we live, the way we produce electricity, the way we move from one place to another—create pollution which changes the Earth.

This resolution by Senator MURKOWSKI basically takes the same position: that the Environmental Protection Agency's finding that these greenhouse gases are a danger to us in the future and now is wrong. The EPA did not reach this conclusion lightly, as to whether there was a connection between greenhouse gases and the safety and health of people living on Earth. They had over 380,000 public comments they elicited for this work.

The EPA endangerment finding has been supported not only by their conclusions but peer-reviewed literature in the work of the Intergovernmental Panel on Climate Change and the Proceedings of the National Academy of Sciences. For the Senate to decide tomorrow that greenhouse gases do not pose a danger to our environment or our own health is comparable to the Senate voting against gravity, saying basically we are going to disagree with the scientific conclusion on gravity.

I could argue without gravity the space program would be a lot cheaper. But the fact is, gravity is a scientific finding backed up by virtually everyone. Here we have a scientific finding backed up by the National Academy of Sciences, and the Senator from Alaska is going to ask us to vote tomorrow to reject it—the Senate to reject it. We will stand in judgment of these scientists and find they are wrong.

By what authority could we reach that conclusion? They have gone through this long process of concluding that greenhouse gas emissions endanger the planet we live on and our lives in the future. They have suggested we need to take that into consideration when we talk about the fuels we burn in the future, the way we generate electricity in the future, and start making plans to improve fuel efficiency, energy efficiency, to reduce the dangers associated with this.

I think this is an important vote, maybe a historic vote. It is also interesting who supports the position of Senator MURKOWSKI that we basically reject the sound science behind the EPA position. It is a position backed by many groups but particularly supported by big oil. The big oil companies are concerned about the impact of measuring greenhouse gas emissions and carbon emissions on the environment because it directly impacts the product they create and produce and sell.

Here we are in the midst of an environmental disaster in the Gulf of Mexico brought on by one of the biggest oil companies on Earth, and we are now going to consider in the Senate a Murkowski resolution that is supported by the same big oil interests asking us to reject the finding by the EPA that greenhouse gas emissions do pose a danger to our environment and the people living in the United States.

I say to my colleagues, tomorrow I hope they will think long and hard about this vote. This is not just another vote about another political issue. The credibility of the Senate is at issue. If we are going to stand in judgment of these scientific findings and reject them, then I think we will at least subject ourselves to a level of criticism that we have not accepted basic and sound science as it has been developed.

There are many groups supporting the Murkowski resolution. I mentioned big oil. But there are many groups that oppose the Murkowski resolution. Among them are the American Academy of Pediatrics, the Children's Environmental Health Network, the American Nurses Association, the American Lung Association, Public Health Association, Physicians for Social Responsibility, the Association of Schools of Public Health, Union of Concerned Scientists—the list goes on and on.

It is interesting, too, that automobile manufacturers oppose the Murkowski effort to reject the science behind greenhouse gas emissions. An alliance of automobile manufacturers and 11 member companies have written to us expressing concern over the Murkowski resolution that would overturn the EPA's endangerment finding on greenhouse gas emissions.

> . . . if these resolutions are enacted into law, the historic agreement creating the One National Program for regulating vehicle fuel economy and greenhouse gas emissions would collapse.

They are, of course, referring to an agreement which is trying to move toward more fuel-efficient vehicles and vehicles that pollute less. An agreement is being reached. Most Americans

would agree that is a good thing. But the basis for agreeing it is a good thing is the belief that what is coming out of your tailpipe is not necessarily good for the world we live in, and if we can reduce the greenhouse gas emissions by moving toward hybrid engines, electric cars, getting better mileage in cars we do use, it is a good thing for the American owning the car—they buy less fuel oil—and it is a good thing for the environment because there are fewer emissions.

If the Murkowski resolution prevails, we are rejecting the scientific basis for believing that what comes out of your tailpipe can be harmful to the world in which we live. That is a position which is hard to understand and difficult to explain.

The auto workers have written to us asking us to vote against the Murkowski resolution, saying they are very concerned that such a vote ''would unravel the historic agreement on one national standard for fuel economy and greenhouse gas emissions.''

We have had EPA Administrators from Presidents, both Democratic and Republican—under Nixon, Ford, and Reagan—who oppose the Murkowski resolution: Russell Train, William Ruckelshaus, many faith groups, a long list of environmental groups, and key stakeholders who oppose this Murkowski resolution. The list goes on and on.

It will be an interesting vote tomorrow to see if this Senate, this historic and traditional body, will be looking forward to the future and realizing if we do not take better care of the world we live in, we will not be leaving as clean a world, as safe a world to our children in the future.

The Murkowski resolution says ignore the science, ignore the findings, and ignore the responsibility we face to do something about this problem. I think that is clearly a move in the wrong direction, and I hope my colleagues will reject this resolution when it comes before us tomorrow.

There are some who have argued if we do not pass the Murkowski resolution the EPA will start regulating just about everything in sight. When my farmers come here and start worrying about the tractors they drive in the fields, I wonder if they have taken a close look at what the EPA rule has suggested.

There are approximately 900 currently regulated facilities, and the EPA estimates there will be about 550 more that would be affected by this rule. No small farms, restaurants, or midsize commercial facilities emit enough carbon to be regulated by the EPA. Many of these entities have been frightened by people who have been exaggerating the reach of the EPA or their interest in this particular issue.

When you look at the phase-in called for by the EPA, they are dealing with the largest emitters of pollution in our country. What I think it does is, unfortunately, make the debate somewhat distorted to suggest it is going to apply to a farmer or small businessperson because the EPA's schedule and rules do not.

The alternative of doing nothing is unacceptable from my point of view. I do believe, sadly, things are changing for the worse in many respects when it comes to the environment of the world in which we live. I do believe there has been, as the EPA has found, an increase in greenhouse gas emissions and accumulation of those emissions in the environment which have had a negative impact on the world.

I have seen the photos—most everyone has—about the warming of this Earth. Although there are clearly days and weeks when we have a lot of cold weather—we had it in Washington—we know on average the temperature of the world we live in is going up. As it does, things change: glaciers melt, there is more water in the oceans, currents change, the temperature of the water that moves around the world changes, and climate patterns start to change as well.

We need to do something about it. Voting for the Murkowski resolution is a step in the wrong direction. It basically says we are walking away from our responsibility, a responsibility which, though it is politically difficult, I think is a responsibility we must face because the science and our human experience lead us to that conclusion.

I know it is going to mean some changes in the world. I come from a State where there is a lot of coal. That coal is a source of a lot of energy. But it also could be the source of a lot of pollution. There are ways to deal with it.

I see the Senator from Missouri on the Senate floor. He and I have come together, not on every issue but at least on the notion of carbon sequestration. The idea is to take the emissions from an electric powerplant using coal, for example, and pipe them deep into the earth well below any surface where they could escape. I think this is one of the technologies, one of the scientific processes that should be researched as a possibility.

Let me conclude, because I see my colleague on the floor, by urging my colleagues to oppose the Murkowski resolution tomorrow. This resolution wants to basically reject scientific findings that have been backed up across the world. It would subject this body to not only criticism but maybe even ridicule for us to step away from basic scientific findings which have linked the activities of humans on Earth and a change in the Earth in which we live. We need to accept that basic premise and accept that basic responsibility.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I wish to make some remarks on this extenders bill now before us. It would seem to me, from what I have heard as I traveled this past week, that Americans want to send a very clear message to Washington. They have had enough of runaway spending, exploding debt, the bailouts, and the job-killing policies coming out of this Congress and this administration.

Unfortunately, with the bill on the floor now, it is clear that Washington, or most of it, has stopped listening to the American people. This bill is supposed to be about getting job creators some certainty that temporary tax benefits they rely on to retain workers will continue to be there. Instead, it seems Democrats cannot resist the opportunity to use this bill to expand the debt and extend the government reach because this $126 billion baby does all of the above. It is loaded up with unrelated spending that has nothing to do with extending necessary benefits and creating jobs. It is not fully paid for and would add another $78.7 billion to the debt.

With the national debt at now a whopping $13 trillion, the American people have said enough. Our children and grandchildren, if they were here, would say: Don't put any more on our credit cards. Our debt is now at an unprecedented $13 trillion for the first time in history. This is no small milestone.

Make no mistake, the next crisis our Nation must deal with is the exploding debt crisis that is upon us. I believe Chairman Bernanke referred to that today.

I support the provisions in this bill that would give our small businesses, our job creators, the security that longstanding tax benefits they are counting on will continue. I also support extending necessary benefits such as the Medicare reimbursements to keep doctors supplying Medicare patients with health care. This was left out of the ObamaCare bill to make it look not as expensive as it really was. But we need to pay for that.

The difference between our view on this side of the aisle and that of those on the other side of the aisle is that we should pay for temporary tax extensions with reductions and cuts in spending, not with permanent tax increases. We want to pay for necessary benefits with cuts now, not saddle our children and grandchildren with even more debt down the road.

I believe most of my colleagues on this side of the aisle agree. Like me, many Republicans support some of the provisions buried in this boondoggle of a bill. In fact, many of these provisions would easily sail through the Senate, but Democrats continue to bury these provisions in massive spending bills such as the ones before us, compelling anyone who cares about our Nation's fiscal health to vote no. Americans are demanding that we say no, that we put an end to the Washington-gone-wild policies.

They have had enough spending, tax increases, debt, bailout, government overreaching, and job-killing policies.

Right now it appears that the majority is not listening. This bill contains provisions that will severely curtail the ability of U.S. businesses that operate internationally, and will drive countless more jobs and corporate headquarters overseas at a time when we should be focusing on job creation and improving the competitiveness of the United States.

These tax increases are a step in the wrong direction. The President has even said we are going to have an economic recovery driven by exports. Well, he has not stepped up and said we need to do free trade agreements which would do that; free trade with Colombia, South Korea, Panama.

This bill, by taxing the people who go overseas to create the opportunity for more exports of American goods, will obviously destroy our ability and lessen our ability to export more. As a technical matter, six of the eight international tax increases in the extenders bill have not even been considered in the committee. Two of the eight were in the President's Greenbook. The other six were only publicly bounced out for the first time May 20. This is $14.5 billion of tax increases over the next 10 years.

Let me point out, as I have traveled overseas and looked at job creation, I have been stunned to see that America is one of only two countries that taxes businesses overseas and taxes them at home. Most other countries which are growing in their export and their influence overseas do not tax double.

Well, we are taxing double and we are increasing those taxes now. Several of the international tax increases are retroactive tax increases. Many companies, in their reports with the SEC for the benefit of the investing public, have already claimed financial statement benefit for certain foreign tax credits they have already earned but for which they have not yet claimed credit.

The retroactive tax increases affect companies that have already claimed credit for the tax credits to which they were entitled. They have been treated properly as money in the bank. This extenders bill would cause such companies to lose the credits, issue earnings restatements and perhaps even lay off U.S. employees.

These international tax increases are permanent changes to the Internal Revenue Code, meant to pay for 1 year of temporary provisions in the Internal Revenue Code, a real mismatch. And how will the extenders be paid for next year?

Some on the other side may say these tax increases are necessary to preserve American jobs or keep business in America. Well, I can tell you firsthand that is not the way it works. If you say that, you do not understand economics and international business.

I have made many statements on this floor and written a book about how the best foreign policy we can have is export and foreign investment from this country. It is vitally important as a foreign policy imperative, but also, I have seen firsthand that investment overseas not only creates wealth overseas, but it brings more exports from the United States, creating more jobs here. So it is a win-win for both countries.

Foreign countries where we want to strengthen their economy are crying for investments and for more of our exports because that is how we can help them grow. But these tax increases make it less likely that American businesses will hire, that American businesses will grow. Instead, Germany, India, and Chinese companies, Australia, and the British will outcompete us. They will be hiring more as they grow overseas and as we shrink. This is not the way we should move forward in job creation.

You may say there are reforms needed in the international tax arena, but I think the biggest reform is to put us back on the same footing as most other countries in the world that do not tax overseas. Why are we the only ones? We are one of only two that do it. Does it make good economic sense to penalize productive investment abroad which brings back profits, capital, and export opportunities here at home? That is just one. That is a $14½ billion job killer.

Another $14 billion job killer is on entrepreneurs, the people who are creating jobs and need to have venture capital. This is designed to cut the ability of venture capital groups to put together the money you need for researchers or inventors who are creating jobs. I happen to be very interested in this, because my State of Missouri has tremendous research in universities and in organizations such as the Danforth Plant Science Center coming up with innovation in agricultural biotechnology that can provide better food, better products, pharmaceuticals, improve the environment, and improve the well being of people around the world. But there is a big jump between having something in the lab that may work and getting it out in sufficient quantity to supply the Nation and the world. Under the current law, entrepreneurs have a clear signal to take risks on investments in partnerships. The signal is this: They pay a 15-percent tax if they put their time and effort to bring money and ideas together and make it workable. They have to pay a 15-percent tax when it becomes valuable enough to sell.

That clear signal incentivizes the flow of capital into startup and other ventures. You cut that off and we are going to see venture capital-driven new business opportunities disappear. What are we thinking about? Let's go back.

The No. 1 concern of Missourians, of Americans, is creating jobs. These are the jobs of the 21st century. We are losing lots of jobs of the 20th century. We have to replace them with the jobs of the 21st century. That is where venture capital comes in working with entrepreneurs, working with researchers, bringing together the business acumen, the business skill to get these good ideas into provable products in the marketplace and supply the needs of the people in the world.

Unfortunately, the majority and the Obama administration want to raise that rate to 33 percent in a little over 6 months. This 33-percent hit is set to be augmented by an additional tax hike on the part of the partnership gain attributable to carried interest. It means there is a double whammy coming at startups and other business entities seeking capital to grow and, by the way, not incidentally, primarily create jobs.

We want jobs. Stop the idea of taxing people who are going to create jobs. Rule 1, if you want more of something, tax it less. If you want less of something, tax it more. We want less jobs. That is the message this substitute sends. The double whammy on startups and other businesses would mean that almost half that carried interest, that is now capital gain, would be treated as ordinary income. So with ordinary rates set to rise to almost 40 percent, which will help kill small businesses, it means two-thirds of that carried interest would be almost 40 percent. That is a lot worse deal. That is the kind of thing this country cannot afford when we need jobs. Even though many in the business sector said they want some of the extenders, the temporary extenders the bill includes, research and development and other things, they do not want them if the price of getting them is these international tax increases.

Those opposing the bill include the Chamber of Commerce, the Business Roundtable, the National Foreign Trade Council, the National Association of Manufacturers, the Information Technology Council, IBM, and Microsoft. You can see that the innovative companies in our country know this is going to shrink their business if these tax increases go forward and it is going to cut both in international exports and to startup venture capital.

This goes back to what the Gallup poll has shown, that only 16 percent of Americans approve of the job Congress is doing, and 80 percent disapprove. If you poll those who will lose their jobs, the disapproval rate would be even higher.

I believe the only way to restore America's confidence in elected officials, particularly in this body, is to prove we are listening. The folks in my home State of Missouri, like most Americans, want Congress and the President to quit treating their hard-earned tax dollars like Monopoly money. The folks in Missouri want me to vote no and oppose any effort to pile more debt on our children and grandchildren, and to oppose efforts that would tax exports and job-creating investments in small and growing businesses.

I have heard. I am listening. I want to act on it. I hope my colleagues will join me.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

HEALTH CARE CAMPAIGN

Mr. MCCAIN. Mr. President, here we are the day after some elections in various States around the country. I think everybody will draw their own conclusion as a result of those elections, but it is hard to dispute the assertion that the so-called tea party candidates did rather well in the elections around the country.

Those people who believe the disconnect between themselves and their neighbors and their fellow citizens and what we do here in our Nation's capital is clearly disconnected. The anger and dissatisfaction continues to be displayed in poll after poll and election after election. And why are they so upset?

Well, our national debt has just surpassed $13 trillion for the first time. We now, this morning, in a prediction, have predictions that it will surpass $19 trillion in 5 years.

In the first 206 years of this Nation's existence, we were able to accumulate a national debt of $1 trillion. Now it is going to take us 5 years to add $4 more trillion, up to $19 trillion. So what is the response now by the administration and my colleagues across the aisle? Another bill that addresses $10, $20, $30, $40, $50, $100 billion additional to the debt and, of course, not paid for. And here we are, after spending a good part of a $787 billion stimulus package, where we were promised and assured that if we passed that the maximum unemployment in the United States would be 8 percent. As we all know, it is now at 9.7 percent, with the latest job information with a paltry 41,000 new jobs, and 400,000 temporary government Census jobs.

So is it surprising to anyone that there is great anger and dissatisfaction throughout the country? We seem to be not just tone deaf but deaf, which brings me to the issue of the so-called health care reform.

CBO recently came forward and said, the real cost of the reform in its new authorization is over $1 trillion, something we were assured at the time, in the year-long debate, that it would not be over $1 trillion. It will cost over $2.6 trillion over its first 10 years of full implementation.

I guess there was the assumption that either the American people would forget the debate that was held here in the Congress or would forget these promises were made about the benefits of health care reform, but they were wrong. Recent polls show that about 60 percent of the American people still oppose the legislation that was passed through the Congress and signed by the President, to great fanfare.

In the immortal words of the Speaker of the House, who said, ''We have to pass the bill so that you can find out what is in it,'' the American people are finding out what is in it, including medical device makers who assert that the new tax on them will cost jobs because of a 2.3-percent excise tax on companies that supply medical devices such as heart defibrillators and surgical tools to hospitals. It will cost an estimated $20 billion. The list of taxes goes on and on.

The response of those on the other side of the aisle is to launch a $125 million health campaign. They will spend an estimated $25 million a year over 5 years so that, quoting from a Politico story:

> The extraordinary campaign, which could provide an unprecedented amount of cover for a White House in a policy debate, reflects urgency among Democrats to explain, defend and depoliticize health care reform now that people are beginning to feel the new law's effects.

Interesting—$125 million.

To do its bit, the Medicare people have decided to spend—because we have lots of money; there are no worries—$18 million—chicken feed—in Medicare funds to send a mailer to Medicare beneficiaries. The flier is entitled ''Medicare and the New Health Care Law, What it Means for You.'' It was sent to 43 million Medicare beneficiaries under the guise of explaining how the new law will impact them. However, the brochure goes into great detail about provisions of the law that do not even apply to seniors and leaves out any mention of the cuts they will face. For example, 330,000 of my fellow citizens in Arizona are enjoying a program called Medicare Advantage. Medicare Advantage does what the government doesn't want our Medicare recipients to do, and that is to give people choices on dental care, eyeglasses, other decisions they would make. Of course, those people will see the Medicare Advantage program, which is very popular, dismantled under this law.

The flier and the President point out that over $500 billion in Medicare cuts could jeopardize seniors' health care, forcing millions to pay more. The cuts, according to the Obama administration's own Medicare actuaries, will lead to 7.4 million Medicare beneficiaries losing their health plan because of the $206 billion in cuts to Medicare Advantage. The CBO estimates that Medicare prescription drug coverage premiums will increase by 9 percent as a result of that law.

I look forward to continuing this debate with the President and my friends. He took time out from his musical evenings to have a health care townhall yesterday to talk about this great benefit to the American people that his legislation has brought. Unfortunately, seniors and the American people are not fooled.

I quote from a Wall Street Journal article of May 28, 2010:

In the full-circle department, recall the moment last September when Senator Max Baucus and Medicare went after the insurer Humana for having the nerve to criticize one part of ObamaCare. It turns out those same regulators have different standards for their own political advocacy.

This week Medicare sent a flyer to seniors, ostensibly to inform them of what ObamaCare ''means for you.'' Many elderly Americans are worried—and rightly so—about where they'll rank in national health care, given that the new entitlement is funded by nearly a half-trillion dollars in Medicare cuts. They must have been relieved to hear that ''The Affordable Care Act passed by Congress and signed by President Obama this year will provide you and your family greater savings and increased quality health care.''

That's the first sentence of the four-page mailer, and it gives a flavor of the Administration's respect for the public's intelligence. It goes on to mention ''improvements to Medicare Advantage,'' the program that Democrats hate because it gives nearly one out of four seniors private health insurance options. ''If you are in a Medicare Advantage plan, you will still receive guaranteed Medicare benefits.''

But that's not what Medicare's own actuary thinks. In an April memo, Richard Foster estimated that the $206 billion hole in Advantage will reduce benefits, cause insurers to withdraw from the program and reduce overall enrollment by half. Doug Elmendorf and his team at the Congressional Budget Office came to the same conclusion, as did every other honest expert.

I don't know if my colleagues will recall, but the first amendment we had proposed from this side when the bill came to the floor was to prohibit cuts in Medicare. Now we are seeing that there will be a $206 billion hole in Medicare Advantage that will reduce benefits and cause insurers to withdraw from the program and reduce overall enrollment by half, just as we predicted on the floor of the Senate.

I look forward to coming back to the floor with my friend from Tennessee and others as we continue this debate. Perhaps we should have been discussing it more all along. I can assure my colleagues, from the many townhall meetings I am having all over the State of Arizona, the people of Arizona, especially those in programs such as Medicare Advantage and others, are deeply concerned and deeply skeptical.

Our proposal still remains valid. Starting next January, we will make every effort to repeal and replace because we cannot lay this burden on future generations of Americans.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Tennessee.

Mr. ALEXANDER. I thank the Senator from Arizona for his leadership and for his thoughtful comments on the health care law. We fought those battles last year. We won the argument but lost the vote. That is not so good for the country, as our country is now finding out.

I am one of those 40 million Americans who are eligible for Medicare, who received that brochure in the mail last week. I spoke about it yesterday. I

found it very disingenuous and misleading and unfortunate.

(The remarks of Mr. ALEXANDER pertaining to the introduction of S. 3470 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 4325 TO AMENDMENT NO. 4301

Mr. ROBERTS. Mr. President, I ask unanimous consent to call up amendment No. 4325.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 4325 to amendment No. 4301.

Mr. ROBERTS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To exempt pediatric medical devices from the medical device tax, and for other purposes)

At the end of title VI, add the following:

SEC. _____. EXEMPTION FOR PEDIATRIC MEDICAL DEVICES.

(a) IN GENERAL.—Paragraph (2) of section 4191(b) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

''(D) medical devices primarily designed to be used by or for pediatric patients, and''.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''8 percent'' and inserting ''5 percent''.

Mr. ROBERTS. Mr. President, it is my understanding that we have reached an understanding that this amendment will be a side-by-side amendment to the amendment offered by Senator CARDIN. So at the time it would be considered we would have the vote.

Mr. President, included in the $½ trillion of new taxes in the health care reform law is a tax hike of $20 billion on medical devices. That is right. This new law imposes a $20 billion excise tax, a tax of 2.3 percent, on lifesaving medical devices.

The nonpartisan Congressional Budget Office and the Joint Committee on Taxation both confirmed that these excise taxes will not be borne by the medical device industry—will not be borne by the medical device industry. Instead, the tax will be passed on to patients in the form of higher prices and higher insurance premiums.

Recognizing that this tax, as initially proposed, was unpopular—because as written it would have increased taxes on medical devices such as eyeglasses and hearing aids—the bill was modified to exclude these and other items that are generally purchased by the general public at retail for individual use.

Yet even with these exemptions, patients still bear the burden of this new tax. Here are just a few examples of the people who will be hit by this new tax and the types of devices that will be taxed. People with disabilities, diabetics, amputees, people with cancer, and those with heart problems are just some of the people who will see their health care costs go up because of this tax.

During debate on the health care bill, I offered amendments to simply strike this unfair tax. Unfortunately, the majority did not approve these amendments. My amendment today prevents this new tax from raising the costs for pediatric medical devices—those devices that treat the youngest in our population: children who have serious or life-threatening illnesses such as cancer or a heart problem. The amendment exempts from the excise tax medical devices primarily designed to be used by or for pediatric patients.

This tax on medical devices is a tax on innovation as well. It harms research and development that leads to medical advancement. It creates an additional burden for medical device manufacturers to develop new products or to redesign them to meet the specific needs of pediatric patients.

As the FDA notes on its Web site:

Designing pediatric medical devices can be challenging: [Obviously] children are often smaller and more active than adults, body structures and functions change throughout childhood, and children may be long-term device users.

With these challenges and other barriers that exist to the development, approval, and availability of pediatric devices, it seems to me—and I think it should be clear to everyone, all of my colleagues—we should not add another barrier by taxing medical device manufacturers who develop and manufacture pediatric devices. Imposing the excise tax on pediatric medical devices will do nothing but slow innovation for these necessary and lifesaving devices.

So when innovative and lifesaving technologies are taxed, when the cost of many tests increases because the devices used in the tests are taxed, when new devices are not developed, and when fewer manufacturers are able to survive in the anticompetitive environment this tax will create, the consumers of health care will suffer for it.

I urge my colleagues to support this amendment to exempt pediatric medical devices from the excise tax to ensure that the youngest patients who need the lifesaving treatment these devices can offer do not have to pay more for that treatment. This is a step in the right direction to correcting the serious flaws in the health care law.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

The PRESIDING OFFICER. The Senator from Montana.

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

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

Mr. BAUCUS. Mr. President, we are hoping to reach an agreement soon on a procedure during which we can cast votes on various amendments. The first would be an amendment by Mr. CARDIN; the next, Mr. ROBERTS; and then the Sessions amendment. At the conclusion of the Sessions amendment, I think we will then have 40 minutes of debate, and then the Baucus amendment and then the Cornyn amendment, but that will be outlined much more specifically in a unanimous consent request which I think should be coming fairly quickly.

I wish to say a word or two about the Roberts side-by-side amendment with respect to medical devices. I think it is important to remind ourselves that we are a democracy. Sometimes I think that is forgotten. That is, we are a country of laws. This is a country where we live by the will of the majority, as enacted into law.

It used to be that we here in the Senate would air our differences, vote, and then move on. I must say that lately, and especially with regard to health care reform, many on the other side of the aisle appear to be unable to move on. Many on the other side of the aisle appear unwilling to accept the results of our legislative process as enacted into law and signed by the President. Many on the other side of the aisle appear simply unwilling to accept the new health care law. Some come to the floor daily to complain about it and, in a sense, relitigate it. It is already passed. It is the law. For the life of me, I don't understand why Senators don't realize that now is the time, since the law has been enacted, to offer constructive remarks to help make sure it works even better. We are here to serve the American people. We are not here to score partisan political points. I think most people at home want the Senate to work to offer ideas to help make the recently enacted health care reform law work even better.

So today, unfortunately, we have again an amendment to carve out an exception to the medical device fee that helps pay for health care reform. This amendment would pay for the loss of revenue by leaving more Americans without health insurance. We are in a situation where if we cut out this medical device provision, then we have to make it up in some way, so this amendment would pay for the lost revenue by leaving more Americans without health insurance.

Senator ROBERTS offered this amendment a few minutes ago, and it would again seek to make changes to the medical device excise tax that is set to go into effect in the year 2013. The Senate rejected an amendment earlier in the year very much like this one. It rejected it during consideration of the

Health Reconciliation Act on March 24. We have already been there. We voted on this, not only in the health care reform bill that passed, but we also already voted on this amendment, and the Senate rejected an amendment very similar to this and rejected it soundly by a vote of 57 to 40. Here we are again.

But, still, some on the other side of the aisle appear unwilling to move on. So for the same reasons we rejected this amendment in March, we should reject it again today. We should not exempt one set of medical device manufacturers from contributing their fair share toward health care reform. We should not decrease the number of Americans with health insurance, which this amendment would do—decrease the number of Americans with health insurance. We should, therefore, reject the Roberts amendment.

Let me describe the amendment in a little bit more detail. First, the amendment tries to exclude certain medical device sales from assessment. As my colleagues will recall, a fee was placed on various providers to help pay for health care reform, and in virtually every case, the providers agreed to the fee. They would rather not have to pay a fee, but they agreed to it. They didn't cause a big fuss. Why? Because, as a result, more people would have health insurance, and with more health insurance, providers generally make a little more money. What they may lose on markup they could make up in volume as more people would have health insurance.

Products that consumers will buy at retail are already excluded. Further attempts to exclude devices are attempts to undermine the entire medical device policy.

The health care reform bill included shared responsibility for all health care industries. I would remind my colleagues, that was the basic premise of health care reform. We are all in this together. Shared responsibility. All Americans help share responsibility—individuals, companies, insurance companies, manufacturers, doctors, hospitals. It is shared. All Americans share. It is about the only way we could make health care reform work in this country, and reform we must because of all the waste that otherwise occurs in our system. There are some estimates that there is up to 29 percent waste in the American health care system. That is a lot of money. We spend about $2.5 trillion a year on health care reform and waste in the American health care system. That is a lot of money. We spend about $2.5 trillion a year on health care reform, and 29 percent comes out to around over $800 billion of waste. I am not saying we can get all of that waste out of the system, but I am saying the passage of this legislation will go a long way, in many respects because of its very strong provisions to attack fraud and abuse in Medicaid and Medicare.

The health care reform bill included shared responsibility for all health care industries. Medical device companies pledged to do their part. They pledged to do their part, and they must do their part. This is particularly true since that industry will see at least 32 million more customers as a result of reform, leading to substantial new profits. The device industry and many other industries in health care will see 32 million more customers as a result of this health care reform law we passed, leading to substantial new profits for them.

This amendment offered by the Senator from Kansas also seeks to weaken the individual responsibility requirement in health reform—weaken it. Remember, this is a shared responsibility. He wants us to weaken a large part. The Congressional Budget Office has indicated that the requirement is one of the most critical pieces of reform; that is, that requirement that the Senator wishes to weaken. CBO, again, states this requirement is one of the most critical pieces of reform. Without it, we lose coverage for millions of Americans. Without it—without that reform—premiums could spike by up to 15 to 20 percent in the nongroup market. Premiums were likely to go up 15 to 20 percent in the nongroup market if this health care reform bill had not passed. That is the analysis of the nonpartisan Congressional Budget Office.

So, clearly, we must resist efforts to weaken the individual responsibility policy in the health care reform bill. I, therefore, do not support this amendment.

I have a couple of other matters. I have not had much opportunity to speak today, so I wish to speak on those matters. I see my good friend from Utah wishes to speak and I will try to speak quickly so he can make his remarks.

The Senator from Arizona came to the floor a few moments ago to attack a number of laws we have enacted this Congress. First, he attacked the Recovery Act. The Senator from Arizona ridiculed the Recovery Act's effects. But we here turn to the nonpartisan Congressional Budget Office for the straight facts. What are the facts? I think it was the late Senator Moynihan from New York who once said, you know, you can argue the policy, but you can't argue facts. Facts are facts. Facts are very tenacious things that are there that you can't wish away. So what are the facts, according to the Congressional Budget Office? The nonpartisan Congressional Budget Office says that in the first quarter of calendar year 2010, the Recovery Act's policies raised the level of real gross domestic product—that is adjusted for inflation—raised the level of gross domestic product by between 1.7 percent and 4.2 percent—not zero, not decreased but raised—raised the gross domestic product in the United States between 1.7 percent and 2.4 percent. Also, CBO says the Recovery Act lowered the unemployment rate by between .7 percentage point and 1.5 percentage points. That is the conclusion of the Congressional Budget Office.

What else did the Congressional Budget Office say? That the Recovery Act increased the number of people employed by between 1.2 million and 2.8 million—increased the number of people employed. That is the consequence of the act. The Congressional Budget Office further states that it increased the number of full-time equivalent jobs by 1.8 million to 4.1 million compared with what those amounts would have been otherwise. I think that is pretty clear.

I respect the ability of the Senator from Arizona to state his own thoughts. That is why we are here in the Senate, in many respects. But we can't dispute the facts as stated by the nonpartisan Congressional Budget Office, the facts which I just recited.

Mr. President, I ask unanimous consent that at 4 p.m. today, the Senate proceed to vote in relation to the following amendments in the order listed and that no intervening amendment be in order prior to the votes, with 2 minutes of debate prior to each vote, with the time equally divided and controlled in the usual form; that after the first vote in the sequence, the succeeding votes be limited to 10 minutes each: Cardin amendment No. 4304; Roberts amendment No. 4325; Sessions amendment No. 4303, with a modification which is at the desk, and that the amendment be modified.

The PRESIDING OFFICER. Is there objection?

The Senator from Utah.

Mr. HATCH. Mr. President, reserving the right to object, and I won't object, but I want to make sure I have enough time to give the remarks I was supposed to give.

Mr. BAUCUS. That depends on how long the remarks are going to be.

Mr. HATCH. They will be wonderful remarks.

Mr. BAUCUS. I am sure they are going to be wonderful. That wasn't the question.

Mr. HATCH. I am hopeful that I can be finished by 4 o'clock.

Mr. BAUCUS. We will work it out. We can always delay the first vote until, say, 5 minutes after 4 to accommodate the Senator from Utah.

Mr. HATCH. I have no objection.

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

Amendment No. 4303, as modified, is as follows:

At the end of the amendment, insert the following:

SEC. _____. DISCRETIONARY SPENDING LIMITS.

(a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the discretionary spending limits as set forth in this section to be exceeded.

(b) LIMITS.—In this section, the term ''discretionary spending limits'' has the following meaning subject to adjustments in subsection (c):

(1) For fiscal year 2011—

(A) for the defense category (budget function 050), $564,293,000,000 in budget authority; and

(B) for the nondefense category, $540,116,000,000 in budget authority.

(2) For fiscal year 2012—

(A) for the defense category (budget function 050), $573,612,000,000 in budget authority; and

(B) for the nondefense category, $543,790,000,000 in budget authority.

(3) For fiscal year 2013—

(A) for the defense category (budget function 050), $584,421,000,000 in budget authority; and

(B) for the nondefense category, $551,498,000,000 in budget authority.

(4) With respect to fiscal years following 2013, the President shall recommend and the Congress shall consider legislation setting limits for those fiscal years.

(c) ADJUSTMENTS.—

(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, the budgetary aggregates in the concurrent resolution on the budget most recently adopted by the Senate and the House of Representatives, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing there from; and

(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(2) MATTERS DESCRIBED.—Matters referred to in paragraph (1) are as follows:

(A) OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, that provides funding for overseas deployments and other activities, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that purpose but not to exceed—

(i) with respect to fiscal year 2011, $50,000,000,000 in new budget authority;

(ii) with respect to fiscal year 2012, $50,000,000,000 in new budget authority; and

(iii) with respect to fiscal year 2013, $50,000,000,000 in new budget authority.

(B) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, that includes the amount described in clause (ii)(I), plus an additional amount for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

(I) For fiscal year 2011, $7,171,000,000, for fiscal year 2012, $7,243,000,000, and for fiscal year 2013, $7,315,000,000.

(II) For fiscal year 2011, $899,000,000, for fiscal year 2012, and $908,000,000, for fiscal year 2013, $917,000,000.

(C) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes the amount described in clause (ii)(I), plus an additional amount for Continuing Disability Reviews and Supplemental Security Income Redeterminations for the Social Security Administration described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

(I) For fiscal year 2011, $276,000,000, for fiscal year 2012, $278,000,000, and for fiscal year 2013, $281,000,000.

(II) For fiscal year 2011, $490,000,000; for fiscal year 2012, and $495,000,000; for fiscal year 2013, $500,000,000.

(iii) ASSET VERIFICATION.—

(I) IN GENERAL.—The additional appropriation permitted under clause (ii)(II) may also provide that a portion of that amount, not to exceed the amount specified in subclause (II) for that fiscal year instead may be used for asset verification for Supplemental Security Income recipients, but only if, and to the extent that the Office of the Chief Actuary estimates that the initiative would be at least as cost effective as the redeterminations of eligibility described in this subparagraph.

(II) AMOUNTS.—For fiscal year 2011, $34,340,000, for fiscal year 2012, $34,683,000, and for fiscal year 2013, $35,030,000.

(D) HEALTH CARE FRAUD AND ABUSE.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes the amount described in clause (ii) for the Health Care Fraud and Abuse Control program at the Department of Health & Human Services for that fiscal year, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed the amount described in clause (ii).

(ii) AMOUNT.—The amount referred to in clause (i) is for fiscal year 2011, $314,000,000, for fiscal year 2012, $317,000,000, and for fiscal year 2013, $320,000,000.

(E) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes $10,000,000, plus an additional amount for in-person reemployment and eligibility assessments and unemployment improper payment reviews for the Department of Labor, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed—

(i) with respect to fiscal year 2011, $51,000,000 in new budget authority;

(ii) with respect to fiscal year 2012, $51,000,000 in new budget authority; and

(iii) with respect to fiscal year 2013, $52,000,000 in new budget authority.

(F) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes $3,200,000,000 in funding for the Low-Income Home Energy Assistance Program and provides an additional amount up to $1,900,000,000 for that program, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed $1,900,000,000.

(d) EMERGENCY SPENDING.—

(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

(2) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report shall not count for purposes of this section, sections 302 and 311 of this Act, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits), and section 404 of S. Con. Res. 13 (111th Congress).

(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

(4) DEFINITIONS.—In this subsection, the terms ''direct spending'', ''receipts'', and ''appropriations for discretionary accounts'' mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) POINT OF ORDER.—

(A) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(B) SUPERMAJORITY WAIVER AND APPEALS.—

(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this paragraph.

(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this paragraph, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate

amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(6) CRITERIA.—

(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(7) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(e) LIMITATIONS ON CHANGES TO EXEMPTIONS.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

(f) POINT OF ORDER IN THE SENATE.—

(1) WAIVER.—The provisions of subsections (a) and (e) of this section shall be waived or suspended in the Senate only—

(A) by the affirmative vote of two-thirds of the Members, duly chosen and sworn; or

(B) in the case of the defense budget authority, if Congress declares war or authorizes the use of force.

(2) APPEAL.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the measure. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(g) LIMITATIONS ON CHANGES TO THIS SECTION.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise change this section.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate my colleague's remarks and I appreciate his leadership on the Finance Committee. He is a fine man. We have been friends for a long time. He has had a very tough job on health care.

But I was a little amazed that he would suggest the Republicans are opening up the health care bill after the distinguished Senator from Maryland actually opened it up with his amendment. I suspect there is going to be a lot of opening by Democrats, as well as Republicans, of the health care bill because it is a colossally bad bill. There is no sin in doing that. Plus I have to say, coming from one of the States that is one of the major producers of medical devices, most of those device companies hardly agreed to what has happened to them. They are going to have to pass those additional taxes on to consumers.

I make those remarks to correct the record a little bit. I realize what my friend is saying. I suspect there will be a lot of amendments to what I consider to be a bill that I think will be a problem for the rest of our lives if we don't reform it.

I rise today to express my deep concern about the so-called American Jobs and Closing Tax Loopholes Act. I also wish to relay my growing frustration with the partisan gamesmanship and lack of leadership by the majority of this body that has brought us to the deplorable state in which we find ourselves in connection with the expired tax provisions.

As a long-time member of the Committee on Finance, it has been my privilege to work with my colleagues on both sides of the aisle to try to improve the tax laws of this country. While we have had our share of partisan fights over the nearly 20 years I have served on the committee, there has been an overall spirit of cooperation and bipartisanship that has set this panel apart from all the others on which I have served. Unfortunately, this positive spirit, which is so badly needed in the Congress today, has been unraveling for some time now.

Nowhere is this degradation of bipartisan cooperation more evident than in taking care of what used to be the routine business of extending expiring tax provisions. This, of course, is a major objective of the bill before us.

Let us move back a few steps and take an objective look at what we are attempting to do here with this bill. This legislation started out with the purpose of reinstating a growing number of important tax provisions that expired at the end of last year. I recall a time not so long ago when the Senate took care of expiring provisions before they lapsed, not 6 months or even more, after their sunset.

The problem is not with the provisions themselves—they almost universally enjoy wide and deep support on both sides of the aisle. Nor is it a problem that these provisions are not important to the American economy. Admittedly, some of them are more significant than others. The research credit, for example, is vital to our battle to keep R&D activities here in the U.S.—which, by the way, is a battle we are in danger of losing to many of our trading partners, who are working hard to attract these activities away from our shores.

Rather, the problem is twofold—a lack of taking care of needed business on the part of the Senate leadership and the tendency of the majority to use the expired tax provisions as a pawn in the games of politics they are playing.

Let me offer several examples of this. First, it has sadly become commonplace for the leadership of the Senate to not even begin to take the extension of expiring tax provisions seriously until after they have expired. We have, so many times now, routinely extended these provisions after the fact on a retroactive basis, that we have created a sort of expectation that this is a normal and fine way of doing things. This is true despite the fact that we know and admit that this sloppy way of managing public policy will create additional complexity and burdens to the taxpayers that are dependent on these provisions.

Second, the majority had ample opportunity before now to take up and pass the tax extenders, but political games got in the way. For example, early this year in a demonstration of bipartisanship worthy of the reputation of the Finance Committee, Chairman BAUCUS reached out to Senator GRASSLEY and other committee members on both sides of the aisle in an attempt to put together a job creation bill. This bill, which was eventually enacted as the HIRE Act, was to have included the expired tax provisions. Practically everyone agrees that these provisions are job creators, and both sides wanted to put them in the bill.

Instead, however, the majority leader essentially hijacked this cooperation and turned it into a partisan game where it was impossible for our side to participate. In the process of doing so, he inexplicably removed from the bill the expired tax provisions and trashed them as Republican-only initiatives. Thus, these tax extenders could have been enacted in March but the Democratic leadership demonstrated that it would rather play political games than get these important provisions taken care of, which we all pretty much supported.

Third, when the majority finally did turn its attention to extending these expired tax provisions, it decided to attach unrelated provisions that it felt it could push through the Congress because extender bills eventually become ''must pass'' legislative vehicles. These unrelated provisions include an expansion of the controversial Build America Bonds program and a Medicare ''doc fix'' provision that had been promised in the so-called health care reform bill. Adding these provisions effectively turned the extenders into a pawn in this game of politics.

Finally, the majority has engaged in a strange game of insisting that the expired tax provisions be offset with tax increases on other taxpayers, while allowing far larger portions of the bill, such as the extension of unemployment benefits, to remain un-offset under the guise that we are in an emergency.

Mr. President, we are indeed in an emergency, but it is an emergency caused by too-high taxes and by lack of spending restraint. And by national debt that is compounding itself day after day, year after year, until we double our deficit in the next 5 years and triple it in 10, if we are lucky.

The solution is certainly not to raise taxes and increase spending, yet this is exactly what this bill does. It is to these tax increases included in the bill that I wish to address the remainder of my remarks.

Most of my colleagues know that I have been a strong and long-time supporter of many of the expired tax provisions. Let me again mention the importance of the research tax credit. I, along with Senator BAUCUS, have long

championed this provision, and I have worked to make it a permanent credit so we do not have to see these repetitive lapses in its coverage, which only make it less effective as an incentive.

I wish this bill included a permanent research tax credit, which many of my colleagues on the other side of the aisle and the Obama administration insist they are in favor of enacting. Knowing that a permanent extension was out of the question, I attempted to strengthen the credit on a temporary basis, along the lines of the bill that Senator BAUCUS and I introduced last year, but the other side was not even willing to do this. Nevertheless, a straight extension of the current law research tax credit is significant and is of dire necessity.

I hasten to point out it would not have been as effective as the strengthening provision that we both had agreed should be in the bill.

Why, then, am I planning to vote against this bill? Along with the huge increase in un-offset spending, it is for the same reason that much of the business community is opposed to this legislation—the tax increases added to the bill will damage the economy and job creation and outweigh the benefits of extending the expired tax provisions.

That is at a time when we know that unemployment is not coming down, nor is the economy getting that much better.

Let us take a look at some of these so-called tax loopholes that this legislation is attempting to close.

The largest revenue raiser in the bill is the so-called carried interest provision. For several years now, we have heard it stated with outrage that hedge fund managers get by with paying a lower tax rate on their billion dollar compensation packages than the tax rate their secretaries pay on their relatively meager salaries. Well, if it were this simple, maybe this is a legitimate loophole that we should have closed a long time ago. Unfortunately, it is not this simple.

Rather, the carried interest issue is a complex one that permeates through many structures throughout our economy in ways that are difficult to understand. For example, the same partnership structure that is often utilized by a hedge fund is also used by venture capitalists and real estate developers. These structures have long been part of our tax law and many multi-billion dollar deals that have created millions of jobs have been built upon them.

I am not here to say that from a tax policy point of view, the way we tax carried interest should not be examined and possibly changed. What I am here to say is that we need to use extreme caution in making any changes to the taxation of these structures. Why? Because the simple fact is that if we increase the tax rates and change the nature of income from these partnerships, the economic hurdle rates will rise, and fewer deals will get done. And if fewer deals are done, less economic activity will be generated and fewer jobs will be created. At this time of economic strife in this country, this is not a chance we should take.

The problem Mr. President, is that these offsets are being considered for one reason and one reason only—for the tax revenue they are projected to provide. We are trying to fill a hole and we need a certain amount of new taxes to do it. We are not looking to improve tax policy here. If we were, we would approach this matter with the caution it warrants.

Another big tax change in this bill before us also needs to be reconsidered. I refer to the provision to change the way certain owners of S corporations are subject to self-employment tax. This $11 billion plus revenue raiser will create all kinds of headaches for legitimate small businesses that are currently playing by the rules.

The proponents of this change say that it is needed to close a loophole made famous by a former colleague of ours who will remain unnamed. However, the Internal Revenue Service already has all the tools it needs, in the form of existing tax rules, to enforce the kind of abuses that have occurred in this area.

The provision in this bill to correct this problem would arbitrarily afflict certain small businesses whose only sin is that they might have three skilled professionals rather than four. Essentially, the provision creates a raft of unanswered and complex questions that will likely bedevil hundreds of thousands of small business owners who would much rather be concentrating on surviving the tough economic climate and possibly creating some new jobs.

Finally, I must say a few words about another category of offsets in this bill that are entirely unjustified and were not well considered. These are the set of changes to the foreign tax credit rules that suddenly appeared on the scene just a few days ago. Unlike most other tax offsets that we discuss in the Finance Committee, which have been around for a long time and have had the benefit of examination by the professional tax community, these were sprung on us just a few days ago. They were not part of the administration's budget proposal and have not been subject to any kind of hearing in either House.

Rather, they were apparently concocted by some backroom bureaucrats in the bowels of the executive branch and brought forth in the guise that these are glaring loopholes that must be closed for the sake of the future of the federal fisc. However, what I have been told by seasoned tax professionals in the business community is that these are, in large part, not loopholes at all but legitimate tax planning techniques that the Treasury and Internal Revenue Service have known about for years.

What is worse is that the effective date of these provisions in this bill would have a retroactive effect. We all know that retroactive tax increases belie good public policy. Moreover, many on the majority side, including the chairmen of both of the tax-writing committees, earlier agreed that international tax reform provisions should be discussed in connection with international tax reform, not as a knee-jerk reaction to a perceived need for revenues on an unrelated bill. This is not good lawmaking and we should abandon consideration of these revenue raisers until we can examine them from a tax policy point of view.

In conclusion, we are on the low road with this bill. I am frankly ashamed to tell Utahns who ask me about the expired provisions that Congress has not dealt with them yet, and that the reason why is that we are too busy playing partisan games to manage the affairs of the nation in a responsible way.

It is not too late. Let us walk away from this mess and start again. Let us take up a clean bill to extend the expired provisions, which we all agree should be enacted, and then deal with these other issues separately. Most importantly, let us not increase taxes on anyone when the economy is in such a precarious position.

As our side has stated many times before, these tax provisions have been paid for many times over in previous years, by enacting permanent offsets to go along with their temporary extension. Let us not hurt our constituents in the name of false fiscal responsibility. Let us instead employ real fiscal responsibility and start finding ways to address our runaway spending addiction.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4304

Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4304, offered by the Senator from Maryland, Mr. CARDIN.

The Senator from Maryland.

Mr. CARDIN. Mr. President, the amendment we will be voting on is an amendment that allows the Federal Employees Health Benefits Plan enrollees to enroll their children up to age 26 immediately rather than waiting until January 1, which is what the new law provides. Private insurance companies are providing this opportunity now for their individuals.

Let me point out that I understand a point of order might be raised under the Budget Act. This has negligible costs. In fact, it will save some money in that children who reach the age of 22 between now and the end of the year

will be required to disenroll and then reenroll again after January 1, which makes no sense whatsoever.

The Office of Personnel Management wants to implement this plan now. They have the capacity to do it, but they need the legal authority to do it.

For the sake of our 8 million active Federal workers, retirees, and their families, it makes sense for us in an orderly way to allow their children up to age 26 to be part of the Federal Employees Health Benefits Plan now rather than have to wait until January 1.

I urge my colleagues to support the amendment and to support the waiver of the budget point of order.

Mr. BAUCUS. Mr. President, prior to enactment of health care reform, there was no law that required insurers to extend coverage for young adults to remain on their parents' plans.

For years, getting a diploma also meant losing your health insurance. And whether you went on to college or not, it was often hard as a young person to find affordable coverage.

Overall, Americans in their twenties were twice as likely to go without health insurance as older Americans.

For too many young Americans over the years, the answer to these questions was simply to go without health insurance and hope that you stayed healthy.

Under the new health reform law, insurers will be required to allow all Americans under the age of 26 who do not get health insurance through their job to stay on their parents' plan.

And beginning in 2014, children up to age 26 can stay on their parent's employer plan even if they have another offer of coverage through an employer.

This provision is scheduled to go into effect in September. But every major insurance company—more than 65 in total—and several major self-insured organizations have said they will provide continuous coverage for young adults this summer.

The amendment by the Senator from Maryland would make it possible for the Federal Employee Health Benefit Program to follow the lead of private insurance companies and make this coverage available sooner, as well.

This is a worthy goal. And the amendment would have negligible effects on the budget. And so I support the motion by the Senator from Maryland and urge my colleagues to vote for it.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Utah.

Mr. HATCH. Mr. President, I have been asked to raise a point of order that the Cardin amendment violates section 311 of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I ask that there be a waiver of all points of order.

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 motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—57

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

NAYS—42

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

NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote the yeas are 57 and the nays are 42. 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 fails.

Mr. BAUCUS. Mr. President, the Senate is not in order.

AMENDMENT NO. 4325

The PRESIDING OFFICER. The Senate will be in order.

Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4325, offered by the Senator from Kansas, Mr. ROBERTS.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, much like Senator CARDIN's amendment, my amendment also recognizes the need to ensure that the youngest in our population have access to health care. My amendment does this by exempting medical devices primarily to be used by or for pediatric patients. The CBO and the Joint Committee on Taxation both confirmed that these excise taxes will not be borne by the medical device industry. The tax will be passed on to patients in the form of higher prices and higher insurance premiums.

My amendment prevents this new tax from raising the cost for pediatric medical devices—those devices that treat the youngest in our population, children who have serious or life-threatening illnesses, such as a heart patient or a cancer patient.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Roberts amendment would address almost exactly the same matter the Senate voted on March 24. We rejected it then and we should reject it now.

The amendment would carve out an exemption for certain medical device manufacturers from paying their fair share of costs for health care reform and it will be paid for by reducing the number of people to be covered by health insurance. The last thing we should do is cut back on health insurance coverage, and I urge my colleagues to oppose the amendment.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—55

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

NAYS—44

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

NOT VOTING—1

Byrd

The motion was agreed to.

AMENDMENT NO. 4303, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4303, as modified, offered by the Senator from Alabama, Mr. SESSIONS.

The Senator from Missouri.

Mrs. MCCASKILL. Mr. President, I rise to spend a few moments to talk about this amendment. We have voted on this amendment before, although we have made a couple of changes: exempting moneys that are being spent on contingency operations for our military overseas and lowering the vote threshold for emergencies where we need to go beyond the spending cap.

But this is the bottom line: On kitchen tables all across this country families are cutting their budgets. In county courthouses all over this country people are cutting budgets. In State legislatures all over this country people are cutting budgets. In city council chambers all over this country people are cutting budgets.

Then we get to Washington, and what we are trying to do here is not cut a budget. That is the amazing part about this. This does not cut a penny. All it does is curb the growth. Are we going to say to this country that we are unable to cap the growth of this government over the next 3 years?

This is a baby step. This is not a major assault on the spending of the Federal Government. This is a baby step.

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

Mrs. MCCASKILL. I urge the adoption of the amendment.

Mr. INOUYE. Mr. President, this will be the fourth time this year the Senate will be voting on an amendment offered by the Senator from Alabama which seeks to constrain discretionary spending. Each one of the amendments has been similar.

This is the fifth time I have risen to speak in opposition to this amendment, and I must admit I find myself somewhat at a loss for words. There are only so many ways to highlight the negative impact of this amendment on current services and the President's initiatives, while explaining how it does not address real deficit reduction.

Fortunately, the Senate has voted this amendment down three times already. I thank my colleagues for rejecting this amendment in the past, and I certainly hope we will do so again.

There are a number of reasons why this amendment is a bad idea. Let me remind my colleagues, again, of several of those reasons:

The Senator from Alabama uses last year's budget resolution as his starting point. He believes that since Congress passed a budget resolution last year with a nonbinding target for this year, that we should now make that target binding.

But, since this amendment was originally proposed, the Budget Committee has reviewed the President's budget request for fiscal year 2011 and has marked up a new budget resolution. In doing so, the committee has changed their recommendation.

Since the committee with jurisdiction has determined the levels that it believes the Congress should keep to, I am not sure what advantage the Senate would have in agreeing to the notional targets in last year's resolution.

I have stated this before, but it is important to note again for my colleagues. The President's budget proposal for fiscal year 2011 allows growth in Homeland Security; this amendment does not assume growth. This could result in fewer border patrol agents and firefighting grants and would weaken TSA's ability to respond to threats to aviation security.

The President has requested more than $732 billion in his budget for national defense for fiscal year 2011, including the cost of war. This amendment only allocates $614 billion.

As I stated several weeks ago, over the 3 years covered in this amendment, the caps that would be put into place are $141 billion below President Obama's 3-year plan, including $50 billion below defense and $91 billion below nondefense spending.

The Sessions amendment is $82 billion below the budget resolution which the committee adopted, and includes a cut of $50 billion from Defense, over 3 years. In the near term, for fiscal year 2011, the Sessions amendment will require the Appropriations Committee to cut defense spending by $9.5 billion and nondefense spending by about $11 billion.

Such across-the-board cuts make for a great photo opportunity for appearing to reduce the deficit, but the consequences could be severe. The lack of direction is reckless. Important needs would go unmet. This amendment could result in cutting research funds for traumatic brain injury, worsening the shortage of air traffic controllers, cutting afterschool centers and veterans employment programs, to name just a few.

This week, the President has asked Federal agencies to identify 5 percent in spending cuts for fiscal year 2012 to areas that are not critical to their overall mission. A more thorough, deliberative approach such as this is clearly more sensible than slashing budgets across-the-board with little or no consideration of the consequences.

As I have said now several times before, a critical flaw in this amendment is it does nothing to seriously reduce the deficit. It fails to address the two principal reasons for the government's current financial distress.

The two drivers behind the growth in the debt are unchecked mandatory spending and the huge tax cuts for the wealthy passed, with no offsets, by the previous administration. This amendment fails to address either of those two problems. It simply does not get the job done. Further, it hinders the efforts of those who do seek to address the deficit in a comprehensive manner.

The fact of the matter is that many of our Republican colleagues are more than willing to put a cap on discretionary spending. At the same time, they refuse to support policies that would ensure the Nation has sufficient incoming revenue to make a real impact on the deficit, even though mandatory spending has increased significantly for the last few years.

We all know that it is impossible to achieve a balanced budget simply by freezing discretionary spending. In fact, we could eliminate all discretionary spending increases for defense and nondefense spending and still not even come close to balancing the budget.

And again, I remind my Democratic colleagues that if we cut discretionary spending without also reaching an agreement on mandatory spending and taxes, we will find it impossible to get those who do not want to address revenues to come to a meaningful compromise.

I would also remind my colleagues that the deficit reduction commission is working, as we speak, to come up with a comprehensive solution to the current systemic imbalances we face.

And in the fall, they will make their recommendations to the Congress, and we have a firm commitment to bring those recommendations up for a vote.

The Senate has already rejected this flawed plan three times this year. The flaws remain, and the Senate should reject it a fourth time.

This amendment fails to address the real causes of our deficits and the national debt in a fair and comprehensive manner. It would provide far less funding than either the President or the Senate Budget Committee recommend.

For all of these reasons, I urge my colleagues once again to vote no.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this is the Sessions-McCaskill amendment. We have voted at least four times on this amendment. The Senator from Alabama has offered pretty much the same amendment.

For now, four times the Senator from Alabama has sought to fix caps on the work of the appropriations process. Three times the Senate has rejected this amendment. I think we should do so today. The amendment by the Senators from Alabama and Missouri robs the Appropriations Committee and the Congress of flexibility to respond to changed circumstances in years to come. It would set budget caps, binding years into the future, no matter what happens between now and then.

So for all of the reasons the Senate rejected this amendment three times before, I believe we should reject it again today. The Sessions amendment seeks to change the budget process; therefore, it violates the Congressional Budget Act. I thus raise a point of order that the Sessions amendment

violates section 306 of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I move to waive the applicable section of the budget resolution with respect to my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The question is on agreeing to the motion.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. ROBERTS).

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

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—57

Alexander	Cornyn	Lugar
Barrasso	Crapo	McCain
Bayh	DeMint	McCaskill
Begich	Ensign	McConnell
Bennet	Enzi	Murkowski
Bennett	Graham	Nelson (NE)
Bond	Grassley	Nelson (FL)
Brown (MA)	Gregg	Risch
Brownback	Hagan	Sessions
Bunning	Hatch	Shaheen
Burr	Hutchison	Shelby
Cantwell	Inhofe	Snowe
Carper	Isakson	Thune
Casey	Johanns	Udall (CO)
Chambliss	Klobuchar	Vitter
Coburn	Kyl	Voinovich
Cochran	LeMieux	Warner
Collins	Lieberman	Webb
Corker	Lincoln	Wicker

NAYS—41

Akaka	Gillibrand	Murray
Baucus	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown (OH)	Kaufman	Rockefeller
Burris	Kerry	Sanders
Cardin	Kohl	Schumer
Conrad	Landrieu	Specter
Dodd	Lautenberg	Stabenow
Dorgan	Leahy	Tester
Durbin	Levin	Udall (NM)
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Franken	Mikulski	

NOT VOTING—2

Byrd	Roberts

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 41. 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 Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that there now be 20 minutes of debate, with the time equally divided, with respect to the Cornyn amendment No. 4302, and that the amendment be modified with the changes at the desk; that Senator BAUCUS then be recognized to offer an amendment on the same subject as the Cornyn amendment; that the two amendments be debated concurrently for the total time as specified above, with no intervening amendment in order to either amendment; that upon the use or yielding back of time, the Senate proceed to vote with respect to the Baucus amendment, to be followed by a vote in relation to the Cornyn amendment, as modified; that prior to any succeeding votes in this sequence, there be 2 minutes of debate, equally divided and controlled in the usual form, and that any succeeding votes be limited to 10 minutes; that the next amendment to be offered be from the majority and then an amendment from the Republican side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Under the previous order, the Cornyn amendment No. 4302 is modified with the changes at the desk.

The amendment, as modified, is as follows:

At the appropriate place, add the following:

TITLE ----TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. _01. SHORT TITLE.

This title may be cited as the ''Foreign-Held Debt Transparency and Threat Assessment Act''.

SEC. _02. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term ''debt instruments of the United States'' means all bills, notes, and bonds issued or guaranteed by the United States or by an entity of the United States Government, including any Government-sponsored enterprise.

SEC. _03. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the growing Federal debt of the United States has the potential to jeopardize the national security and economic stability of the United States;

(2) the increasing dependence of the United States on foreign creditors has the potential to make the United States vulnerable to undue influence by certain foreign creditors in national security and economic policymaking;

(3) the People's Republic of China is the largest foreign creditor of the United States, in terms of its overall holdings of debt instruments of the United States;

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved, particularly regarding the holdings of the People's Republic of China;

(5) through the People's Republic of China's large holdings of debt instruments of the United States, China has become a super creditor of the United States;

(6) under certain circumstances, the holdings of the People's Republic of China could give China a tool with which China can try to manipulate the domestic and foreign policymaking of the United States, including the United States relationship with Taiwan;

(7) under certain circumstances, if the People's Republic of China were to be displeased with a given United States policy or action, China could attempt to destabilize the United States economy by rapidly divesting large portions of China's holdings of debt instruments of the United States; and

(8) the People's Republic of China's expansive holdings of such debt instruments of the United States could potentially pose a direct threat to the United States economy and to United States national security. This potential threat is a significant issue that warrants further analysis and evaluation.

SEC. _04. QUARTERLY REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

(a) QUARTERLY REPORT.—Not later than March 31, June 30, September 30, and December 31 of each year, the President shall submit to the appropriate congressional committees a report on the risks posed by foreign holdings of debt instruments of the United States, in both classified and unclassified form.

(b) MATTERS TO BE INCLUDED.—Each report submitted under this section shall include the following:

(1) The most recent data available on foreign holdings of debt instruments of the United States, which data shall not be older than the date that is 7 months preceding the date of the report.

(2) The country of domicile of all foreign creditors who hold debt instruments of the United States.

(3) The total amount of debt instruments of the United States that are held by the foreign creditors, broken out by the creditors' country of domicile and by public, quasi-public, and private creditors.

(4) For each foreign country listed in paragraph (3)—

(A) an analysis of the country's purpose in holding debt instruments of the United States and long-term intentions with regard to such debt instruments;

(B) an analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by each country's holdings of debt instruments of the United States; and

(C) a specific determination of whether the level of risk identified under subparagraph (B) is acceptable or unacceptable.

(c) PUBLIC AVAILABILITY.—The President shall make each report required by subsection (a) available, in its unclassified form, to the public by posting it on the Internet in a conspicuous manner and location.

SEC. _05. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

(a) IN GENERAL.—Not later than December 31 of each year, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the risks to the United States posed by the Federal debt of the United States.

(b) CONTENT OF REPORT.—Each report submitted under this section shall include the following:

(1) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by the Federal debt of the United States.

(2) A specific determination of whether the levels of risk identified under paragraph (1) are sustainable.

(3) If the determination under paragraph (2) is that the levels of risk are unsustainable, specific recommendations for reducing the levels of risk to sustainable levels, in a manner that results in a reduction in Federal spending.

SEC. __06. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE AND UNSUSTAINABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

In any case in which the President determines under section _____04(b)(4)(C) that a foreign country's holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, the President shall, within 30 days of the determination—

(1) formulate a plan of action to reduce the risk level to an acceptable and sustainable level, in a manner that results in a reduction in Federal spending;

(2) submit to the appropriate congressional committees a report on the plan of action that includes a timeline for the implementation of the plan and recommendations for any legislative action that would be required to fully implement the plan; and

(3) move expeditiously to implement the plan in order to protect the long-term national security and economic stability of the United States.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 4302, AS MODIFIED

Mr. CORNYN. Mr. President, according to the nonpartisan Congressional Budget Office, the pending legislation before the Senate will add $80 billion to the Federal deficit. The Treasury Department, in a report to Congress last week, projects that by 2015 the national debt will reach $19.6 trillion.

My amendment represents a modest attempt to ensure that Congress is kept informed on the economic and national security implications of two important matters: first, the ballooning national debt; and, secondly, the foreign financing of our deficit spending.

I believe it is only prudent for Congress to get regular analyses on these issues, ones as critical as these.

My amendment has two components. First, it requires the General Accounting Office to provide Congress with an annual risk assessment on the national security and economic hazards posed by the national debt. Secondly, it would require the President to provide Congress with quarterly risk assessments on the national security and economic hazards posed by current levels of foreign holdings of our debt. In the event the risk level is found to be too high, the President would have to put together and then execute a plan to mitigate that risk in a way that reduces Federal spending.

It is the worst kept secret in the world that our deficit spending is being financed by foreign investors who may not always have our Nation's best interests at heart. We need to be thinking openly and clearly about the potential consequences of this, as well as the consequences of allowing our national debt to reach such massive proportions.

The chairman of the Finance Committee apparently opposes my amendment and will offer an alternate based closely on mine. I regret to say, though, his amendment makes changes to the legislative language that could potentially result in tax increases on American taxpayers, which could not come at a worse time.

Under my amendment, the Government Accountability Office would be required to recommend to Congress ways to bring down the security and economic risks posed by the huge national debt. These recommendations would be required to focus on spending reductions, not tax increases. By contrast, under the Baucus amendment, this limitation is deleted, effectively paving the way for the GAO to recommend that Congress raise taxes rather than cut spending.

Similarly, in cases where foreign holdings of our debt pose unacceptable risks to our security and economy, my amendment would require the President of the United States to formulate and execute a plan to mitigate those risks. His plan would have to reduce Federal spending. The Baucus amendment deletes that limitation, opening the door for the President's plan to include tax hikes on the American taxpayer.

The Baucus amendment also substantially weakens the requirements for the two types of debt risk assessments. First, it cuts the frequency of the President's reporting requirements on the risks posed by foreign debt holdings, making them annual rather than quarterly, and it also shifts the requirement over to the Secretary of the Treasury. It makes the reports more vague and, as a result, less useful to Members of Congress who need this information.

Perhaps most puzzling, the Baucus amendment eliminates the requirement for the GAO to determine whether our country can sustain the security and economic risks posed by growing national debt. I recognize it may be unpleasant—or even inconvenient—to think about this, but it is a risk to our country, and it is an important question that needs transparency and our best thinking.

We have an obligation to think openly and honestly about what effect Congress's runaway spending may have on our Nation's future which, of course, is the purpose of my amendment.

Mr. President, I ask my colleagues to oppose the Baucus amendment and to support mine.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 4326 TO AMENDMENT NO. 4301

Mr. BAUCUS. Mr. President, pursuant to the previous order, I call up my amendment No. 4326 and ask unanimous consent that reading of the amendment be dispensed with once it is reported.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The assistant editor of the Daily Digest read as follows:

The Senator from Montana [Mr. BAUCUS], for himself, Mr. KERRY, and Mr. DODD, proposes an amendment numbered 4326 to amendment No. 4301.

The amendment is as follows:

(Purpose: To increase transparency regarding debt instruments of the United States held by foreign governments, to assess the risks to the United States of such holdings, and for other purposes)

At the appropriate place, insert the following:

TITLE ____—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Foreign-Held Debt Transparency and Threat Assessment Act''.

SEC. __02. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, the Committee on Financial Services, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term ''debt instruments of the United States'' means all bills, notes, and bonds held by the public and issued or guaranteed by the United States or by an entity of the United States Government.

SEC. __03. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the growing Federal debt of the United States has the potential to jeopardize the national security and economic stability of the United States;

(2) large foreign holdings of debt instruments of the United States have the potential to make the United States vulnerable to undue influence by foreign creditors in national security and economic policymaking;

(3) the People's Republic of China, Japan, and the United Kingdom are the 3 largest foreign holders of debt instruments of the United States; and

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved.

SEC. __04. ANNUAL REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

(a) ANNUAL REPORT.—Not later than March 31 of each year, the Secretary of the Treasury shall submit to the appropriate congressional committees a report on the risks posed by foreign holdings of debt instruments of the United States, in both classified and unclassified form.

(b) MATTERS TO BE INCLUDED.—Each report submitted under this section shall include the following:

(1) The most recent data available on foreign holdings of debt instruments of the United States, which data shall not be older than the date that is 9 months preceding the date of the report.

(2) The total amount of debt instruments of the United States that are held by foreign residents, broken out by the residents' country of domicile and by public and private residents.

(3) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by foreign holdings of debt instruments of the United States.

(c) PUBLIC AVAILABILITY.—The Secretary of the Treasury shall make each report required by subsection (a) available, in its unclassified form, to the public by posting it on

the Internet in a conspicuous manner and location.

SEC. __05. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

(a) IN GENERAL.—Not later than March 31 of each year, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the risks to the United States posed by the Federal debt of the United States.

(b) CONTENT OF REPORT.—Each report submitted under this section shall include the following:

(1) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by the Federal debt of the United States.

(2) Specific recommendations for reducing the levels of risk resulting from the Federal debt.

SEC. __06. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

If the President determines that foreign holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, the President shall, within 30 days of the determination—

(1) formulate a plan of action to reduce such risk;

(2) submit to the appropriate congressional committees a report on the plan of action that includes a timeline for the implementation of the plan and recommendations for any legislative action that would be required to fully implement the plan; and

(3) move expeditiously to implement the plan in order to protect the long-term national security and economic stability of the United States.

Mr. BAUCUS. Mr. President, I support transparency. I think most of us do, certainly in concept. I support the transparency and deficit reduction goals of the Cornyn-Kyl amendment. But that amendment is unworkable. Why? Because it requires Treasury to speculate about the intent behind foreign purchases of U.S. Treasuries. How in the world is Treasury going to be able to know the intent behind foreign purchases of U.S. treasuries?

The Cornyn-Kyl amendment also sends the wrong message that the United States is deeply suspicious of foreign holders of U.S. debt, and it potentially could chill foreign purchases of U.S. Treasury bonds. I do not think we want to do that now.

Purchases of U.S. Treasury bonds have held interest rates very low. We are very lucky. We are very lucky. I do not think many appreciate this: With the budget deficits we have, and even with unemployment way too high, things could be much worse; that is, if interest rates were much higher. But investors like the safe haven of U.S. Treasuries—and that is domestic and foreign purchases of U.S. Treasuries—and that is helping to keep interest rates down at very low rates, and that is keeping inflation down at very low rates. We are lucky that is a condition we are experiencing in the United States today.

With America just beginning to recover from the financial crisis, we cannot risk our ability to finance the debt. We cannot risk it. For those reasons, I must oppose the Cornyn amendment.

However, I urge Senators to support my side-by-side amendment, which meets the transparency objectives of the Cornyn-Kyl amendment, but could actually be implemented and will avoid roiling financial markets in this time of uncertainty.

Think a bit about what is happening in Europe. This is an uncertain time. This is not a time to be taking big risks. Rather, it is a time to be steady as she goes and be smart and be steady.

My amendment would require the President to submit an assessment to Congress on the risks posed by foreign holdings of U.S. debt, but without unnecessarily singling out individual countries. I do not think we want to single out individual countries because that has too great a risk of unintended consequences.

My amendment would require the GAO to assess the risk associated with Federal debt, but it would not impose an unconstitutional requirement on the President.

I am joined in this amendment by the chairman of the Foreign Relations Committee, Senator KERRY, and the chairman of the Banking Committee, Senator DODD. I urge Senators to support the Baucus-Kerry side-by-side amendment and oppose the Cornyn-Kyl amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

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

The PRESIDING OFFICER. Five minutes twenty seconds.

Mr. CORNYN. Mr. President, I will respond briefly.

The reason why we require, in my amendment, the President of the United States to make the report on the risks to our national security and our financial system is because only the President can command all of the resources of the U.S. Government, including that of our intelligence services, which may have something to say about the national security risks associated with countries such as China owning so much of our debt. We know that, for example, leaders in the Chinese military have threatened retaliation in exchange for the United States selling defensive weapons to the country of Taiwan. I would think the Treasury Department, which in the Baucus amendment would be required to make that report, would not have access to the intelligence and the other information necessary—or from the Department of Defense—in dealing with China.

The Senator from Montana also says we should not rock the boat. We ought to go steady as she goes. The problem is our boat is going to sink and go to the bottom of an ocean of debt if we do not change our ways. This is a first step to try to provide additional transparency to let the American people assess for themselves whether they think this is a good idea or whether their elected representatives in Congress should do something about rising debt and runaway spending. I understand the Senator from Montana saying we don't want to single out special countries. It is true that some of our closest allies such as Japan and the United Kingdom also purchased large amounts of our debt, but, frankly, I am not as worried about those allies of the United States as I am the intention of China, which is not an ally, which is a rival, to say the least, and one whose actions we need to be appropriately skeptical about and discerning.

So unfortunately, I think the alternative amendment offered by the Senator from Montana waters down this important amendment, and I think it would obscure the facts from the American people and policymakers here in Congress. So I ask my colleagues to vote against the Baucus alternative and vote for the Cornyn amendment.

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

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am prepared to yield back the rest of my time, and I wonder if the Senator from Texas is prepared to yield back his.

Mr. CORNYN. I yield back the remaining time.

Mr. BAUCUS. I yield back our time as well, and I move to table the Cornyn amendment. Wait. Which amendment is up first?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, as I understand it, although the Senator from Texas personally is, the other side is not prepared to yield back the rest of their time. Therefore, I ask unanimous consent to reclaim my time and Senator CORNYN's time as well.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, parliamentary inquiry: My understanding is that the Senator from Montana was yielding back. I was willing to yield back my time and ask for a vote as soon as it can be conveniently arranged.

Mr. BAUCUS. That is correct. I understand you are OK, but your side is—now they are OK. So now that we have that settled, all time is yielded back.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to amendment No. 4326 of the Senator from Montana.

Mr. BAUCUS. 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 clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—58

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

NAYS—41

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

NOT VOTING—1

Byrd

The amendment (No. 4326) was agreed to.

Mr. FEINGOLD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4302, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate, to be equally divided, on the amendment offered by the Senator from Texas, as modified.

Who yields time?

Mr. CORNYN. Mr. President, I urge my colleagues to support the Cornyn amendment. This is a transparency amendment. It just gives the American people and Congress the information we need in order to make a determination of whether Third World countries owning our debt poses a national security or a financial risk to the United States. I ask for your support.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the Cornyn amendment is a dangerous one. It would send the wrong message to people who are buying America's debt. It would send a message that we are suspicious of people who buy our debt and would require the Treasury to opine the intent of purchasers of U.S. debt. It would thus discourage people from buying American debt. This would cause us to have to pay higher interest rates on our debt, and that would mean higher rates of inflation. It would roil the bond markets at a sensitive time. Look at what has happened in Europe and the softness there.

For lots of reasons I think it is unwise to undertake this risky adventure.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, will the Senator withhold for a brief minute.

Mr. BAUCUS. Yes.

Mr. REID. As soon as this vote is complete, that will be the last vote for this evening. We are going to come in tomorrow morning at 9:45 and immediately go to the Murkowski resolution. There are 6 hours set aside for that, and then a motion to proceed, and then an hour if the motion to proceed succeeds. So everyone should be prepared tomorrow for a long day. We will be in session on Friday more than likely. There will be no votes on Friday or Monday. I remind everyone these are the only days during the entire work period that there will be no votes.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

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

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—38

Akaka	Hagan	Mikulski
Baucus	Harkin	Pryor
Bayh	Inouye	Reed
Bingaman	Johnson	Rockefeller
Burris	Kaufman	Sanders
Cardin	Kerry	Schumer
Carper	Kohl	Stabenow
Casey	Landrieu	Tester
Dodd	Lautenberg	Udall (CO)
Durbin	Leahy	Udall (NM)
Feinstein	Levin	Warner
Franken	McCaskill	Whitehouse
Gillibrand	Menendez	

NAYS—61

Alexander	Conrad	Klobuchar
Barrasso	Corker	Kyl
Begich	Cornyn	LeMieux
Bennet	Crapo	Lieberman
Bennett	DeMint	Lincoln
Bond	Dorgan	Lugar
Boxer	Ensign	McCain
Brown (MA)	Enzi	McConnell
Brown (OH)	Feingold	Merkley
Brownback	Graham	Murkowski
Bunning	Grassley	Murray
Burr	Gregg	Nelson (NE)
Cantwell	Hatch	Nelson (FL)
Chambliss	Hutchison	Reid
Coburn	Inhofe	Risch
Cochran	Isakson	Roberts
Collins	Johanns	Sessions
Shaheen	Thune	Wicker
Shelby	Vitter	Wyden
Snowe	Voinovich	
Specter	Webb	

NOT VOTING—1

Byrd

The motion to table was rejected.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 4302), as modified, is agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 4318 TO AMENDMENT NO. 4301

Mr. SANDERS. Mr. President, I move to set aside the pending amendment to call up amendment No. 4318 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report.

The assistant bill clerk read as follows:

The Senator from Vermont [Mr. SANDERS] proposes an amendment numbered 4318 to amendment No. 4301.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows.

(Purpose: To amend the Internal Revenue Code of 1986 to eliminate big oil and gas company tax loopholes, and to use the resulting increase in revenues to reduce the deficit and to invest in energy efficiency and conservation)

At the end of subtitle D of title IV, insert the following:

SEC. —. REPEAL OF EXPENSING AND 60-MONTH AMORTIZATION OF INTANGIBLE DRILLING COSTS.

Subsection (c) of section 263 is amended by striking the period at the end of the third sentence and inserting '', or to any costs paid or incurred after December 31, 2010.''.

SEC. —. REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.

(a) IN GENERAL.—Section 613 is amended by adding at the end the following new subsection:

''(f) TERMINATION OF PERCENTAGE DEPLETION FOR OIL AND GAS PROPERTIES.—In the case of oil and gas properties, this section shall not apply to any taxable year beginning after December 31, 2010.''.

(b) LIMITATIONS ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS.—Section 613A is amended by adding at the end the following new subsection:

''(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2010.''.

SEC. —. DENIAL OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, NATURAL GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) the production, refining, processing, transportation, or distribution of oil, natural gas, or any primary product thereof.''.

(b) PRIMARY PRODUCT.—Section 199(c)(4)(B) is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as

when used in section 927(a)(2)(C), as in effect before its repeal.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 199(c)(4) is amended—

(A) in subparagraph (A)(i)(III) by striking ''electricity, natural gas,'' and inserting ''electricity'', and

(B) in subparagraph (B)(ii) by striking ''electricity, natural gas,'' and inserting ''electricity''.

(2) Section 199(d) is amended by striking paragraph (9) and by redesignating paragraph (10) as paragraph (9).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. —. APPROPRIATION OF FUNDS.

Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Energy Efficiency and Conservation Block Grant Program, under subtitle E of the Energy Independence and Security Act of 2007, $2,000,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015.

AMENDMENT NO. 4312 TO AMENDMENT NO. 4301

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. I ask unanimous consent to set aside the pending amendment to call up amendment No. 4312 to amendment No. 4301.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The assistant bill clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself, Mr. GREGG, and Mr. CORNYN, proposes an amendment numbered 4312 to amendment No. 4301.

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

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

The amendment is as follows:

(Purpose: To ensure that any new revenues to the Oil Spill Liability Trust Fund will be used for the purposes of the fund and not used as a budget gimmick to offset deficit spending)

At the end of the subtitle D of title IV, add the following:

SEC. _____. NEW REVENUES TO THE OIL SPILL LIABILITY TRUST FUND.

The revenue resulting from any increase in the Oil Spill Liability Trust Fund financing rate under section 4611 of the Internal Revenue Code of 1986 shall—

(1) not be counted for purposes of offsetting revenues, receipts, or discretionary spending under the Congressional Budget Act of 1974 or the Statutory Pay-As-You-Go Act of 2010; and

(2) shall only be used for the purposes of the Oil Spill Liability Trust Fund.

Mr. VITTER. With that, I relinquish the floor and thank my colleague for the courtesy of letting me call it up.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 4318

Mr. SANDERS. Mr. President, at a time when the profits of big oil companies are soaring, at a time when we are in the midst of a horrendous and huge oilspill on the gulf coast, at a time when we desperately need to end our dependence on oil and gas and significantly increase our investment in energy efficiency and renewable energy, the amendment I am offering is simple and it is straightforward. This amendment simply repeals over $35 billion in tax breaks to the oil and gas industry, all of which were recommended for elimination in President Obama's fiscal year 2011 budget.

Specifically, according to the Joint Committee on Taxation, the repeal of expensing of intangible drilling costs, repeal of percentage depletion for oil and gas wells, and repeal of the domestic manufacturing deduction for oil and gas production would save $35.3 billion over a 10-year period. According to OMB, the repeal of these tax breaks would be equivalent to about 1 percent of domestic oil and gas industry revenues over the next decade—1 percent. In other words, the costs to the oil and gas industry of repealing these tax breaks is negligible.

More than $25 billion of the money saved under this amendment would be used to reduce the deficit, and $10 billion would be used to invest in the highly successful Energy Efficiency and Conservation Block Grant Program over a 5-year period.

So we are accomplishing two very important goals. Every day, Members of the Senate come down here and they say we have to deal with the deficit. Under this amendment, we would save $25 billion for deficit reduction. That is pretty significant. Second, Members come down here every day and talk about the need to transform our energy system, to move to energy efficiency and sustainable energy—wind, solar, biomass, geothermal, other technologies. This amendment puts $10 billion in moving us away from fossil fuel. So it accomplishes two very important purposes.

This amendment is cosponsored by Senator WHITEHOUSE and Senator WYDEN. We have support for funding for the Energy Efficiency and Conservation Block Grant Program from the U.S. Conference of Mayors, from the National Association of State Energy Officials, and the National League of Cities. Taxpayers for Common Sense strongly supports our efforts to repeal the oil and gas tax breaks and pay down the deficit. Also supporting our amendment are the Sierra Club, Greenpeace, the American Council for an Energy Efficient Economy, Conservation Law Foundation, Physicians for Social Responsibility, Friends of the Earth, Public Citizen, moveon.org, Center for Biological Diversity, One Sky, Environment America, and Oceana.

If there is anything we should be learning from the gulf disaster, it is that it is time to move aggressively away from polluting and unsafe fossil fuels which are getting more difficult to produce and more expensive to produce and that we must move toward safe, clean energy.

With a $13 trillion national debt, the last thing we need to be doing is giving tax breaks to big oil and gas companies that have been making recordbreaking profits, year after year.

I know there are some people who come down here and say that one way to deal with the deficit problem is to privatize Social Security, to privatize Medicare, to place at risk the retirement benefits of millions of senior citizens. I think that is a very bad idea. There are other people who come down to the floor and talk about cuts in education, cuts to health care that the middle-class and working families of this country desperately need. I think cutting those programs is a bad idea. But I think going after some of the largest and most profitable corporations in this country, which have not paid their fair share of taxes, is a positive and intelligent way to deal with deficit reduction.

Let me quote from the President of the United States, Barack Obama, in his statements on this subject. Again, what we are proposing is what President Obama has recommended in his 2011 budget. This is what President Obama said:

> Our continued dependence on fossil fuels will jeopardize our national security. It will smother our planet. And it will continue to put our economy and our environment at risk. . . . If we refuse to take into account the full cost of our fossil fuel addiction—if we don't factor in the environmental costs and national security costs and true economic costs—we will have missed our best chance to seize a clean energy future. . . . The time has come, once and for all, for this nation to fully embrace a clean energy future. Now that means . . . rolling back billions of dollars of tax breaks to oil companies so we can prioritize investments in clean energy research and development.

That is exactly what this amendment is all about. Let me give just one example. I hope people are listening to this one. Let me give one example of the absurdity of continuing to provide tax breaks to the oil and gas industry.

Last year, ExxonMobil, the most profitable corporation in the history of the world, reported to the SEC that not only did it avoid paying any Federal income taxes, it actually received a $156 million refund from the IRS. So middle-class Americans, people in Vermont and all over this country who are working 50 and 60 hours in order to provide the necessary income they need to pay the bills for their families, those folks go out and they pay their income tax. They may not be too happy about it, but they understand that in a civilized society you have to pay taxes to pay the bills of government. Not ExxonMobil. The most profitable corporation in the history of the world last year not only avoided paying any Federal income taxes, it actually received a $156 million refund from the IRS. If that makes sense to anybody—maybe it does—it surely does not make sense to me.

I ask unanimous consent to have printed in the RECORD the page of ExxonMobil's 10–K report to the SEC that discloses this information.

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

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
FORM 10–K—ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—18. INCOME, SALES-BASED AND OTHER TAXES

[Millions of dollars]

	2009			2008			2007		
	U.S.	Non-U.S.	Total	U.S.	Non-U.S.	Total	U.S.	Non-U.S.	Total
Income taxes:									
Federal and non-U.S.:									
Current	$ (838)	$15,830	$14,992	$3,005	$31,377	$34,382	$4,666	$24,329	$28,955
Deferred—net	650	(665)	(15)	168	1,289	1,457	(439)	415	(24)
U.S. tax on non-U.S. operations	32	.....	32	230	.....	230	263	.....	263
Total federal and non-U.S.	(156)	15,165	15,009	3,403	32,666	36,069	4,490	24,744	29,234
State	110	.....	110	461	.....	461	630	.....	630
Total income taxes	(46)	15,165	15,119	3,864	32,666	36,530	5,120	24,744	29,864
Sales-based taxes	6,271	19,665	25,936	6,646	27,862	34,508	7,154	24,574	31,728
All other taxes and duties:									
Other taxes and duties	581	34,238	34,819	1,663	40,056	41,719	1,008	39,945	40,953
Included in production and manufacturing expenses	699	1,318	2,017	915	1,720	2,635	825	1,445	2,270
Included in SG&A expenses	197	538	735	209	660	869	215	653	868
Total other taxes and duties	1,477	36,094	37,571	2,787	42,436	45,223	2,048	42,043	44,091
Total	$7,702	$70,924	$78,626	$13,297	$102,964	$116,261	$14,322	$91,361	$105,683

All other taxes and duties include taxes reported in production and manufactunng and selling, general and administrative (SG&A) expenses. The above provisions for deferred income taxes include net credits for the effect of changes in tax laws and rates of $9 million in 2009, $300 million in 2008 and $258 million in 2007.

Mr. SANDERS. ExxonMobil is the same huge oil company that has had enough money to provide a $398 million retirement package to its outgoing CEO, Lee Raymond, just a few years ago. They made more money than any corporation in the history of the world last year. They did not pay any Federal taxes. In fact, they got a huge refund from the Federal Government. And some years ago this particular corporation paid out $398 million in retirement package for its CEO. I do not think that makes a whole lot of sense. I think we ought to end that nonsense and end it now. This country is at record-breaking deficits. We cannot allow large corporations such as ExxonMobil not to pay taxes.

ExxonMobil is the same oil company that is making its profits by gouging consumers at the pump by charging higher and higher prices for gasoline even when demand is low and supply is high. In Vermont, it is $2.85 a gallon. Working people are having a hard time paying high prices for gas. It does not matter whether demand is high or low, it appears that gas prices go up. This amendment would begin to make sure that ExxonMobil, BP, and the other big oil companies pay at least a minimal amount of their huge profits in taxes to the Federal Government. That, it seems to me, is the very least we can do.

Let's be clear. As millions of Americans have lost their jobs, their homes, their life savings, and their ability to send their kids to college as a result of this Wall Street-induced recession, we cannot continue to allow big oil companies to make out like bandits. Enough is enough. In the first quarter of 2009, when our gross domestic product shrank by 6.4 percent, and overall corporate profits decreased by 5.25 percent, the five largest oil companies were still able to earn over $13 billion in profits. That is in the middle of a severe recession.

As this chart shows, the combined annual profits of the five largest oil companies during the last 10 years—these five companies, ExxonMobil, Shell, BP, ChevronTexaco, and ConocoPhillips—earned over $750 billion in profits. Not bad. Not bad.

During the first quarter of this year, big oils' profits increased by 85 percent. Instead of using these profits to invest in renewable energy and to prevent oilspills, big oil and gas companies are primarily using this money to buy back their own stock and enrich their CEOs.

According to the American Petroleum Institute, between 2000 and 2007, the entire oil and gas industry invested only $1.5 billion in North American nonhydrocarbon investments aimed at reducing the Nation's dependance on oil. That is less than one-quarter of 1 percent of their total profits during this time period. So here you have these companies making huge profits. They are not reinvesting that money in making our country cleaner and in moving us away from fossil fuels.

Meanwhile, the CEOs of the big oil companies have received hundreds of millions of dollars in retirement packages and total compensation. Over the past 5 years Ray Irani, the CEO of Occidental Petroleum, received over $725 million in total compensation—$725 million, in a 5-year period, is not too sloppy.

John Hess, the CEO of the Hess Oil Company, has received over $240 million in total compensation; David Lesar, the CEO of Halliburton, has received over $114 million; James Mulva, the CEO of ConocoPhillips, has received over $95 million; and Rex Tillerson, the CEO of ExxonMobil, made over $30 million in total compensation over the past 5 years.

Further, since 2002, the five largest oil companies have repurchased almost $270 billion of their own stock. When we talk about asking the oil companies to start paying their fair share of taxes, we should also remember that the Federal Government has provided very generous subsidies above and beyond tax breaks for the oil companies. As this chart shows, according to the Environmental Law Institute, from 2002 to 2008, the United States provided more than $70 billion for fossil fuel subsidies, compared to just $12 billion for wind, solar, geothermal, biomass, and other renewable energy. This makes no sense at all. We have got to put an end to the outrageous tax breaks and subsidies we have been giving to oil and gas companies.

But that is not all this amendment would do. This amendment would also invest $10 billion into the Energy Efficiency and Conservation Block Grant Program. The American Recovery and Reinvestment Act provided $3.2 billion for this highly successful program. It is already having a very positive impact in creating jobs, in saving energy in all 50 States of our country.

I am now quoting from a letter sent, in support of the $10 billion block grant funding that this amendment provides, from Tom Cochran, the executive director of the U.S. Conference of Mayors. This is what Mr. Cochran says:

> Throughout the United States more than 1,200 cities are now receiving direct funding under the EECBG program. We strongly support your efforts to secure predictable and ongoing funding for the EECBG program allowing the nation to continue to invest in these successful local energy and climate initiatives which have been shown to reduce energy use, harmful greenhouse gas emissions and environmental degradation.

Let me give you some examples of how this program, of which this amendment would provide $10 billion over a 5-year period, is working. This program is helping to build wind turbines in Carmel, IN, to power a city sewer treatment plant. It is being used in Salt Like City, UT, to provide loans to businesses to make energy efficiency upgrades. It is being used in Columbus, OH, to make 29 public buildings more energy efficient. It is being used in Portland, ME, to retrofit 55 public buildings. It is being used in Miami to convert landfill gas into the production of electricity. It is being used in New York City to help homeowners and businesses with energy efficiency and renewable energy loans, among many other areas.

I know in my State of Vermont, dozens and dozens of communities and

schools are using this money to make their buildings more energy efficient and, in some cases, move to sustainable energy. We need to keep these investments in energy efficiency and conservation going. That is exactly what this amendment would do to the tune of $10 billion.

Finally, this amendment would dedicate $25 billion for deficit reduction, $10 billion for the block grant program to make our country more energy efficient. And the $25 billion for deficit reduction at a time of record-breaking deficits and debt, we simply cannot continue to give oil and gas companies huge tax breaks.

I know it is easy for some of my colleagues to come to the floor and talk about the deficit, talk about the debt we are leaving our kids and grandkids. It makes for great rhetoric. But, occasionally, you are going to have to stand up if you are serious about the debt and deficit and take on some of those very powerful special interests who are getting huge tax breaks, do not need those tax breaks and do not deserve those tax breaks. It is more important to protect our kids and grandchildren here and the deficit than it is to give tax breaks to ExxonMobil. When it comes down to it, this amendment asks a very simple question: Which side are you on? Are you on the side of big oil and gas companies, companies that year after year after year are making huge profits or are you on the side of reducing the deficit, reducing our dependence on oil, saving consumers and businesses money on their energy bills, and saving the planet we live on? That is what this amendment is about.

I understand that there will be opposition to this amendment. I have seen it surface already. After all, since 1990, the oil and gas industry has made over $238 million in campaign contributions. And over the past 2 years alone, this industry has spent $210 million on lobbying, probably half a billion dollars since 1990 on campaign contributions and lobbying. They have gotten a lot for that, I must confess. For that investment, they have gotten a lot in tax breaks and subsidies. But I think now is the time, given the oilspill in the gulf, because of the threat of global warming, in order to clean up our country, in order to create jobs and energy efficiency and sustainable energy, we have got to say to big oil: Sorry. No more. No more. You are going to have to start paying your fair share of taxes so we can transform our energy system and so we can begin to deal with this very serious deficit problem.

This amendment is the right thing to do for deficit reduction. It is the right thing to do to transform our energy system. It is the right thing to do for consumers. I ask my colleagues to vote for the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SANDERS. 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. SANDERS. Mr. President, I ask unanimous consent that the Senate proceed to 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.

NORTH FORK WATERSHED PROTECTION

Mr. BAUCUS. Mr. President, I rise today to speak about one of the things that I love most about Montana—the North Fork of the Flathead River. Everyone who experiences the Flathead Valley in northwestern Montana is awed by its pristine waters, larger than life landscapes, and breathtaking views. With its headwaters in British Columbia, the North Fork of the Flathead River forms the western boundary of Glacier National Park—it is one of the last untouched places on our continent.

For decades, the North Fork has been threatened by oil and gas and mining proposals in British Columbia. For the last 35 years, I have battled these proposals, one by one. After 35 years of work, we are beginning a new chapter of international cooperation in our efforts to protect the North Fork. I am very pleased that Conoco Phillips is a part of this.

In February of this year, British Columbia and Montana announced their intent to prevent mining, oil and gas, and coalbed methane development in the North Fork on the lands they control. Senator TESTER and I pledged to do our part to establish extra protections south of the border, where 90 percent of the North Fork watershed is already federally owned.

So, on March 4, we introduced the North Fork Watershed Protection Act, S. 3075, which bans future mining, oil and gas, and coalbed methane development on Federal lands in the watershed. The bill enjoys support from business and conservation interests alike from all over the State, including the Kalispell Chamber, Whitefish Mountain Resort, the Billings Rod and Gun Club, and a long list of others. This breadth of support shows the importance of the North Fork for Montana's economy as well as our State's outdoor heritage.

There are some current leases in the area that have been dormant since the late 1980s, when a court decision found that they were improperly issued. Senator TESTER and I have been engaged in active discussions with the current owners to retire these old leases. On April 28, I was proud to announce that ConocoPhillips, the primary leaseholder in the North Fork watershed, elected to voluntarily relinquish its interest in 108 Federal oil and gas leases covering approximately 169,000 acres, representing 71 percent of the leased area in the North Fork watershed.

ConocoPhillips should be commended for this decision and their stewardship of this very unique, special place. Their action is further evidence of the consensus that exists between the United States and Canada and among businesses and conservationists, that the withdrawal of these Federal lands from leasing is the only path forward.

In 1975, during my first term in the House of Representatives, I introduced a bill to designate the Flathead River as a Wild and Scenic River. It was designated in 1976. For me, that began a lifelong effort to protect the North Fork. At that time I said:

> A hundred years from now, and perhaps much sooner, those who follow us will survey what we have left behind.

This action brings us one step closer to ensuring that that every Montanan, every American, and every Canadian who follows us will have the opportunity to share our feeling of awe-struck wonder that such a place still exists, almost untouched by the modern world.

TRIBUTE TO DONALD C. STONE

Mrs. FEINSTEIN. Mr. President, today I wish to recognize Donald C. Stone, who is one of the most experienced members on the staff of the Senate Select Committee on Intelligence who has brought unique skills to the committee during his tenure. Friday, June 11 will mark Don's last day in government.

After 27 years, Don will be leaving the public sector and taking on new challenges. He has had an extraordinary career, mostly in the secret world of secured offices while he served his country well overseeing our Nation's intelligence agencies.

Don comes from this area. He grew up in Maryland and received a bachelor of arts in business administration and a master's in business administration from Loyola College in Baltimore. He now lives in Falls Church, VA, with his wife Dana and their two sons Robert and Andrew.

Don did not waste any time getting into the national security world. Right out of graduate school he went to work at the Central Intelligence Agency with the inspector general's audit staff. He worked there for 11 years on very sensitive classified projects both here and abroad, sometimes under very trying circumstances. While working with the CIA inspector general, Don had a rotational assignment with the National Reconnaissance Office's inspector general audit staff from 1993 to 1995, where he worked to make sure our Nation's spy satellite programs were run well and that the tax dollars spent in the secret world of spy agencies would pass muster if exposed to the light of review.