for struggling families until November; and as does the Baucus bill, the Republican alternative extends tax breaks to small businesses which they so desperately need to get back on their feet and start creating jobs. We need to assure them the longstanding tax benefits they depend on will continue.

However, unlike the Baucus bill which the majority is using as a vehicle to increase taxes permanently, increase spending and increase the deficit, the Republican alternative cuts taxes even more by an additional $26 billion, cuts spending by over $100 billion and, according to the Congressional Budget Office, reduces—reduces—the deficit by $68 billion, instead of increasing it.

The Thune amendment also stops the cuts to doctors and provides a 2-percent increase in Medicare reimbursement payments that go to doctors this year, and an additional 2 percent in 2011 and 2012. That is one more year than the doc fix in the Baucus bill, and it is actually paid for, not put on our children's credit cards.

I have heard from doctors across Missouri and they can no longer face the devastating cuts that threaten their livelihood and threaten our seniors' access to care. They are telling me they are going to have to stop taking Medicare patients, because the way Medicare is implemented now, they only get 80 percent of what it costs them to provide the service and they are saying, We just can't cut any more—we can't take any more Medicare patients. Hospitals are saying the same thing. That is before the half trillion dollar cut in Medicare reimbursement comes in. It perplexes me that the majority has not addressed that problem in what they told us was a comprehensive health care law.

Something else that was largely left out of the new health care bill was malpractice reform. The Thune amendment corrects this oversight and enacts comprehensive medical malpractice reform that will save up to $49 billion over 10 years.

My friend from Montana, Senator BAUCUS, takes the opposite approach. The bill he and the majority leader are asking us to support increases spending by $126 billion, including over $70 billion in new and permanent tax increases, and will increase the deficit by $79 billion over the next 10 years. The Baucus-Reid bill is exactly the kind of approach that history has shown us won't work and the American people have told us they don't want.

The American people have had it with Washington-gone-wild policies. They have had enough of the spending, the tax increases, the debt, the bailouts, the big government job-killing policies that have been pushed through Congress and have been supported by the administration. Today, the Republican alternative offers the majority an opportunity to reverse course, to end the out-of-control spending and get serious about fiscal responsibility.

When facing a crisis, words mean very little. To say you are concerned about the debt while voting to increase it means very little to our children and grandchildren who will have that bill on their credit cards and will have to foot the bill in the future. As the old country and western song goes: We need a little less talk and a lot more action. The Thune amendment offers us a real chance to bring sanity back to Washington policies and for Members of this body to show the American people they are serious about meeting needs while also addressing our growing deficit.

I urge my colleagues to join me in supporting the Thune amendment and, after months of ignoring them, finally demonstrate to the American people that, yes, we are listening to them, we are concerned, we are going to do something about the debt, the deficit, and the other problems this country faces.

Mr. President, I yield the floor.

RECESS

Mr. BOND. Mr. President, I ask unanimous consent that the Senate stand in recess.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2 p.m.

Thereupon, the Senate, at 12:56 p.m., recessed, and reassembled when called to order by the Acting President pro tempore.

AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010—Continued

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

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of debate only until 3:30 p.m., with no amendments or motions in order during this time, and that the time be equally divided and controlled between the leaders or their designees, with Senators permitted to speak therein for up to 10 minutes each, and that the order for recognition for Senator BAUCUS remain in effect.

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

Mr. CARDIN. Mr. President, before I suggest the absence of a quorum, I ask that the time be equally divided between the majority and the minority.

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

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BROWN of Ohio. Mr. President, the Senate will soon vote on the American Jobs Act—a critical bill that would create jobs and help expand small businesses. It would close the tax loopholes that allow far too many large corporations to move jobs overseas. In doing so, it would establish, conversely, tax incentives for American small businesses so they can create jobs in America. We have seen for too many years—and the Presiding Officer, in New Mexico, has seen too many jobs in Albuquerque, Santa Fe, as I have in Cleveland and other cities, move overseas because of trade agreements and bad tax law.

The Senate, we hope, is close to voting on extending unemployment insurance and COBRA subsidies through the extenders bill. Far too many Republicans seem to look at unemployment insurance as welfare. Unemployment insurance is what it is called—insurance. When you have a job, you pay into the unemployment fund. When you are laid off through no fault of your own, you can receive help from that insurance fund. It is as simple as that.

We cannot forget why we are in this untenable position of needing to help small businesses and workers and strengthen the public programs that help Americans find new jobs. We are here because of reckless Wall Street practices brought on by unprecedented greed that has created a crippling recession.

I rise to discuss the Wall Street reform bill, as it is now being negotiated in the conference committee, for a few moments.

Last week, David Wessel noted in the Wall Street Journal—the paper of record for finance, if you will—that when surveyed by the newspaper, leading economists suggested the prevailing belief that the Senate bill didn't go far enough to address the issue of banks being too big to fail.

During the Senate debate, I put forward a proposal with Senator KAUFMAN, of Delaware, that would have addressed the problem by capping the size of megabanks.

Evidence backs up what has been abundantly clear in the last 2 years: Megabanks pose a greater risk and threat to our economy than smaller ones because of the heightened volatility of their assets and activities. Only 15 years ago, the largest six banks in the United States—their total assets were added up to be about 17 percent of GDP. Fifteen years ago, the combined assets of the six largest banks made up 17 percent of gross domestic product. Today, their combined assets make up about 63 percent of the GDP.

Our proposal would have limited the size of bank holding companies at $1 trillion and investment banks at $400 billion. Mr. President, $1 trillion is $1,000 billion. I can't believe people in

this institution would defend, as so many did, that that is not a bank that is too big. Too big to fail, as people as conservative as Alan Greenspan, who is as much to blame for all of this—for the government's total failure during the Bush years to regulate Wall Street—even he said too big to fail is simply too big. Only from the rarefied heights of a glass or ivory tower does $½ trillion appear too limited. Remember, Lehman Brothers had more than $600 billion in assets and liabilities when it failed and sent the markets into a tailspin.

We can all agree that our financial system should never again be on the brink of total collapse and that taxpayers should never have to foot the bill for the mess created by Wall Street. If we want to prevent bailouts, we have to prevent banks from becoming so big that bailouts are necessary. Why wouldn't big banks behave in a risky way when they suspect a bailout will be given? That is why we must not rely on a reactive approach to risks that can undermine our economy. Instead, we must be much more proactive to prevent those risks from ever recurring.

On June 3, Richard Fisher, the president of the Dallas Fed, explained in an important speech why we need to address the size of the megabanks. He said:

> Ending the existence of ''too big to fail'' institutions is certainly a necessary part of any regulatory reform effort that could succeed in creating a stable financial system. It is the most sound response of all. If we are to neutralize the problem, we must force these institutions to reduce their size.

This isn't some far-left or far-right economist; this isn't some bomb thrower; this is Richard Fisher, the president of the Dallas Fed, emphasizing that too big to fail is, in fact, too big.

The Brown-Kaufman amendment wasn't adopted into the Wall Street reform bill that passed this body. Yet I continue to believe that it is essential if we want to prevent giant institutions from driving down the economy. But it is not the only proposal that would address the instability created by the megabanks.

There are several other amendments and issues in the House or Senate bills that I would briefly like to address.

First, the Merkley-Levin amendment ending proprietary trading. Because of Republican obstruction, we were denied the opportunity to vote on that proposal to end the reckless Wall Street gambling called proprietary trading. Opponents of this, particularly from across the aisle, went to such great pains to avoid a vote because I think they knew it had strong support.

The Merkley-Levin amendment would strengthen the Volcker rule in Senator DODD's Wall Street reform bill. It would have barred banks and their affiliates from engaging in proprietary trading, which, in layman's language, is the ''casino gambling'' that has banks selling products to clients with one hand, while betting against the products and their clients with the other hand. That can happen only on Wall Street.

Too many Wall Street banks used their proprietary trading operations to get rich at the expense of their own clients. When those risky bets go bad, American taxpayers are footing the bill. Lehman Brothers' risky bets led to the largest bankruptcy in our Nation's history. Soon thereafter, other Wall Street banks, which also engaged in reckless proprietary trading, brought our economy to the brink of collapse. It is time for Congress to end this self-serving practice where the conflicts of interest are obvious—and dangerous.

Second, Senator LINCOLN's amendment on derivatives. Remember that the five biggest banks control 97 percent of the banking industry's derivatives holdings—five banks, 97 percent. I support Agriculture Committee Chairwoman LINCOLN's proposal, which would separate derivatives dealing from lending at commercial banks.

This provision is important for the same reason as the Merkley-Levin amendment. Sprawling financial institutions increase their lucrative operations at the expense of other more fundamental and traditional banking activities.

Right now, megabank speculation is detracting from their primary job: consumer and small business lending. The fact is, too many banks in New Mexico, Ohio, and all over are simply refusing to lend now. They are not lending the way our economy needs them to do it. This is part of the reason.

The latest report by the Congressional Oversight Panel of TARP, chaired by Elizabeth Warren, looked at how TARP recipients are lending to small businesses. It found that between 2008 and 2009, Wall Street lending portfolios have shrunk by 4 percent, with their small business loan portfolios shrinking by 9 percent. Over the same period, banks' securities holdings increased by almost 23 percent. Traditional lending by the biggest banks, which received 81 percent of government bailout funds, has declined. At the same time, lending to small businesses from medium-size banks, which received 11 percent of the bailout, increased.

Taxpayer-funded assistance, in other words, should not support a bank's gambling, but it should support sound economic growth.

Third, Senator COLLINS' amendment on capital standards was adopted in the Senate bill. It would require the Nation's largest banks to meet, at a minimum, the same capital standards imposed on smaller banks.

Under current law, regulators can often permit large financial institutions to follow more permissive capital standards, while smaller banks are held to a different standard. Capital standards applied equally to all banks would help reduce the risk presented by financial institutions as they grow in size or engage in reckless banking behavior. The principle behind this amendment is sound. Regulators should be empowered to apply and enforce capital standards equally and responsibly—regardless of a bank's size.

Fourth, the amendment Representative PAUL KANJORSKI offered is a provision in the House bill that directs regulators to take action against any financial company that ''poses a grave threat to the financial stability or economy of the United States.'' The grave threat of a large financial institution results from excessive leverage, exposure to other risky institutions, or unstable sources of credit. Because of this provision, Federal regulators could apply stricter prudential standards, limit mergers and acquisitions, and force the selloff of business units and assets.

Finally, there is a provision offered by JACKIE SPEIER in the House which would impose a statutory 15-to-1 leverage ratio on systemically risky banks. Combining this with Senator COLLINS' new capital rule is essential. We tried something like this amendment as part of our larger amendment, with Senator KAUFMAN, in the breaking up of the largest five or six or seven banks.

Placing limits on these banks' leverage—meaning their assets relative to their debt—is critical to ending taxpayer bailouts. They cannot just leverage and leverage, in ratios like Lehman Brothers did, at 30 and 40 to 1. Four of the five largest investment banks were leveraged 30, 35, or 40 to 1 at the time of the financial crisis. That means their assets far outbalanced their ability to cover the debt.

According to the Kansas City Fed, the 20 biggest banks are more highly leveraged than community banks. Because the megabanks are bigger than ever before, bailing them out would cost taxpayers even more than they paid this time.

It is unfair. More important, it is dangerous. The current distortions in the market give privileged, large banks a clear funding advantage. Their implicit government backing is worth up to $34 billion annually. That is Wall Street welfare where large financial institutions continue to receive cheaper rates—maybe 75 basis points is what most economists say—compared to smaller banks.

As the Wall Street reform bill heads into conference, we should not dilute it to appease Wall Street. Wall Street lobbyists are all over this institution—all over the House, all over the Senate. They have already had too much impact on this bill. They have had almost total influence with Republicans. Frankly, they have had too much influence with my political party, too—the Democrats.

We should keep our eye on the ball by stopping financial crises before they start.

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

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

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

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

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

ELENA KAGAN NOMINATION

Mr. SESSIONS. Mr. President, I want to speak briefly on the President's nomination of Elena Kagan to the Supreme Court. The more we examine her record, the more concerns there are that her legal judgments might be infected by her very liberal political views.

We see strong evidence of that in Ms. Kagan's memos as a clerk on the Supreme Court. In her work as Domestic Policy Adviser in the White House for President Clinton, we see those strong political views. We see strong evidence of this during her time as dean of Harvard Law School.

Perhaps to some in the elite progressive circles of academia it is acceptable to discriminate against the patriots who fight and die for our freedoms, but the vast majority of Americans, I think, correctly know that such behavior is wrong. It has an arrogance about it and, really, it is not ethical.

When Dean Kagan became dean in 2003, she inherited a policy of full, equal access for the military. But she reversed that policy in clear open defiance of Federal law. She kicked the military out of the campus recruitment office as our troops, at that very moment, risked their lives in two wars overseas.

Some have recently attempted to defend this conduct by arguing that she deigned to speak with the student veterans to discuss whether they would coordinate a sort of second-class system for the recruiters who would come on campus to seek young men and women to serve as JAG officers. This all happened after she had defied the law and had shut down those official channels of recruitment at the official recruiting office. But the Harvard Student Veterans Association plainly expressed to Ms. Kagan in a letter to the entire law school that they lacked the resources to take the place of the campus office now closed to the military.

The letter reads in part:

> Given our tiny membership, meager budget, and lack of any office space, we possess neither the time nor the resources to routinely schedule campus rooms or advertise extensively for outside organizations, as is the norm for most recruiting events.

But Ms. Kagan was unmoved. Instead of welcoming the military recruiters on campus, she punished them, relegating them to second-class status, even leading student veterans to arrange recruiter meetings off campus. In fact, Dean Kagan's public comments contributed to a hostile on-campus environment for both recruiters and student veterans alike. In fact, she said she ''abhorred'' the military's recruitment policy—blaming soldiers for the decisions of lawmakers—the Congress—and the President. She called it a ''moral injustice of the first order,'' and participated in a student protest opposing military recruiting on campus.

Stunningly, she expressed sympathy for students and faculty for whom she said ''the military's presence on campus feels alienating.'' Those alienated by the military's presence were not the ones who needed the sympathy, they needed a history lesson. They had the freedom to complain and protest from the safety of Harvard's campus because of the blood and sacrifice of the men and women who wear our uniform.

If you talk to student veterans who were on campus during 2004 and 2005, you will learn many of them felt exploited. Here were people who had just returned from battles in Iraq, dodging enemy gunfire, and they were supposed to quietly hustle the military recruiters through the back door and provide political cover for Dean Kagan.

In a report for NPR, one student veteran who was there summed it up this way:

> Getting us to carry her water on military recruitment through the back door was a bridge too far. I came to view her as a very smooth political person.

Ms. Kagan said her mistreatment of the military was justified by her view that don't ask, don't tell was a ''moral injustice of the first order.'' But don't ask, don't tell was created and implemented by President Clinton. Where was her outrage during the 5 years she served in the Clinton White House? Why would she blame the military? They didn't pass the rule. It was Congress and the President.

So Ms. Kagan didn't take a stand in Washington when she was here, where the policy was adopted, but waited until she got to Harvard and then stood in the way of hard-working military recruiters who had nothing to do with establishing the policy.

Now information has come to light suggesting that Ms. Kagan may even have been less morally principled in her approach than has been portrayed. Around the same time that Dean Kagan was campaigning to exclude military recruiters—citing what she saw as the evils of don't ask, don't tell—Harvard University accepted $20 million from a member of the Saudi Royal family to establish a center for ''Islamic Studies'' and Sharia law. An Obama State Department report concerning Saudi Arabia and the Sharia law concept noted:

> Under Shari'a as interpreted in [Saudi Arabia] sexual activity between two persons of the same gender is punishable by death or flogging.

Ms. Kagan was perfectly willing to obstruct the military, which has liberated countless Muslims from the hate and tyranny of Saddam Hussein and the Taliban, but it seems she was willing to sit on the sidelines as Harvard created a center funded by—and dedicated to—foreign leaders presiding over a legal system that would violate what would appear to be her position. She fought the ability of our own soldiers to access campus resources but not those who spread the oppressive tenets of Sharia-type law.

Perhaps her response was guided by campus politics, but certainly Ms. Kagan lacks any experience as a judge or as a lawyer, and not much as a scholar of law. She hasn't written much. Much of her career has been spent actively engaged in liberal politics not legal practice, and there are serious questions as to whether she would be able to set aside that political agenda that has defined so much of her career. I think that is the test we try to give a fair evaluation of this nominee.

So these are important issues, and she will have an opportunity to discuss her views. I expect many Americans will be listening closely, but it will be important that any nominee to the Supreme Court be able to assure with great confidence the American people—and this Senate—that if confirmed, he or she would be faithful to the law, to serve under the Constitution, and not above it, and not have their political agenda infect their rulings, which must be nonpolitical.

I thank the Chair, and I yield the floor.

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

Mr. REID. Mr. President, I appreciate my friend from Alabama wrapping up his speech.

AMENDMENTS NOS. 4344 AND 4351

Mr. President, notwithstanding the pendency of a motion to concur, I ask unanimous consent that it be in order for the Senate to now consider the Reid amendment No. 4344 in its current form and the Isakson amendment No. 4351; that the amendments be debated concurrently until 2:45 p.m.; that at 2:45 p.m., the Senate proceed to vote in relation to the Reid amendment, to be followed by a vote in relation to the Isakson amendment; that each amendment be subject to an affirmative 60-vote threshold; that if the amendment achieves that threshold, then it be agreed to and the motion to reconsider be laid upon the table; that if they do not achieve the threshold, then they be withdrawn; that no amendment be in order to either amendment; that if either amendment is agreed to, then once the Baucus motion to concur has been made, the amendment be considered incorporated in the motion to concur.

I further ask there be 4 minutes between the two votes equally divided.

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

Amendments Nos. 4344 and 4351 are as follows:

AMENDMENT NO. 4344

(Purpose: To amend the Internal Revenue Code of 1986 to extend the time for closing on a principal residence eligible for the first-time homebuyer credit)

At the appropriate place, insert the following:

SEC. —. FIRST-TIME HOMEBUYER CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 36(h) is amended by striking ''paragraph (1) shall be applied by substituting 'July 1, 2010' '' and inserting ''and who purchases such residence before October 1, 2010, paragraph (1) shall be applied by substituting 'October 1, 2010' ''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 36(h)(3) is amended by inserting ''and for 'October 1, 2010' '' after ''for 'July 1, 2010' ''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to residences purchased after June 30, 2010.

(d) OFFSET.—

(1) DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.—

(A) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(iii) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(B) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(2) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(A) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(B) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(C) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to damages paid or incurred after December 31, 2011.

AMENDMENT NO. 4351

(Purpose: To amend the Internal Revenue Code of 1986 to extend the time for closing on a principal residence eligible for the first-time homebuyer credit)

At the appropriate place, insert the following:

SEC. —. FIRST-TIME HOMEBUYER CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 36(h) is amended by striking ''paragraph (1) shall be applied by substituting 'July 1, 2010' '' and inserting ''and who purchases such residence before October 1, 2010, paragraph (1) shall be applied by substituting 'October 1, 2010' ''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 36(h)(3) is amended by inserting ''and for 'October 1, 2010' '' after ''for 'July 1, 2010' ''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased after June 30, 2010.

(d) TRANSFER OF STIMULUS FUNDS.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009, from the amounts appropriated or made available and remaining unobligated under division A of such Act (other than under title X of such division A), the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the net decrease in revenues resulting from the enactment of subsections (a) and (b).

Mr. REID. Mr. President, my friend from Georgia is here, so I will be very quick. In fact, he can take 3 of the 4 minutes between the votes.

The home buyer credit has been wildly successful in stimulating home purchases. I have heard from a number of Nevadans who have met the April 30 deadline for having a binding contract for a home—and not only Nevadans but all over the country—but are very concerned they will not be able to close their transaction by the end of this month.

The failure to meet the June 30 deadline is not the fault of the home purchaser. Banks, title companies, and closing agents are swamped as a result of the success of this program. Many home buyers are stuck waiting for banks to make decisions on short sales. Unfortunately, the banks making these decisions feel no sense of urgency, leaving home buyers powerless to meet the current deadlines. They simply don't care, as has been shown during this entire period of time. The banks don't care about the home buyers or the homeowners.

My amendment extends the deadline for 3 months. This will give the homeowners time and the home buyers time to close their home purchases. My amendment is fully offset by disallowing a tax deduction for punitive damages paid in connection with a judgment or settlement.

Mr. DODD. Mr. President, I wanted to take a few minutes today to speak in support of the amendment offered by my dear friend and colleague from Nevada, HARRY REID. I am proud to be cosponsoring this important amendment. Last November we passed, with bipartisan support, an amendment that extended the very successful first time homebuyer tax credit and expanded it to the ''move up buyer.'' My good friend from Georgia, Senator ISAKSON was instrumental in crafting this extended and expanded tax credit and I want to commend him for all the work he has done on this issue. Under that legislation, which we worked on together, homebuyers who were eligible for the credit had to sign a binding contract for their new home by April 30 and close by June 30 to receive the credit.

As of April, the Internal Revenue Service estimates that 2.6 million Americans have used the credit. The National Realtors Association reported that home sales rose by 6 percent between March and April this year as Americans clamored to qualify for the credit. That increase marked the third consecutive month that home sales grew. And that is exactly what this legislation was intended to do—spur home sales and bring the housing market back to life.

There are between 55,000 and 75,000 eligible homebuyers who entered into contracts to purchase a principal residence by April 30, but who will not get the benefit of the homebuyer tax credit because they do not close by June 30. There are a variety of reasons this might occur: the seller is unable to secure a timely approval from their lender for sales related to distressed properties; recent natural disasters have damaged the property; or the homebuyer has experienced delays in the processing of their Federal mortgage program application.

This amendment would extend the closing date deadline from June 30 to September 30 so that these eligible homebuyers can still claim the credit. I want to make very clear that this amendment does not extend the credit to new applicants—they must still meet all the eligibility requirements and be under contract by April 30. This amendment just gives them more time to close the deal.

At the end of the day, this amendment is really about fairness for the thousands of homebuyers who might be ineligible for the credit simply because it is taking longer than usual to complete their paperwork. It is simply unfair to allow homeowners who played by the rules to lose this credit due to administrative challenges beyond their control. I also want to note that this provision is fully paid for by denying corporations the ability to deduct punitive damages from their taxable income. Once again, I thank the majority leader and his staff for crafting this fiscally responsible amendment to help homebuyers. I urge all my colleagues to vote for this amendment.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I will be brief. This deals with two amendments, and both do the same thing, except for the way in which they are paid for.

I appreciate very much Senator REID's interest in this as the leader. I have worked on this issue, as everybody knows, for a long time. We passed unanimously in the Senate last year a home buyer tax credit which ended on April 30 for contract date. Unfortunately, because of the backlog of appraisals and the current FDIC regulation, a lot of people who qualified for the credit are not going to be able to

close by the end of June, and they will lose the credit because we put a June 30 closing date as the deadline for closing the credit earned by the contract of April 30.

Both amendments merely move that June 30 date to the end of September, which gives another 90 days to close the transaction that has already been under contract for 60 days. It ensures Americans they will get what the Senate promised them in terms of the tax credit, if they in fact performed and qualified prior to April 30.

The difference in the two amendments is the pay-for. One is doing away with the deductibility of punitive damages, which is Senator REID's. The other is mine, which takes it from the unspent $50 billion in stimulus money. And the pay-for, by the way, in both cases, is not a lot of money in the scheme of things. It is a lot of money to me and you, but it is $140 million and not $50 billion.

So I would certainly appreciate support for the Isakson amendment, and I appreciate the support of Senators DODD and REID. I yield back the remainder of my time, and I ask for the yeas and nays on the Reid amendment.

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

The question is on agreeing to amendment No. 4344.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—60

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

NAYS—37

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

NOT VOTING—3

Byrd	Roberts	Warner

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 37. Under the previous order requiring 60 votes for the adoption of the amendment, the amendment is agreed to.

Mr. DURBIN. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4351

The PRESIDING OFFICER. Under the previous order, there is 4 minutes equally divided on the Isakson amendment No. 4351.

The Senator from Georgia.

Mr. ISAKSON. Mr. President, this is a tax credit extension, as with the previous amendment, but with a different pay-for. The previous was deductibility of punitive damages. This one is from the stimulus money. Both accomplish the same thing, which is allowing Americans who qualified for the tax credit by contracting by April 30 to close by September 30 rather than by June 30. The reason we are pushing it forward is because FDIC rules, regulatory rules and appraisal rules, are forcing closings taking as long as 120 days. This doesn't give anybody a credit who hasn't already earned it. It just allows them to take advantage of it by protracting the closing date so they would have enough time to close. I urge a positive vote on the Isakson amendment.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I oppose this amendment. Recovery act money works. It adds to reducing unemployment. It adds to the economy. It is very productive. It is helpful. It makes no sense to cut back recovery dollars that work, that help our economy. I, therefore, strongly oppose the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

All time is yielded back. The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Virginia (Mr. WARNER) are 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 result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—45

Alexander	Crapo	Lugar
Barrasso	Dorgan	McCain
Bayh	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brown (MA)	Grassley	Nelson (FL)
Brownback	Gregg	Risch
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Conrad	Klobuchar	Voinovich
Corker	LeMieux	Webb
Cornyn	Lincoln	Wicker

NAYS—52

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

NOT VOTING—3

Byrd	Roberts	Warner

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 52.

Under the previous order requiring 60 votes for adoption of this amendment, the amendment is withdrawn.

Mr. REID. 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.

Mr. REID. Mr. President, I ask unanimous consent that debate be extended until 4:30 under the same conditions and limitations of the previous order; further, that during this period, any quorum calls be equally divided.

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

Mr. REID. Mr. President, I suggest the absence of a quorum, and I ask that the time during this quorum call be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. 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. 4333

Mrs. HUTCHISON. Mr. President, I rise today to speak on the Thune amendment. This is the Republican alternative. Of course, we now know the Baucus package did not get the 60 votes required to go forward and, therefore, we are now looking at the Republican substitute and waiting for a new bill to come from Senator BAUCUS.

I think it is so important that our Senate say to the American people

that we know the debt being created in this country is unsupportable. Our bailouts have skyrocketed, our spending, our borrowing, now taxing—it is more than the American people can stand.

Our national debt now tops $13 trillion. Since President Obama took office 18 months ago the debt has grown by over $2.4 trillion. The President's budget shows there is no end in sight. It doubles the national debt in 5 years and triples it in 10.

In order to sustain this current spending level, the Federal Government is being forced to borrow 40 cents for every dollar it spends this year. The Federal Government is spending 67 percent more than it is earning. This is similar to a household that earns $62,000 but spends $105,000.

From whom are we borrowing that money? We owe China over $900 billion, Japan nearly $800 billion. Every household in America knows what it is like to set a budget. They know what the income is, and they know how to stick with it. It involves setting priorities, making tough decisions, and discipline.

The bill we are debating on the Senate floor today includes important policies that are national priorities, and I support many of them. However, it is time that the Federal Government does what every other household does; that is, pay for our priorities.

Here is what the Thune amendment does. It extends the expiring unemployment provisions until November, the expired tax provisions, including the local and State sales tax deduction through the end of the year. So we know that any of the expired tax cuts that people have been counting on that have been in place for several years would go through the end of this year so people would know that is at least one stabilizing force on which they can count.

It drops the job-killing tax increases in the Baucus substitute. The Thune amendment proves that government can make the tough choices. The Thune amendment is paid for. According to CBO, it cuts taxes by $26 billion, it cuts spending by over $100 billion, and it reduces the deficit by $68 billion over the next 10 years. It shows the American people that this Senate is serious about stopping the deficit spending we have seen in the last 18 months.

Spending cuts in the Thune amendment: one, it rescinds the unobligated stimulus funds; two, it imposes a 5-percent, across-the-board cut in government spending for all Federal agencies except the Veterans' Administration and the Department of Defense; three, it freezes for 1 year Federal employee salaries, including, of course, Congress. It is very important that our Federal employees have the same kinds of restrictions that most Americans are feeling right now. It is a freeze, not a cut, in Federal employee salaries. It requires the selling of $15 billion of unneeded and unused government property.

I believe the doctor fix that we have done in a patchwork way year after year since the balanced budget amendment is now another patch.

Medicare pays doctors in a fundamentally broken way. It has become an access-to-care crisis for our seniors. Too many seniors are unable to find a doctor who takes Medicare because the Federal Government has proven time and again that it is an unreliable business partner. We need a long-term solution so that the best and brightest in our country will choose medicine for their career and will choose to serve Medicare patients. Medicare is supposed to make seniors comfortable that they will be able to get medical care, but so many Medicare patients cannot find good doctors; they can't go to the doctors they want to see because the doctors have just said: I have had enough.

In Texas, over 60 percent of our counties are considered health professional shortage areas. The number of medical school graduates choosing primary care has dropped 50 percent since 1997. Fifteen medical specialties have reported physician workforce shortages, and we could face a physician shortage of more than 150,000 physicians in the next 15 years.

The Thune amendment provides over 2 years of a positive update for our Medicare physicians paid for by the kind of tort reform that has saved Texas doctors so much. The tort reform has brought down insurance premiums in Texas and we have increased our number of doctors since tort reform was enacted.

We could do the same thing at the Federal level, and then the many counties I hear about from my colleagues all over our country that don't have a primary care physician or don't have an OB–GYN physician would be able to start seeing an influx of medical personnel back into the practice of medicine.

We can do something good for America. We can show America that Congress understands that this debt is unsustainable, if we pass the Thune amendment. It is essential that we pass an amendment that will pay for the extension of unemployment insurance, that will not have any more deficit spending and not increase taxes.

We need to continue the cutting of taxes so that our businesses will feel they can hire people, so that we will have an economy that can be sustained without sending more and more money to the Federal Government, which is growing bigger and bigger. We need business to grow, to hire people, to get our economy going again so that all of the sectors, including retail as well as manufacturing, will survive in our country.

It is my hope we can pass the Thune amendment. It is fully paid for, it will not have deficit spending, and it will cut taxes rather than increase taxes on businesses. That is the alternative that we think is important for America to see.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest called the roll.

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

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

MOTION TO CONCUR WITH AMENDMENT NO. 4369

(Purpose: In the nature of a substitute)

Mr. BAUCUS. Mr. President, pursuant to the previous order, I move to concur in the House amendment to the Senate amendment to the bill with an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 4369 to the House amendment to the Senate amendment to H.R. 4213.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. BAUCUS. Mr. President, this is a new substitute amendment. We voted on an earlier version today. This is a new one. It still addresses many of the same issues as the last substitute, but it is smaller. It has fewer dollars involved and it is more paid for. The majority of this amendment is now offset. Most of the dollars spent in this amendment are offset, not by a lot but still the majority—more than half. All of the amendment is offset except for two matters: the unemployment insurance and the aid to the States under Medicaid; that is, the safety net provisions are not offset—those two. Everything else is offset. That means we do pay for changes to how doctors are compensated under Medicare. That is paid for. We do pay for all the changes to the tax laws. They are paid for as well.

We also made changes to the provisions regarding S corporations and carried interest. I will have more to say about those tomorrow, but suffice it to say that the S corp changes address some of the administrative concerns and burdens some Senators had as we were attempting to stop the abuses of some professional S corps, the abuses they have been conducting. Frankly, they have been paying themselves a very small salary. These are professional corporations primarily. Then they pay themselves dividends. Because dividends are not wages, they avoid payroll taxes. They avoid the FICA tax and avoid paying the Medicare tax. That is something we are trying to stop. The substitute still addresses that abuse but in a way that is less burdensome to bona fide S corporations. The carried interest provisions generally soften some of the provisions that were contained in the substitute.

The bottom line is that we listened. Several Senators had some concerns about the earlier substitute. We heard those Senators, and we have adjusted the amendment accordingly.

We believe this amendment can provide a path forward. We believe this amendment can complete our work on this bill. We believe this amendment can help to enact into law help to people who need help, the unemployed, and States under Medicaid and also help create jobs our constituents are demanding. The tax provisions will have that effect.

I very much hope that when we get to the substitute amendment vote, we will get the necessary votes to pass it. I am looking for something above 60, north of 60, so we can move forward to other measures.

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

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

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

FINANCIAL REFORM

Mr. KAUFMAN. Mr. President, it has only been 2 years since we had an extremely painful financial crisis that almost brought down our entire economy.

To try to address the root cause of the crisis, we are currently nearing completion of a long and arduous process to develop a comprehensive financial reform bill.

The world is watching to see how strong a bill this Congress will produce, and we need to show leadership. Yet I fear that instead of putting in place strong structural reforms as a model for other nations, we are deferring too much to the discretion of regulators who have failed in the past, and to international negotiations—currently underway in Basel, Switzerland—that have all too often resulted in global standards that were the lowest common denominators.

Capital flows easily across borders, and so the United States needs to provide leadership and then produce harmonized global standards. Instead, I fear we are doing the opposite. We have hollowed out our national response so that we can negotiate with a free hand on the global stage—after Congress showed the world that we lack the political resolve to impose hard measures.

This is why we have heard a common refrain that statutory requirements on capital or other prudential standards will tie regulators' hands during these international negotiations. We heard it before on the Brown-Kaufman amendment to restrict the size, leverage, and risk of our megabanks. Now we hear it on the Collins amendment.

Senator COLLINS's commonsense provision would ensure that bank holding companies and systemically significant nonbank financial institutions are subject to capital and leverage requirements as stringent as those that insured depository institutions face under existing prompt corrective action regulations. This provision would raise the capital bar for our largest financial institutions, requiring them to hold more committed and reliable forms of capital; namely, common equity and retained earnings. As my colleagues will recall, it passed by a voice vote during the Senate debate.

Now there is the threat that the Collins amendment might be eliminated for the sake of ''international negotiations.'' Mr. President, I fear this is a recipe for a global race to the bottom for two reasons: First, a tepid response by the United States may also undermine other countries' consideration of tough reform measures. For example, the U.K. is studying whether to break up their megabanks. But some in the U.K. have suggested that since the United States isn't taking this preemptive action, the U.K. would not do it either.

Second, some countries' regulators appear to be wedded to the status quo, and we are only reinforcing the impression that tough measures are not needed. Remarkably, only weeks before the European Government and the IMF cobbled together an almost $1 trillion bailout of European megabanks, one French Government official stated:

> The situation is completely different here, and the system that was in place has not worked badly and does not need to be overhauled.

Regulators from Germany, France, and Japan, among others, are opposed to having a leverage requirement and a more strict definition of what constitutes capital.

Leaving aside the opposition of many countries to the very concept of a leverage capital requirement, there are those who still indicate that the quantitative requirement must be set through the Basel negotiations. In fact, Treasury Secretary Geithner said:

> By the end of this year, we will negotiate an international consensus on the new ratios.

Why does it strengthen our negotiating hand for the Congress to have failed to enact hard rules? Moreover, it is tougher to imagine how we can set a number on leverage when we don't even have an agreement on how to measure leverage, since the United States follows GAAP accounting standards while the rest of the world follows IFRS. It is unlikely we will have uniformity, or even harmonization of those rules, for many years—if we ever will at all. While the accounting standard issue is often overlooked, it should go without saying that it is a more basic and first-order problem.

Most important, for what are we negotiating? The history of international capital standards is that of colossal failures—Basel I, Basel II, and now Basel III. Instead, we have a sovereign banking failure and should be establishing a sovereign solution.

If other countries want to permit banks to become risky and fail—such as what Europe may be facing due to the European debt crisis—let them learn the hard lessons America has already learned.

Let me briefly review the history of the Basel accords, which should stiffen the resolve of the conference negotiators to include measures that will prevent another financial crisis caused by U.S. megabanks.

The Basel I Accord was a crude apparatus that established numerical requirements for the amount of capital that banks need to set aside based upon how risky the assets on their balance sheets were perceived to be. Different types of loans and assets were lumped into risk buckets. Some received lower risk weights, while others received higher risk weights. However, those weightings were arbitrary determinations that did not even take into account basic risks—most notably credit risk—associated with loans and other financial assets that banks hold.

Under the Basel I system, a bond issued by a blue chip AAA company such as Johnson & Johnson would have had a much higher risk weight than a subprime stated-income loan, a loan to Greece, or a loan to Lehman Brothers. Not surprisingly, banks were able to easily game—or arbitrage—these capital requirements in a way that generally increased their risk profile. Banks were able to cherry-pick high-risk, and therefore, high-return assets that had low capital requirements because of the risk bucket in which they were placed. Banks also got around the Basel I requirements by shifting more assets off their balance sheets.

The Basel II Accord, which was agreed to in 2004, was the culmination of several years of negotiations. While it was intended to address the flaws of Basel I by making capital requirements more risk sensitive, it actually created bigger problems.

Most notably, the accord's complexity and sophistication masked a deregulatory philosophy that sought to make determinations on capital adequacy dependent on the judgments of rating agencies and, increasingly, the banks' own internal models. By outsourcing their regulatory responsibilities to the banks that they were supposed to regulate, bank regulators were making an implicit admission that the size and complexity of the megabanks had exceeded their comprehension.

Unfortunately, complex capital standards that rely upon banks' own internal models pose serious problems for any democratic nation that prizes accountability and transparency, such as the United States. In his book ''Banking on Basel,'' Federal Reserve

Governor Daniel Tarullo provides an exhaustive account of the Basel II capital accord that specifically questions the accord's decision to base capital standards on the internal ratings of banks. Tarullo indicates that the ''very complexity of the [accord's] approach gives banks more opportunities to manipulate, or make mistakes during, calculation of their capital ratios.''

Even more troubling, Governor Tarullo noted it would also be nearly impossible for any independent auditor or examiner to identify failures and forbearance on the part of regulators. To that point, he states ''it may be extremely difficult for an independent entity such as the Government Accountability Office to reconstruct the series of decisions and judgments that went into the creation and supervisory assessment of the credit risk model.'' Given that, how will we in Congress be able to hold either the megabanks or their regulators accountable?

By virtually all accounts, the Basel II Accord was a complete failure. The Basel Committee itself estimated that it reduced capital for some banks by as much as 29 percent, at a time in which regulators should have been ramping up capital and other prudential requirements upon banks.

By trying to tie capital requirements to so-called risked-based measurements, the Federal Reserve—the main driver of the Basel process—apparently hoped to eliminate the basic leverage requirement. In fact, former Fed Governor Susan Bies told banks that ''the leverage ratio down the road has got to disappear.'' Fortunately, despite the Fed's objections, Basel II has not been implemented in the United States, in large part due to concerns that it would disadvantage smaller community banks that did not have the resources and wherewithal to make investments in supposedly advanced risk models.

It was, however, applied to European banks. Unconstrained by a basic leverage capital ratio, many of these banks went on to arbitrage the Basel requirements by gorging on AAA-rated bonds backed by subprime mortgages, not to mention the sovereign debt of highly indebted Eurozone countries such as Greece and Spain. The result has been hundreds of billions of dollars of losses followed by both explicit and implicit bailouts by EU governments.

The accord was also effectively applied to investment banks such as Lehman Brothers and Goldman Sachs, which had precarious and explosive business models that utilized overnight funding to finance illiquid inventories of assets. These institutions were nominally regulated by the SEC, which had no track record to speak of with respect to ensuring the safety and soundness of financial institutions. The Commission allowed these investment banks to leverage a small base of capital over 40 times—I repeat, over 40 times—into asset holdings that, in some cases, exceeded $1 trillion.

Of course, in the wake of the most recent crisis, the same failed regulators now tell us that, this time, they have learned their lesson and will develop a new agreement that will address the deficiencies of the last one. But what reasons do we have for thinking that will be true?

Assistant Treasury Secretary Michael Barr notes that regulators are now pushing for new global capital standards that will be ''more robust, higher and better quality, less pro-cyclical, and include global agreement on a leverage ratio.'' But the megabanks are already developing new ways to arbitrage as well as weaken the global capital standards to which Secretary Barr refers. In other words, they are finding ways to gut and go around the rules before they are even finalized.

What is more, many of the regulators involved in the discussions inspire little confidence. Christian Noyer, the governor of the Bank of France and the new chairman of the Bank of International Settlements, the entity that oversees the Basel rulemaking process, indicated, that the new rules ''shouldn't undermine the business model of banks which have perfectly withstood the crisis.'' Given that the same Bank of International Settlements estimates that eurozone banks have two-thirds of the exposures to the most fiscally imperiled European countries—Greece, Ireland, Portugal and Spain—it is not clear to which banks Governor Noyer is referring.

As the Financial Times notes, France, Germany and Japan are ''more attached to the preeminence of the current risk-based approach and wants the leverage ratio to have a much less important role in governing banks' balance sheets.'' In effect, they are pushing for the status quo of Basel II, which has been an unmitigated disaster. After the multiple trillions of dollars worth of public funds expended on megabank bailouts, it seems amazing that many regulators would like to maintain a system where the largest banks effectively regulate themselves.

But U.S. regulators are not immune to the defense of the existing regime. As the Wall Street Journal reports, ''some U.S. government officials are fighting what they view as an anti-American proposal that would prevent banks from counting as part of their capital cushion a specific type of security favored by U.S. banks known as a trust-preferred security.'' In other words, we have unnamed U.S. regulators that are fighting against Senator COLLINS' amendment in international negotiations.

The current state of international capital negotiations gives little comfort to those who would like to see fundamental structural reforms to address the problem of too big to fail.

I am in favor of international negotiations to harmonize financial regulatory standards. However, these negotiations should not preclude the Congress from setting statutory floors. They should never result in the abdication of our sovereign powers and responsibilities.

I, therefore, agree with the sage thoughts of former Federal Reserve Chairman Paul Volcker when he said that while ''good things may come out of the Basel process, ''it is not structural change.'' In his view, and in mine, we need to do both.

Instead of trusting our financial stability solely to unelected financial guardians, in this country and abroad, Congress should legislate structural and fundamental reforms that preemptively address the persistent problem of too big to fail. Senator COLLINS' provision is but one example of that. There is also Senator LINCOLN's proposal to require swap dealers to be spun off and separately capitalized from insured depository institutions; a strong Volcker Rule ban on proprietary trading at banks, as proposed by Senators MERKLEY and LEVIN.

Without transparency and accountability, a democracy cannot function. That is why we still need the statutory standards on the leverage as well as the size of these megabanks. While some technocrats may say that they are blunt tools, I say that that is precisely the point. They will not only provide a sorely needed gut check that ensures that regulators do not miss the forest for the trees when assessing the capital adequacy of a financial institution, they will also provide a basic means to ensure accountability in the performance of government officials.

We cannot—we cannot—afford another meltdown and the American people—and, indeed, the rest of the world—are looking to Congress to take steps to ensure that that does not happen. By adopting these fundamental reforms and preemptive measures, Congress will go a long way towards protecting the American people from future bailouts. It will also be providing global leadership, demonstrating to the rest of the world that fundamental reform of our financial system does not rest upon the decisions of unelected technocrats whose grand designs brought our financial system to the brink.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise tonight to express my concern with how Congress continues to address this package of so-called extenders. This is a debate we have had on multiple occasions this year, and once again we find ourselves discussing how to enact a short-term extension of items such as emergency unemployment benefits, reauthorization of the National Flood Insurance Program, the Federal Medicaid matching rate, FMAP, and the Medicare doc fix.

This is a difficult debate for many of us. Times are tough across the country, as well as in my home State of Georgia where the unemployment rate is 10.4 percent. During a time of economic hardship, I do not believe we

should allow provisions, such as the extension of emergency unemployment benefits, to expire. But I do believe that when we extend these programs, we should do so in a responsible fashion. Congress should find a way to pay for those extensions.

That is where there is disagreement on this issue—not whether Congress should pass an extenders package but whether it should be paid for.

Even though the need for these extensions comes as no surprise, we again find ourselves in a position where the majority has proposed extending these programs without finding the money to fund them.

Just 2 weeks after our Federal debt topped $13 trillion—let me say that one more time; $13 trillion is owed by the United States of America today—we are now poised to vote on another proposal that would spend money this country simply does not have.

That number, $13 trillion, is so big that it is difficult to comprehend. But what it boils down to is $42,000 of debt for every single citizen of the United States of America.

The public debt has risen by $2.4 trillion in the 500 days since the current administration took office. That is an average of $4.9 billion per day. We are now borrowing 43 cents of every dollar we spend. But still we are continuing to spend.

Estimates show that $4.8 trillion of the $9 trillion in debt that America will accrue over the next decade will be from interest. That is $4.8 trillion that could be better used on national defense or returned to taxpayers to pay for other necessities. Instead, future generations will be forced to pay higher taxes to foot the bill for Congress's out-of-control spending.

With much of our national debt being held by other nations, such as China, this is also an issue of national security. Just as with our energy and food supply, we put our Nation in a more vulnerable position when we disproportionately rely on other countries.

It is a matter of great concern that our Nation is in deep debt to foreign countries that often do not share our positions on domestic or international policy matters. While our global economy ensures that there will be foreign investment in our debt, this sustained, exploding debt guarantees that we provide leverage to our creditors. At some point, we have to say enough is enough and make some tough decisions about spending beyond our means. Again, we can pass an extenders package without recklessly adding to the cost of our Federal debt.

Earlier this year, this body voted to give the rule known as pay-go the force of law. And yet virtually every piece of legislation that we have considered between then and now has fallen short of this standard. Talking about fiscal responsibility and restraint while spending recklessly is hypocrisy of which the American people will surely take notice, and they have taken notice. States as well are being left in the fiscal lurch.

By not shoring up the Federal Medicaid matching rate, my State of Georgia will have a $370.5 million hole in its budget. We have had to make sacrifices at home. My legislature has had to make very difficult, hard, and tough decisions with respect to trying to find reductions in spending at the State level to come up with a fiscally responsible, and balanced budget that they are required to have under our State constitution.

We know States are facing huge challenges, relying as they do on money promised from the Federal Government. But we all need to keep in mind that we are borrowing virtually every cent of that money. It is time we get serious about this Nation's precarious fiscal situation. We can no longer afford to burden our grandchildren with insurmountable debt.

Recently, we witnessed what happens when a nation does not live within its means. The economic crisis in Greece was caused by years of unbridled spending and failure to implement fiscal reforms. This recklessness left Greece badly exposed when the global economic downturn appeared. This pattern should serve as a wake-up call to every one of us that spending must be controlled.

Retirement programs such as Medicare and Social Security are on the verge of bankruptcy. In March of this year, reports emerged that Social Security is set to pay out more in benefits than it receives in payroll taxes this year—a threshold the program was not expected to cross until at least 2016. By some estimates, the program will no longer be able to pay retirees full benefits by the year 2037.

Instead of trying to place programs such as Social Security on more stable footing, we spent more than a year debating a health care bill that will create even more costly entitlement programs, the true price tag of which is yet to be seen.

The original proposal that was debated and voted on earlier today, advanced by the majority, increased spending by $126 billion, which included more than $70 billion in new taxes and increased the deficit by $79 billion over the next 10 years. Thank goodness the votes were not there to proceed with that underlying bill.

Now, according to the chairman of the Finance Committee, we have a new bill. While it is smaller in dollars, according to the comments made by the chairman of the Finance Committee earlier tonight—he says also that the majority of the amendment is offset, which means it is still not paid for.

We have an opportunity tomorrow to take a step toward responsibility and restraint by paying for this extenders package. I am a cosponsor of the amendment introduced by the Senator from South Dakota, Mr. THUNE, which would extend the same programs as the House-passed version of this legislation. But unlike that version, the Thune amendment pays for those programs instead of adding their cost to the Federal debt. It also cuts taxes by $26 billion, cuts spending by more than $100 billion, and, according to the CBO, reduces the deficit by $55 billion. It does this through spending cuts and the use of unobligated stimulus funds.

The Thune amendment does away with the harmful tax increases on long-term investment that are part of the underlying bill. These taxes on carried interest would almost certainly serve to discourage capital investment, increase borrowing costs associated with starting or growing businesses, and hurt real estate and stock prices, all at a time when our economy is extremely vulnerable. The real estate and venture capital arena—two segments of our economy that are vital to sustained job growth—would be especially hard hit by these taxes on long-term investments.

Many Americans need the programs in this bill to be extended, but we must be sure we extend them in a responsible way, and that is why I urge my colleagues to strongly consider the Thune amendment as we debate it tomorrow and vote in favor of the Thune amendment.

I yield the floor.

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.

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

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

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The Cloture motion having been presented under rule XXII, the clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 4213, the American Workers, State, and Business Relief Act of 2010, with the Baucus amendment No. 4369.

Harry Reid, Max Baucus, Patrick J. Leahy, Jeanne Shaheen, Byron L. Dorgan, Sherrod Brown, Edward E. Kaufman, Daniel K. Akaka, Christopher J. Dodd, Jeff Bingaman, Robert P. Casey, Jr., Jack Reed, Barbara A. Mikulski, Roland W. Burris, Jon Tester, Daniel K. Inouye, Tom Harkin.

Mr. REID. I ask unanimous consent that the mandatory quorum be waived.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed