

1 OPEN EXECUTIVE SESSION TO CONSIDER THE FAMILY AND
2 BUSINESS TAX CUT CERTAINTY ACT OF 2012
3 THURSDAY, AUGUST 2, 2012
4 U.S. Senate,
5 Committee on Finance,
6 Washington, DC.

7 The hearing was convened, pursuant to notice, at
8 10:05 a.m., in room SD-215, Dirksen Senate Office
9 Building, Hon. Max Baucus (chairman of the committee)
10 presiding.

11 Present: Senators Rockefeller, Conrad, Bingaman,
12 Kerry, Wyden, Schumer, Stabenow, Cantwell, Nelson,
13 Menendez, Carper, Cardin, Hatch, Grassley, Snowe, Kyl,
14 Crapo, Roberts, Enzi, Cornyn, Coburn, Thune, and Burr.

15 Also present: Democratic Staff: Ryan Abraham, Tax
16 Counsel; Joshua LeVasseur, Deputy Chief Clerk; Danielle
17 Edwards, Deputy Clerk; Tiffany Smith, Tax Counsel; Holly
18 Porter, Tax Counsel; David Hughes, Tax Advisor; and Ann
19 Cammack, Tax Counsel. Republican Staff: James Lyons, Tax
20 Counsel; Tony Coughlan, Tax Counsel; Preston Rutledge,
21 Tax Counsel; and Curt Beaulieu, Tax Counsel.

22 Also present: Emily S. McMahon, Acting Assistant
23 Secretary for Tax Policy, U.S. Department of the
24 Treasury; and Thomas Barthold, Chief of Staff, Joint
25 Committee on Taxation.

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1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM
2 MONTANA, CHAIRMAN OF THE COMMITTEE

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4 The Chairman. The committee will come to order.

5 The committee meets today to consider my mark of the
6 Family and Business Tax Cut Certainty Act of 2012.

7 I am going to make a short opening statement, in the
8 interest of time and, also, to, hopefully, set a good
9 example. I will be short and I encourage other members
10 of the committee to also be quite short in their
11 statements, as well.

12 President Franklin Roosevelt once said, quote, "Our
13 capacity is limited only by our ability to work
14 together," end quote.

15 People very often say that Congress has a limited
16 capacity, that we cannot work together, that we cannot
17 compromise and get anything done. By working together
18 here today, we are proving we still have the capacity to
19 do what our bosses -- that is, the American people --
20 sent us here to do -- to get things done.

21 Every day, people in my State and across the country
22 work together. Every day, businesses work together.
23 Every day, educators work together, all to achieve a
24 common goal. We could think of all kinds of groups in
25 our country that work together and must work together if

1 they are going to be successful.

2 And that is what we are doing here today. We are
3 working together to take care of middle-class families.
4 We are working together to support jobs. We are working
5 together to put America's economy back on track. And,
6 today, the Senate Finance Committee is putting progress
7 ahead of politics and working together to provide some
8 certainty to American families and businesses.

9 The bipartisan bill we are considering today will
10 extend tax cuts that will expire at the end of this year
11 for American families and businesses. This bill supports
12 jobs all across the country.

13 It took a lot of hard work on the part of every
14 member of this committee, and I thank each member. I
15 thank each member very, very much for all their help with
16 getting this together. Everyone had to compromise,
17 because we all know how important these tax cuts are and
18 how important it is to provide Americans with certainty
19 about their tax liabilities next year. Families need to
20 know, others need to know.

21 I want to thank ranking member Hatch, who worked
22 hand-in-hand with me and with other members of this
23 committee, especially on his side of the aisle. Senator
24 Hatch is a true partner in this effort. It means much to
25 me.

1 Many other Senators I can thank for their help here:
2 Senator Schumer, Senator Menendez, Senator Wyden. I see
3 Senator Cantwell here; I thank her, as well. Thank all
4 of you very, very much for your help.

5 I will now turn to Senator Hatch and then to other
6 members to make their brief statements.

7 Senator Hatch?

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1 OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR
2 FROM UTAH

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4 Senator Hatch. Well, thank you, Mr. Chairman, for
5 holding today's markup on the tax extender provisions.

6 The explosion of temporary tax provisions in recent
7 years has been a very notable and problematic trend. The
8 number of temporary tax provisions has grown from 42 in
9 1998 to 154 in 2011. If you average that number out, you
10 will find that over that 13-year period, Congress is
11 adding almost nine extenders each year.

12 To those of us who have been members of this
13 committee for a while, that number may seem low. The
14 reason it may seem low is that we revisit these same
15 issues year after year. We need to break out of that
16 rut. And my friend, the chairman, as he has often said,
17 we need to get away from being an extenders Congress or a
18 maintenance Congress, and I will certainly agree with
19 that. We should not continue extending provisions in a
20 stop-and-go fashion.

21 You cannot find many people who believe Congress
22 should continue dealing with tax extenders in a business-
23 as-usual manner in this market that is not business as
24 usual.

25 The chairman's mark reverses the trend on extenders.

1 The tide is turning. For the first time in my 21 years
2 on this committee, we are deliberately moving in the
3 opposite direction. The chairman's mark reduces the
4 number of extenders by over 25 percent. The number of
5 extenders potentially addressed in the chairman's mark
6 was 73. The modified mark we consider today addresses
7 only 52 of those. That means that we have dropped 21
8 extenders, and, by my count, that is a big step in the
9 right direction. To be sure, it cannot be the only step
10 and this has to be at least the first step.

11 Am I satisfied with the number of drops? The answer
12 is, emphatically, no. I would like to drop more, and I
13 appreciate those on the committee who have worked hard to
14 trim this list back even further.

15 Even if all of that work does not yield fruit today,
16 I expect that it will in the future. But the consensus
17 among members of the committee is not that aggressive.
18 Much of the debate today will illustrate the tough
19 balance that was struck with the chairman's mark.
20 Members on both sides found dozens of amendments to add
21 back extenders, and we will even see some members seeking
22 to add back dropped items here today. We will see others
23 seeking to strike items that were retained.

24 I am hopeful that where the committee lands today is
25 just a starting point and that the list of dropped

1 extenders will only grow as we move on to the next stages
2 in the legislative process.

3 Today's markup is important for another reason. On
4 a very limited basis, it is a dry run for the fundamental
5 tax reform that we all know must come and will come in
6 the near future. All members will, with sincerity, say
7 they want fundamental tax reform. Today, we will see
8 just how difficult it is to have even a limited reform
9 exercise.

10 Now, disappointment in not eliminating more
11 extenders today does not mean we should pull back from
12 our future efforts on fundamental tax reform. Rather, it
13 shows that we need to double down on those efforts.
14 Nearly all economists tell us a reformed system with a
15 broader base and lower rates will lead to more growth,
16 more jobs, and a better standard of living for our
17 children and grandchildren.

18 Mr. Chairman, I want to personally compliment you.
19 You have been a great chairman and you have taken on
20 these very, very difficult issues, and you have stood up
21 and stood tall, in my eyes, to resolve these matters and
22 I think you have done it in a way that most everybody on
23 this committee should be satisfied with and I think
24 should understand and appreciate the work that you have
25 done.

1 I want to thank you for today's efforts.

2 The Chairman. Thank you, Senator. I appreciate
3 that.

4 Senator Hatch. We can send a positive signal today
5 by providing greater certainty to families and businesses
6 across America about our tax code. And, importantly, we
7 can give an indication that the Finance Committee is
8 prepared to tackle fundamental tax reform to simplify and
9 update our archaic tax laws. And I think you have
10 certainly started us down the right path and on the right
11 points, and I want to personally tell you how much I
12 appreciate working with you.

13 The Chairman. Thank you very much.

14 Are there other Senators who wish to give any
15 statement?

16 Senator Wyden?

17 Senator Wyden. Thank you, Mr. Chairman.

18 Mr. Chairman, I want to commend you and Senator
19 Hatch for coming together on this extenders package.
20 Both of you are absolutely right in terms of laying out
21 the fact that this is essentially the prelims for tax
22 reform. That is what this is all about, and trying to
23 show that you can wring efficiencies out of the code. And
24 you and I have talked, Mr. Chairman, and I have certainly
25 been a strong supporter of tax reform. And Senator Hatch

1 knows I have put an extraordinary number of hours in on
2 this issue with Republicans, particularly, Senator Gregg
3 in the previous Congress, Senator Coats now.

4 What I think the challenge is is at every step of
5 the way to try to show that you can streamline and make
6 efficient the tax code, while still, at the same time,
7 meeting the needs of our people.

8 And this morning, I will be offering an amendment to
9 significantly streamline and scale back the tax credits
10 for electric vehicles. Right now, there are a whole host
11 of different credits depending on how many wheels the
12 vehicles have and there was a tax credit for golf carts
13 and this sort of thing.

14 Obviously, we do not need incentives for golf carts.
15 We ought to consolidate the incentives for the vehicles
16 into one category. That is what I will be proposing, and
17 I will talk more about the amendment down the road.

18 But I think, Mr. Chairman, to have an all-of-the-
19 above energy strategy, which I think all of us on this
20 committee want, we cannot promote one technology at the
21 expense of another, number one, and we cannot lose our
22 advantage right now to these kinds of technologies
23 overseas.

24 We have one of these extraordinarily promising
25 technologies, these electric vehicle technologies, in my

1 home State, where it is paying off. It is paying off
2 with red, white and blue jobs. We have debates about
3 green energy, but what we ought to do is streamline and
4 consolidate these credits so we can produce more red,
5 white and blue jobs.

6 Thank you for your courtesy, Mr. Chairman. You and
7 the staff have worked closely with me on it, and I hope
8 for the support of my colleagues on both sides of the
9 aisle this morning.

10 Thank you.

11 The Chairman. Thank you, Senator. Thank you so
12 much for your approach, too. Streamlining is usually a
13 good thing. Thank you.

14 Any Senators on this side? I want to go back and
15 forth as we speak.

16 Senator Cornyn?

17 Senator Cornyn. Mr. Chairman, thank you for
18 helping to maintain the relevance of the Finance
19 Committee in this important work. I think it is
20 important that we do conduct business at the committee
21 level, something we have seen, unfortunately, less and
22 less of in recent times.

23 I would say this is a welcome contrast with what we
24 have heard from, for example, the Senator from
25 Washington, Senator Murray, who said, for her part, it is

1 the design of her party to wait until the lame duck
2 session to deal with Taxmageddon, the expiration of major
3 tax provisions, which, if allowed by Congress or the
4 President, would result in the largest tax increase in
5 American history, as well as the sequester, the
6 combination of which would put us into a recession. This
7 is a welcome contrast to that.

8 Given our fiscal position, my own preference would
9 be to start from scratch and not to reauthorize even 52
10 of these expenditures automatically, so to speak, but,
11 rather, to start from scratch and require the
12 stakeholders to come forward and maintain the burden of
13 proof that they are still justified.

14 I appreciate the fact that Senator Hatch said that
15 some of the tax expenditures have been dropped here.
16 That is progress. But I would prefer and I think it
17 would be a more practical process if we started from
18 scratch and put the burden of proof on the stakeholders
19 who benefit from these tax expenditures to come prove
20 they are still justified.

21 The President's own fiscal commission, the Simpson-
22 Bowles Commission, argued the tax code is rife with
23 inefficiencies, loopholes incentives, tax earmarks, and
24 baffling complexity, and we all know that is true. They
25 note the need to lower tax rates, broaden the base, and

1 simplify the code in order to get the economy growing
2 again and creating jobs.

3 And I would say that temporary tax provisions, I
4 think, are an impediment to planning and predictability.
5 And so I hope as we go next year into more comprehensive
6 tax reform, we will look for a way to reduce the number
7 of temporary provisions and make the tax code more
8 predictable, more permanent, so people can plan. I think
9 that will facilitate the economic growth we all hope for.

10 So thank you for making this step in the right
11 direction. We will look forward to working with you
12 toward the ultimate goal of simplifying our tax code,
13 lowering rates, and broadening the base, and seeing our
14 economy grow again.

15 The Chairman. Thank you, Senator. I appreciate
16 that.

17 Senator Cantwell?

18 Senator Cantwell. Thank you, Mr. Chairman. And my
19 colleague, Senator Wyden, the red, white and blue. And
20 so I feel that I should mention the unbelievable victory
21 last night of Nathan Adrian, who won the 100-meter
22 freestyle. He is from Bremerton, Washington.

23 I think this markup might be as surprising to some
24 people as that victory was, but it shows that hard work
25 and perseverance can get us -- if we just keep sticking

1 with it, we can keep moving.

2 Today's effort on tax reform is really a bipartisan
3 effort. And many people on this committee know that I
4 have continued to voice my interest in having this tax
5 extender package done as a way to produce predictability
6 and certainty for taxpayers at a time when our economy is
7 still recovering.

8 While I know we are going to have this larger
9 discussion on a comprehensive tax reform bill, and there
10 is no doubt that we need to do that, to retool and bring
11 our tax code into a 21st century effort, that we need to
12 be nimble. We need to focus on investment and be able to
13 balance our budget. But right now we need these tax
14 extenders that expired in 2011 to give the certainty and
15 predictability to people through the year 2013.

16 One of particular importance to me and to many
17 Washingtonians is the State and local sales tax
18 deduction. Extending and making this deduction permanent
19 are, in my belief, a matter of fairness.

20 If you come from a State that does not have an
21 income tax, being able to deduct your sales tax from your
22 Federal income tax obligations is a matter of fairness.

23 Last year's experiences show why deductions need to
24 be permanent. The deduction technically expired at the
25 end of 2009 and the tax bill extending it was not signed

1 until December 2010.

2 So that delay caused many problems with the IRS and
3 focused them on not being able to accept tax returns and
4 itemized deductions until February 14, 2011, a full month
5 delay, and this is simply unfair.

6 So for States like Florida, Nevada, South Dakota,
7 Texas, Wyoming, and my home State of Washington, where
8 850,000 of my constituents have used this, this is about
9 tax fairness.

10 Mr. Chairman, thank you so much for getting this
11 bill done and including this for so many people who are
12 going to be using that tax certainty and predictability.

13 I also want to just say the clean energy production
14 tax credit, the new market tax credit, the biodiesel tax
15 credit, the R&D tax credit are all, in my belief, real
16 job-creators and leverage public sector dollars into much
17 more huge private sector investment.

18 So I know we will be talking more about these
19 things, but just the fact that the PCT could be changed
20 to a commence construction rather than a place in
21 service, I believe, will provide much leveraged job
22 creation over the next year.

23 So, again, I thank the chairman and the ranking
24 member for their perseverance and coming up with what I
25 think is a real victory, and, certainly, I would give it

1 a gold medal.

2 Thank you.

3 The Chairman. You are very welcome. Thank you,
4 Senator.

5 Senator Enzi?

6 Senator Enzi. Thank you, Mr. Chairman. And I want
7 to thank you for holding this markup today. I am glad to
8 see the committee doing the work in its area of
9 jurisdiction and doing it through regular order. I think
10 that is a great step.

11 While addressing these is an important step, it is
12 also a step toward comprehensive tax reform, a good warm-
13 up for it, and I look forward to working with you as we
14 tackle that tax reform.

15 I know that individuals and companies are interested
16 in these short-term fixes, but they are interested in
17 something a bit longer-term, and that would be the
18 comprehensive tax reform. And when we are doing that
19 comprehensive tax reform, I hope that we make transition
20 an important part of that so that we are not putting
21 small businesses out of business and adding people to the
22 unemployment rolls.

23 A lot of work has already been done to move the ball
24 forward on comprehensive tax reform, and this committee
25 has held a number of hearings, excellent hearings on the

1 various elements of that.

2 Simpson-Bowles and Domenici-Rivlin have laid out
3 options for tax reform. Members on both sides of the
4 aisle have offered proposals and introduced legislation
5 to reform it. I have introduced a bill to reform the
6 international tax rules, and I think it is time that we
7 dig into those as soon as we get these tax extenders out
8 of the way.

9 I appreciate Senator Wyden's emphasis on helping all
10 energy. I have a little amendment in here that deals
11 with super-clean coal, and that would be one of the
12 elements of all of the above energy.

13 Thank you, Mr. Chairman.

14 The Chairman. Thank you, Senator. I appreciate
15 you also mentioning the importance of transition. It is
16 something you have said many times, and I do not think
17 that is recognized sufficiently around here; that is,
18 when we do reform the code, that it is important, the
19 transition rules, and how we move from A to B. Thank you
20 very much.

21 Senator Bingaman?

22 Senator Bingaman. Mr. Chairman, I just
23 congratulate you and Senator Hatch and the staff and all
24 the members who participated in getting this to this
25 stage. I think this is a major step forward.

1 I hope that we can report a bill out to the full
2 Senate and move it through the Senate and get it passed
3 by the House, as well. And that would be great progress.

4 Thank you, Mr. Chairman.

5 The Chairman. Senator Thune?

6 Senator Thune. Mr. Chairman, I, too, want to thank
7 you and Senator Hatch for getting us to where we are
8 today. I wish we could have done this several months
9 ago, but I appreciate the hard work that has gotten us
10 where we are today.

11 This package includes a number of provisions that
12 are important to my State of South Dakota. The deduction
13 for State and local sales taxes for those who itemize in
14 South Dakota is an important piece of tax policy. The
15 bio-fuels tax policy that applies to bio-fuels production
16 in this country and wind production are in this package.
17 And so appreciate those things being included.

18 I would also say and echo what some of my colleagues
19 have already mentioned, that is, that this is the short-
20 term gain. The long-term gain needs to be tax reform. I
21 have got an amendment that I will speak to later that
22 talks about us focusing on the real issue here, and that
23 is what are we going to do to reform this tax code to
24 broaden the base and lower the rates, and, hopefully, get
25 away from picking winners and losers in the tax code.

1 I think it is important that we look at how we
2 transition and the phase-outs and all of those sorts of
3 things. But for now, we need the businesses that make
4 their decisions based upon the policy that comes out of
5 Washington need at least some certainty about what the
6 rules are going to be in the near term, in the
7 foreseeable future.

8 So I hope that this gets us to the goal of tax
9 reform and that that debate will be a productive one next
10 year. But until that time, we need to get these
11 extenders enacted so that those out there who make
12 decisions based upon these know at least with some
13 certainty what the rules are going to be in the near
14 term.

15 So I look forward to us hopefully advancing this and
16 getting it enacted into law.

17 The Chairman. Thank you, Senator.

18 Senator Cardin, I did not see you earlier and I
19 apologize for not recognizing you earlier.

20 Senator Cardin?

21 Senator Cardin. Thank you, Mr. Chairman. I just
22 really want to say thank you for your leadership, and
23 Senator Hatch, on getting this bill moving forward.

24 I agree with the comments that have been made. I
25 think working together, we can move good policy and give

1 predictability to the tax code, which I think is
2 critically important.

3 There are several provisions that I am particularly
4 pleased that we can act on today. I want to acknowledge
5 the work of Senator Schumer on the transit benefits,
6 which I think is very important. This is parity between
7 the benefits we give people for parking versus transit.

8 The permanent law for parking benefits is \$240 per
9 month. The transit benefits parity expired, and reverted
10 to \$125 a month. We raise it back to the \$240 per month
11 in this bill.

12 We did some checking and for those who take the
13 Metro to Capitol Hill from Suburban Maryland, it can cost
14 as much as \$230 per month. So this gives real benefits
15 to people who are helping us in using transit rather than
16 bringing their vehicles into the Nation's Capital, and
17 that is true around the rest of the Nation.

18 The other provision I just really want to compliment
19 you on are the provisions you provided for alternative
20 renewable energy sources, the investment tax credit and
21 production tax credit.

22 There is a change here that I strongly support,
23 which allows the credit to be used if you begin
24 construction by the expiration date. That makes a lot of
25 sense. We have a 100-megawatt waste energy plant that is

1 being considered for downtown Baltimore in a brown field
2 site. And let me just remind you, to get it through
3 construction to production of energy in a brown field
4 site can take some time.

5 This gives the predictability so we can move that
6 project forward, which will help our environment and help
7 our energy policy. So these are important policies that,
8 if we can get this to the finish line, it will produce
9 jobs -- Baltimore's project alone will create 1,900
10 construction jobs and 180 permanent jobs, as well as
11 having positive environmental and energy impacts.

12 So I thank you very much for your efforts on this
13 bill.

14 The Chairman. Thank you, Senator. On this side of
15 the aisle, if folks wish to speak, like Senator Kyl -- do
16 you wish to make a statement, Senator?

17 Senator Kyl. Yes.

18 The Chairman. We are going back and forth.

19 Senator Kyl. Thank you very much. I will be very
20 brief.

21 Again, I join others in thanking you and the ranking
22 member for trying to get this together in a regular order
23 process here. It is important for us to resolve these
24 extenders.

25 My only concern is that I think we put too many

1 things in here that violate the standard that most of us
2 have articulated, but not necessarily lived with, which
3 is that we should not be spending a lot of taxpayer money
4 on special things.

5 In that regard, I am going to be offering an
6 amendment which I hope my colleagues will consider,
7 because when I said "spend money on," this is exactly
8 what I mean, writing checks for. We have made some of
9 these things refundable, as in with the black liquor.
10 Well, we stopped that, but there are three other
11 provisions here that we need to deal with, as well, where
12 it is abused by people simply squirting some of the
13 substance that is necessary to get the tax credit into
14 another substance and then asking the Treasury Department
15 to send them a check, which is done.

16 What I am going to be offering here is that with
17 three of these refundable tax credits, we just eliminate
18 the refundable part, not the tax credit, not the way that
19 you can get the underlying credit, if you are paying
20 taxes and affect you. If you are not paying taxes, it
21 does not seem to me that taxpayers ought to be sending a
22 check to somebody, especially since it has spawned the
23 kind of abuse that it has.

24 So I appreciate the opportunity to offer my
25 amendment in the beginning here. And, again, we just

1 heard from my colleagues, I am not eliminating the
2 credits. You can still take them if you are paying
3 taxes. If you are a taxpayer, you get to take the
4 credit. But you cannot just ask Treasury for a check if
5 you are not paying taxes.

6 Thank you.

7 The Chairman. Thank you.

8 Senator Conrad?

9 Senator Conrad. Thank you, Mr. Chairman. Thanks
10 to you and the ranking member for bringing us all
11 together. It is not easy and you have done, and that is
12 a real accomplishment.

13 I think it does put us in a good position to go into
14 what really needs to be done, which is comprehensive tax
15 reform to help us reduce the deficit, generate additional
16 revenue, given the fact revenue is at about a 60-year low
17 in this country, but at the same time, to lower rates, to
18 broaden the base, to help America be more competitive,
19 because I think that would be good economic tonic for the
20 country.

21 You have also dealt with the alternative minimum tax
22 so middle-class taxpayers and others do not have to be
23 worried about being caught up in the alternative minimum
24 tax as they file their 2012 tax returns. And by
25 extending many of the provisions through 2013, this

1 package gives a measure of certainty to individuals and
2 businesses affected by the temporary nature of our code
3 and ensures that this committee can forge ahead with tax
4 reform without the distraction of tax extenders.

5 So this is a small, but solid step forward. I think
6 we are eliminating 15 or 16 of the tax expenditures by
7 this act. So it is a beginning on tax reform. That is a
8 very good step to be taking.

9 Just a word on energy. We certainly need to provide
10 certainty to those who are helping reduce our dependence
11 on foreign oil. We have gone from a 60 percent
12 dependence on foreign oil to less than 42 percent
13 dependence on foreign oil today.

14 Part of the reason is, of course, the explosion in
15 domestic production that is occurring in my State. My
16 State is now the second largest oil producer in the
17 country. But it is also because of what we have seen
18 with respect to renewable. And my State is now, I think,
19 the leading State in terms of wind energy producing its
20 electricity.

21 I think some 15 percent of our electricity in North
22 Dakota now comes from wind production. So it is
23 important that we move forward not only with wind, but
24 biodiesel, cellulosic ethanol, and other renewable energy
25 sources that are included here. And most immediately

1 extending those credits is also important on the jobs
2 front, because in my State, we have got a lot of
3 production of the wind power equipment and without this
4 extension, those jobs would be lost. So these are
5 important measures.

6 Mr. Chairman, I thank you for bringing us together.
7 The Chairman. Thank you, Senator, very, very much.
8 Do any other Senators seek recognition?
9 Senator Roberts?

10 Senator Roberts. Thank you, Mr. Chairman. This
11 has taken strong leadership and I appreciate the strong
12 efforts you persevered in moving this package forward.

13 I think this is a strong sign that we mean business
14 and we are also ready to move on a bipartisan basis to
15 address the fiscal issues facing the country in regard to
16 tax reform down the road.

17 We need to provide certainty to businesses all
18 across the country -- that is the biggest thing I hear --
19 in lieu of the regulatory overkill and uncertainty with
20 the tax code. And there are additional extenders that
21 should be included; as an example, a bonus depreciation
22 extender we all had supported in the past, which is vital
23 for business all across the country.

24 I know that my distinguished colleague and my fellow
25 farmer, rancher and specialty crop producer, Senator

1 Stabenow, will be introducing that or will be talking
2 about it.

3 I know we are talking about, because the Chair has
4 ruled that it is non-germane. I might add neither is the
5 reference point for wheat in Montana, but then that is
6 another matter.

7 The Chairman. We are going to include that.

8 Senator Conrad. You are going to include that one?

9 The Chairman. Yes.

10 Senator Conrad. That is germane?

11 The Chairman. That is germane.

12 Senator Conrad. We will have a meeting this
13 afternoon. We will talk about it this afternoon.

14 [Laughter.]

15 Senator Conrad. At any rate, thank you so much for
16 your leadership efforts. And I think that is about it.

17 The Chairman. Thank you, Senator.

18 Senator Schumer.

19 Senator Schumer. Thank you, Mr. Chairman. First,
20 let me thank you for your really great efforts here. You
21 said you wanted to get this done. Most people thought
22 you could not get it done, and you did and I salute you
23 for it, because it is a good step, as you always
24 maintained, to helping us we try to resolve the even
25 bigger and much more difficult issues that we will face

1 as we approach January 1.

2 I want to thank Senator Hatch, as well. This has
3 been a very good bipartisan effort. We have had our
4 differences. Obviously, we are not going to agree on
5 everything. But to move this bill forward is a very fine
6 thing and I salute both of you for your good work.

7 I have made no secret that I think there is one
8 glaring hole, and we all know what that is, that being
9 the exclusion of important tax relief for students and
10 their families. I will talk about that later.

11 But overall, I think it is a very good package. I
12 am particularly pleased that it provides relief for
13 middle-class families and for some of our businesses, as
14 well.

15 The AMT patch getting included in this bipartisan
16 package, I believe, is a major victory for middle-class
17 Americans all across the Nation and in every State. In
18 my home State of New York alone, more than three million
19 taxpayers would be hit by the alternative minimum tax if
20 left unaddressed.

21 We all know that AMT, when it was passed decades
22 ago, was supposed to affect the very wealthy, whether
23 they be corporate or individuals who did not pay taxes or
24 paid a very low rate of taxes. But unfortunately, it was
25 not drafted with the future in mind and now it is dipping

1 deep into the middle class, people who are not much above
2 average income and paying an AMT.

3 That never was intended and having this AMT patch is
4 very, very good. AMT relief is a policy Democrats and
5 Republicans have always agreed upon and it would have
6 been wrong, in my opinion, to hold this very important
7 consensus item hostage for negotiations at the end of the
8 year, and it is great that we are including it in the
9 bipartisan package now. And I want to thank everybody
10 for coming around on that issue.

11 Bit by bit, we are turning the fiscal cliff into a
12 little more of a slope and there is big progress this
13 year, progress with AMT, progress with these extenders,
14 and progress because of Leader Reid and Speaker Boehner
15 in terms of avoiding a government shutdown on December
16 31, which would have just ensnared us.

17 So I think that this was a good week, and let us
18 hope that it presages more good things and more
19 bipartisan cooperation for the good of the Nation as we
20 approach the fiscal cliff.

21 I am proud to support this package here today.
22 Obviously, I am going to work for some of the things I
23 think were missing as we move toward December, but I
24 think it is a good thing and I hope we can move it as
25 quickly as possible.

1 God knows, with the miracles you perform, maybe we
2 can even move it today, who knows, on the floor.

3 The Chairman. Any Senators on this side of the
4 aisle?

5 Senator Snowe?

6 Senator Snowe. Thank you, Mr. Chairman. I just
7 want to thank you, as well, and the ranking member for
8 undertaking today's markup and get examined the so-called
9 tax extenders and building, hopefully, a consensus
10 ultimately on overall tax policy that would lead to
11 greater bipartisanship in the future for long-term
12 comprehensive tax reform.

13 I could not help but recall one witness' statement
14 before this committee, which was that we now have a
15 permanent-temporary tax code. And I think that these tax
16 extenders illustrate the point and the proliferation of
17 these tax extenders.

18 Since Congress undertook tax reform in 1986, we have
19 had a total of 159 tax extenders. Eighteen have expired
20 and, of course, 140 extenders are the ones which the
21 committee has to grapple with essentially on an annual
22 basis now.

23 When you think about it, back as of the 1986 Tax
24 Reform Act, there was a trickle of extenders. Then it
25 became a river in the 1990s when 32 extenders were added,

1 and then exploded in the decade of 2000, when 97
2 extenders occurred. And so 24 have been added in recent
3 years to the total of up to 159 tax extenders.

4 This has created, I think, without a doubt,
5 indisputable, across this country, a broad-based
6 uncertainty, and that is why we are seeing the lackluster
7 economic growth numbers, the paltry job creation numbers,
8 and is reinforced by a study that was undertaken by three
9 political scientists with respect to the level of
10 uncertainty, which is at an historic high.

11 In fact, according to their report, if we had just
12 maintained the same level of policy synergy that existed
13 in 2006 instead of the unprecedented levels that are
14 occurring today, our GDP would be 2.2 percent higher and
15 2.5 million more Americans would be employed.

16 So what we have accomplished here today is a modest
17 step toward providing some certainty, but, obviously,
18 overall, we have a long ways to go. And given the
19 necessity for comprehensive tax reform, I hope that this
20 will give the ultimate momentum and impetus for it, that
21 we defer and refrain from going through this process on
22 an annual basis and into the future.

23 I appreciate what you and the ranking member have
24 been able to realize with this markup, and that is
25 eliminating extenders that resulted from the 2009

1 stimulus, limiting the scope to 2011 and 2012 provisions
2 that were expiring, as well as removing approximately 19
3 provisions.

4 Finally, Mr. Chairman, I am pleased that some of the
5 small business tax provisions have been included in this
6 mark that I proposed, including the built-in gains for S
7 corporations, excluding for small business capital gains
8 and expensing, all of which I think are going to be
9 crucial to helping generate some job creation in this
10 realm of uncertainty.

11 I would hope that in the future, that this will not
12 be a repetitive practice on our part with respect to
13 extenders; that, ultimately, the committee will engage,
14 and the future Congress, on tax reform.

15 I do regret the amount of uncertainty that has
16 pervaded our economy today, because, ultimately, it has
17 done a disservice to Americans who desperately need jobs
18 and desperately need the kind of certainty that comes
19 with the investments that are essential to making this
20 economy grow.

21 A 1.5 percent economic growth is a sad statement and
22 commentary when we could have done so much more this year
23 and last to avert that crisis.

24 Thank you, Mr. Chairman.

25 The Chairman. Thank you, Senator.

1 Senator Stabenow?

2 Senator Stabenow. Thank you very much, Mr.
3 Chairman. Let me say, first, congratulations to you. In
4 having gone through the effort with Senator Roberts and I
5 in the farm bill, I have some indication of the
6 challenges and what you and Senator Hatch have done, and
7 I want to congratulate you on bringing together diverse
8 issues and people.

9 While we all have items we would like to have
10 considered, if not today -- I will certainly speak later
11 about one that I certainly want to have addressed before
12 the end of the year. I think this is a very important
13 bipartisan, balanced effort to create certainty in the
14 marketplace.

15 Just as we need certainty in rural America with that
16 5-year farm bill, we need certainty in rural America
17 around bio-energy issues. I am very pleased that you
18 have included the important efforts that we worked on
19 together in the 2008 farm bill around bio-energy and
20 issues that relate to rural America, and I am glad they
21 are included here; of course.

22 The R&D tax credit and the wind production tax
23 credit are so critical. And I remind my colleagues that
24 there are 8,000 parts in one of those big wind turbines
25 and we can make every single one of them in America. So

1 it is jobs.

2 One other area that I would just mention at this
3 point, because this is about, certainly, for business,
4 but, also, for families. And back when the mortgage
5 crisis started, I was pleased to work in a bipartisan way
6 on a mortgage cancellation tax relief issue that has been
7 extended here, where if a family finds themselves
8 refinancing in a short sale, in some way working with
9 their lender to have loan forgiveness on part of their
10 loan as they refinance, they would not have to count the
11 loan forgiveness as income and pay taxes on it.

12 This has been an important policy we had in place
13 for several years for families. We still have too many
14 families with their house mortgages under water. It is
15 important to extend it, and I want to thank you very much
16 for including that in the package.

17 The Chairman. You bet. Thank you.

18 Is there anyone on this side who wishes to be
19 recognized?

20 Senator Nelson?

21 Senator Nelson. Mr. Chairman, I am going to submit
22 it for the record. I just want to thank Senator Coburn.
23 There is a part in here on ID theft from prisoners on
24 getting tax returns, and it is timely because the
25 Treasury Department is coming out with a report today

1 that says there are \$5.2 billion lost in ID theft in the
2 tax code.

3 Thank you, Mr. Chairman.

4 The Chairman. Thank you, Senator.

5 Senator Carper?

6 Senator Carper. Thanks so much. I just checked my
7 e-mails and it looks like the weekly unemployment
8 insurance filings for the week that ends today were about
9 365,000. It has been bouncing up and down -- those
10 numbers have been bouncing up and down for the last
11 couple of weeks, but the 4-week average is about 365,000
12 people filing for unemployment insurance.

13 That is too high, but it was about 638,000 after the
14 President and Vice President were inaugurated.

15 Tomorrow, I am going to get the numbers, the jobs
16 numbers for the month of July. I think most economists
17 are expecting maybe 100,000 or so jobs, private sector
18 job growth. Not good enough. We have seen about 28 or
19 29 consecutive months of private sector job growth;
20 again, not good enough.

21 One of the things we all hear is among the reasons
22 why it is not more robust is because of uncertainty and
23 lack of predictability. Can the government remove the
24 glue spots and can we provide some certainty with the tax
25 code?

1 One of the themes that seems to be emerging here
2 today from Democrats and Republicans is an interest in
3 doing something comprehensive. The grand compromise is
4 if you would rather include, on the tax side, lowering
5 rates and broadening the base.

6 I have suggested to my colleagues in this room,
7 private and other firms that if we are going to do
8 something like the Bowles-Simpson Deficit Commission
9 recommendation, where we broaden the base and lower the
10 rates, we have to figure out how to pull the plug on some
11 tax expenditures that, frankly, serve no useful purpose
12 anymore. And that is what we effectively do with about
13 15 or 16 of them, save about, I think, 25, but in dollars
14 in the next 10 years in doing so.

15 I described this as a dress rehearsal for the really
16 big steps that we are going to need to take later this
17 year.

18 I want to express my thanks, if I could, Mr.
19 Chairman, to you and to this young man here, Ryan,
20 sitting in the room, for working with us; and, Olympia
21 Snowe, I think you have a fellow on your staff named
22 Patrick who worked with us really closely on the
23 investment tax credit with respect to offshore wind.

24 The production tax credit just does not help on
25 offshore wind. If we are going to actually put offshore

1 windmill farms from North Carolina up to Maine over the
2 next couple of years, we need the investment tax credit,
3 and we very much appreciate the work that was done here.
4 So thanks so much.

5 The Chairman. Thank you, Senator.

6 Senator, you have talked about an improvement area.
7 I think Senator Wyden -- it is just a preliminary warm-
8 up. Your inference to getting --

9 Senator Carper. Dress rehearsal.

10 The Chairman. Dress rehearsal, widens the prelims,
11 and somebody on this side, warm-up. Whatever the word,
12 we are working together here.

13 Senator Grassley?

14 Senator Grassley. Mr. Chairman, I want to thank
15 you and Ranking Member Hatch for working with me and
16 other Senators on this committee to make sure that we are
17 not pulling the rug out from underneath the wind energy.

18 I appreciate the inclusion of the wind provisions in
19 the chairman's modification as it finally ended up.

20 The best legislative products are those developed in
21 regular order through the committee process. I
22 appreciate the chairman's leadership in having this
23 committee do its work on tax extenders, and it is good
24 that we are able to report a bipartisan package.

25 Let us hope it is a sign that we can work together

1 on the much, much more difficult task of comprehensive
2 tax reform.

3 Proceeding with major legislative tax reform will
4 need to be different than the way these extenders were
5 handled if we are going to be successful at tax reform.
6 I have heard the rationales behind how this package was
7 put together, and I just want to say I was born at night,
8 but not last night.

9 It went from a one-on-one conversation with the
10 chairman in early May about the overall tax agenda this
11 year to a members meeting in June, where it was agreed
12 the committee should mark up an extenders package. More
13 than a month passed before the next meeting was held, and
14 that was last week on July 25.

15 Everyone still agreed about acting on an extenders
16 package, but there was a lot of disagreement about the
17 scope, including the definition of traditional extenders,
18 whether both expired and expiring provisions should be
19 considered, and whether provisions should be extended for
20 1 or 2 years.

21 We met again on Monday. There was still no
22 resolution on scope, and we were told that once that was
23 resolved, we would have more meetings to discuss the
24 package. Then at 4:30 p.m. on Tuesday, committee members
25 were told there was agreement on scope, and Republican

1 members were briefed on the package on Tuesday evening.

2 But there were no more meetings, as had been
3 promised. And less than 5 hours later, the chairman's
4 mark was released and this markup was noticed.

5 I know how much work goes into releasing a mark. I
6 have had a lot of experience in that area. The mark that
7 we are considering today, obviously, did not come
8 together in less than 48 hours.

9 I appreciate that the chairman and ranking member
10 have worked with me since the mark was released. My
11 frustration was with the lead-up to the mark, the lack of
12 information, and no response to inquiries about members'
13 priorities.

14 The wind energy production tax credit is a major
15 priority of mine. Even with its longstanding bipartisan
16 support, the credit was left on the cutting floor for no
17 apparent reason. My view is that no one energy tax
18 incentive should be singled out over the others before a
19 broader tax reform debate takes place, which, hopefully,
20 will be early next year.

21 I support looking at every extender, not just
22 energy-related, in the context of that debate and I
23 welcome that debate. I support lower rates, a broadened
24 base, and a simpler, less burdensome code. Of course,
25 realizing those goals will mean compromises.

1 Right now, as your bill is aptly named, we should be
2 focused on providing certainty of existing tax law. In
3 the end, we work together. I do not want to repeat the
4 process leading to this mark in the future.

5 I thank you.

6 The Chairman. Thank you, Senator.

7 Senator Kerry?

8 Senator Kerry. Mr. Chairman, I think there are a
9 number of very important messages coming out of here
10 today. And notwithstanding the comments we just heard
11 from the Senator, which I understand, there are reasons
12 that these extenders have not been done sooner, and a lot
13 of us have been very, very frustrated by that. But I am
14 not going to go back into those reasons now or here.

15 I think that one of the things that is clear coming
16 out of this is there is a strong appetite on both sides
17 of the aisle and, I think, throughout the Senate, not
18 just on the Finance Committee, to tackle the tax code in
19 the whole and, also, to do what we all know we have to do
20 about the fiscal and debt challenge that the Nation
21 faces.

22 The reason we are here today, Mr. Chairman, is
23 really because you and Senator Hatch have exhibited real
24 leadership, and I salute you for that and thank you for
25 it. And I thank all the members of the committee.

1 I think the Finance Committee has approached this
2 intelligently, thoughtfully and responsibly in the last
3 few days, and we are doing what we are supposed to do.
4 And I hope the marketplace will take note of what is
5 happening here.

6 Number one, I think there is a broad consensus here
7 that we would hope this would be the last extender bill.

8 We need to get back to a stable, comprehensive,
9 understandable tax policy that everybody can understand
10 out in the marketplace, and it is not subject to annual
11 vagaries.

12 One of the ironies here is that fossil fuels has a
13 permanent subsidy. And every year, the new market, the
14 new energy market has to come hat in hand struggling to
15 try to get its ability to be able to continue, even
16 though that is one of the single biggest growth areas in
17 the country.

18 So my hope is that this is sort of the beginning of
19 that tax reform process, and I sense from discussions
20 with a lot of Senators that it is.

21 I would like to say, also, that for the AMT piece, a
22 few days ago, it did not look like that might be
23 possible. And I think just looking at Massachusetts,
24 about a million people in Massachusetts who would have
25 been subject to an unexpected tax increase next year were

1 it not for the action that we are taking today, and that
2 is replicated across the country. And so I am delighted
3 that we are able to do that and avoid that.

4 Also, I am really pleased that we are doing the
5 energy pieces here. It is such an enormous market and so
6 many other countries have been more serious than we have
7 about opening up opportunities in that market.

8 So there is nothing symbolic about what we are doing
9 here. The credit for energy improvements to the home,
10 new energy efficient homes, producing more energy
11 efficient appliances, all of these mean real jobs in our
12 States for construction workers, plumbers, electricians,
13 energy saving companies and others, and I think it is on
14 the top of the list for a lot of families and businesses.
15 It is going to increase the money that they can keep and
16 provide more efficient use of energy.

17 Finally, let me just echo what Senator Schumer said.

18 I had an intern meeting this morning, a bunch of
19 interns, and on the minds of all of them was the cost of
20 education and how it keeps going up and how troubled they
21 are by the choices they have to make about paying back
22 and how they are going to pay back loans and how it even
23 affects the kind of work that they will wind up doing.

24 To not be able to reduce that cost, I think, misses
25 one of the critical components of how you have a strong

1 economy. Education is the foundation of America's
2 economy and of our ability to lead and compete in the
3 world.

4 So I am going to work with Senator Schumer and
5 others to make sure that the American opportunity tax
6 credit is fixed appropriately where it needs to be, but
7 that we put it in place.

8 So, Mr. Chairman, thank you for leading the
9 committee to do what we should be doing, and I hope the
10 business community and the country and I hope investors
11 and others will sense the appetite that exists here in
12 this committee to get the job done as we go forward in
13 the next months.

14 I am convinced we will do comprehensive tax reform
15 next year, and it is long overdue.

16 I also want to thank the staff. We are blessed to
17 have an excellent staff on this committee and they work
18 well on bipartisan lines. That is not something that has
19 been happening enough around here.

20 So I thank you very much for your leadership, Mr.
21 Chairman.

22 The Chairman. Thank you, Senator.

23 Senator Coburn?

24 Senator Coburn. Mr. Chairman, I thank you for the
25 conversations you have had with me and being willing to

1 work. I must say I am really disappointed in our
2 progress in terms of eliminating -- the way I calculate
3 it, if you do not count VETCH, which, by a 75-vote to 23-
4 vote on the floor of the Senate, we eliminated that. We
5 save about \$6 billion.

6 That is a whole lot better than we have done on a
7 lot of things, and so I congratulate you. But I think we
8 could have done a lot better, and I am going to have
9 several amendments to try to do that and I am going to
10 live within my commitment that I made to you last night
11 to not extend our mark.

12 I do not want to get into a debate on this issue,
13 but as an accountant and, also, someone from Oklahoma,
14 what the Senator from Massachusetts just alluded to in
15 terms of fossil fuels is not accurate. The fact is oil
16 and gas companies pay exactly the same amount of tax they
17 would have paid if they had no credit. We just changed
18 the time at which they pay it.

19 The only benefit for them is the time value of
20 money, because we allow accelerated depreciation and
21 accelerated write-off, which they would write off over a
22 10-year period anyway. So there is no true subsidy other
23 than time value of money, which is right now the quarter
24 of 1 percent on a 30-day bill.

25 So there is a difference. And I am for us using

1 renewable fuels. I am not against it. But I also want
2 us to make sure we are doing that efficiently.

3 So I would tell you I have several amendments. I
4 appreciate you and Senator Hatch. I think it is time we
5 did this. And as you know, I have been involved in
6 several areas trying to get to exactly where Senator
7 Kerry said we want to go.

8 I was on the Bowles-Simpson. I had to make some
9 tough votes on that. I was on Gang of 6. I am still
10 working with anybody that will work with me in the
11 Congress to solve our fiscal issues.

12 But we are going to have a vote in a little bit that
13 is going to deny us fixing over 200 million bucks,
14 because we are continue to pay for something over 10
15 years that we are going to spend in 3, just like we did
16 the highway bill, which we made it work. In the long
17 run, it does not work. If we need to pay for it, we need
18 to pay for it now and not later.

19 So I thank you again for your work and I look
20 forward to our markup.

21 The Chairman. Thank you, Senator.

22 Do any other Senators wish to speak?

23 Senator Menendez?

24 Senator Menendez. Mr. Chairman, very briefly. I
25 want to thank you for advancing what I think is an

1 important step forward as we do move toward tax reform in
2 2013. And this is an important package for both families
3 and businesses in my home State of New Jersey.

4 I am particularly pleased to see an extension of the
5 alternative minimum tax relief, a critical issue for over
6 1.5 million New Jersey families. And in the bipartisan
7 spirit of this markup, I am pleased to be working with
8 Senator Hatch to seek to extend that relief for another
9 year to give these families some certainty as we move
10 into tax reform.

11 I am hoping as we move there to that direction, that
12 we will look for sort of a piecemeal approach to AMT to
13 see relief that is more permanent in nature, and I think
14 there is a broad bipartisan support for that effort.

15 So with that, Mr. Chairman, I have other issues, but
16 I will look forward to the markup. And thank you for
17 moving forward.

18 The Chairman. All right. Let us now turn to the
19 bill.

20 I announced the mark or the bill earlier this week,
21 and, at some point, we are going to walk through the
22 modifications to the mark and, obviously, Senators can
23 ask any questions they might. Then we will consider
24 amendments to the mark and vote on whether to report the
25 mark.

1 We have a quorum here. I just hope we can keep our
2 quorum so we can do our work today.

3 The committee has before it the chairman's mark on
4 the Family and Business Tax Cut Certainty Act of 2012.
5 And my modification to that mark is so modified. The
6 modification is deemed incorporated into the chairman's
7 mark.

8 The bill extends a number of tax provisions that
9 expired in 2011 and provisions that expire in 2012.
10 There have since been some modifications to this bill
11 since we released the mark Tuesday night.

12 Tom Barthold from the Joint Committee on Tax will
13 describe the modifications to the mark. And after the
14 description, I urge Senators to ask any questions they
15 may have.

16 Also, very talented staff at the table can answer
17 other questions. Ryan Abraham, from my staff; Mr. Lyons,
18 from Senator Hatch's staff. We also have with us Emily
19 McMahon, acting Assistant Secretary for Tax Policy at the
20 Treasury.

21 So, Mr. Barthold, why do you not describe the
22 modification?

23 Mr. Barthold. Thank you, Mr. Chairman and Senator
24 Hatch.

25 You have before you three documents relevant to

1 today's markup: JCX-67, which describes the underlying
2 mark; JCX-69, which provides the modifications to which
3 the chairman just referred; and, then, JCX-70 is a
4 revenue table of the mark, as modified.

5 To conserve time, I will just highlight five items
6 in the modification. First, the chairman's modification
7 drops two provisions from the underlying mark. It drops
8 the so-called "brown fields" provision, which provides
9 expensing of certain environmental remediation costs.

10 It also drops a provision which provided look-
11 through treatment of mutual funds in the case of a
12 foreign decedent to determine the source of the
13 underlying property.

14 I will highlight three of the more significant
15 additions to the mark. As was noted by a couple of the
16 members, the modification to the mark adds a second year
17 AMT patch to the underlying mark for 2013. It provides
18 an exemption under the AMT equal to \$79,850 for a joint
19 return, \$51,150 for a single return.

20 The chairman's modification also expands the
21 underlying mark's provision which extended the benefits
22 of section 179 expensing. This provision primarily
23 benefits smaller businesses. The expansion is to include
24 qualifying property expenses in any 1 year up to \$0.5
25 million and, also, permits certain real estate to qualify

1 under section 179.

2 Then, lastly, in terms of larger modifications in
3 the chairman's modification, the chairman's modification
4 extends the expiration date for qualifying properties
5 under section 45, the alternative electricity production
6 tax credit. It also extends the provision passed several
7 years ago which permits a taxpayer to elect to convert
8 from a production tax credit to an investment tax credit.

9 In particular, the expiration date is changed by --
10 instead of working with what has typically been done of a
11 "placed-in-service" date to define qualifying property,
12 property will now be qualified regardless of when it is
13 placed in service if it meets a minimal construction
14 expenditure outlay prior to the expiration date of the
15 provision.

16 JCX-69 details the other modifications in the
17 chairman's mark. But in the interest of time, I will
18 conclude here. I am happy to answer any questions that
19 the committee members might have.

20 The Chairman. Thank you, Mr. Barthold.

21 It would be my thought that this would be a good
22 opportunity to ask some questions. A vote has just begun
23 on the floor. There are two votes. I think they are
24 back to back. So I think it makes sense for us to recess
25 for about 15 minutes beginning about 10 minutes after

1 11:00.

2 But this would be a good opportunity to ask
3 questions, and, hopefully, most of the questions will
4 have been asked by the time we get back and we can begin
5 with amendments when we return.

6 We are going to recess in about 5 minutes. So here
7 is a chance to ask any questions or make any speeches,
8 any comments, before we get to amendments when we return.

9 [No response.]

10 The Chairman. The committee stands in recess until
11 11:30.

12 [Whereupon, at 11:05 a.m., the committee was
13 recessed, reconvening at 11:53 a.m.]

14 The Chairman. The committee will come back to
15 order.

16 Under the committee rules, we need 13 members to
17 transact business, but only eight or nine to talk, ask
18 questions. That is, we will have to wait to 13 to
19 consider amendments. We have 10.

20 Do any members wish to ask any questions of either
21 Mr. Barthold or anyone else about the modification to the
22 mark?

23 [No response.]

24 The Chairman. Well, let us consider the
25 amendments. We just need 13 to vote.

1 Who has an amendment to offer? Actually, they have
2 a list here, and it was put together by our joint staffs,
3 my staff and Senator Hatch's staff.

4 I will just read the first four so Senators have an
5 idea what the order is. The first is No. 10, Wyden-2,
6 electric motorcycle tax credit.

7 No. 2 is Snowe-Bingaman No. 1. I think Senator
8 Bingaman or Senator Snowe wished to speak on it, not ask
9 for a vote.

10 No. 3 is Conrad-Rockefeller. Next is Kyl No. 4.
11 Then next is a Schumer amendment regarding the AOTC.
12 Enzi amendment, next. Those are the first seven.

13 The only ones, according to my notes here, that
14 require a voter is the first one. It is Senator Wyden's
15 Amendment No. 10.

16 Senator, do you want to talk about your amendment?

17 Senator Wyden. Very briefly, Mr. Chairman. Would
18 you like me to proceed?

19 The Chairman. Yes. Go right ahead.

20 Senator Wyden. Thank you, Mr. Chairman.

21 Mr. Chairman, your tax reform hearings, in my view,
22 have been very valuable. We even had a good one
23 yesterday on the business credits.

24 What it highlights is the need to streamline the tax
25 code, to scale back some of these tax expenditures,

1 particularly the credits and the incentives that exist in
2 the code. And this is pretty much what I have heard over
3 the years in talking to colleagues on both sides of the
4 aisle.

5 So I am offering this amendment with exactly that
6 kind of spirit in mind, the need for streamlining it and
7 scaling back provisions of the tax code. This amendment
8 would reform the tax credit for electric vehicles that
9 meet public highway standards for 2 years.

10 Now, there are three significant changes from the
11 way it works today. Today, you get the credit for an
12 electric golf cart. For vehicles that you cannot take on
13 a public highway, there are three different categories of
14 vehicles.

15 So what this amendment does is it changes all of
16 those provisions that, in today's code, just defy common
17 sense. For example there is no reason to have a credit
18 for an electric golf cart, one; there is no reason for a
19 credit to be for a vehicle you cannot take on a public
20 highway; and, we ought to have one category rather than
21 three.

22 So what this amendment does is, it makes those
23 changes, and, as we talked about earlier, and Senator
24 Cantwell touched on it very well earlier, also, this is
25 about good-paying American jobs.

1 I see it in Oregon communities. We see it around
2 the country. These jobs are going to go somewhere. And
3 the question is are they going to be jobs we have at
4 small businesses in this country, are they going to be
5 red, white and blue jobs in this country, or are they
6 going to be developed by our competitors.

7 So I hope the committee will support this. And you
8 and I have talked about this, Mr. Chairman. I thank you
9 for your courtesy. And I hope the committee will vote
10 for it this morning.

11 The Chairman. Thank you, Senator.

12 Any discussion?

13 Senator Hatch?

14 Senator Hatch. Mr. Chairman, we, as a committee,
15 have always done a good job of eliminating a lot of
16 expiring tax provisions, and a lot of us do not think
17 that we should take two steps back from what we have
18 already accomplished.

19 Do we really want to continue providing the tax
20 incentive for purchase electric motorcycles? Our
21 deficits are burning out of control and we are trying to
22 reduce a number of tax expenditures to show that we, as a
23 committee, are capable of reforming the tax code.

24 Now, if we cannot agree to end tax expenditures for
25 electric motorcycles, then how are we going to really

1 handle the bigger items when they come up?

2 There are many, many things that are going to just
3 give us all heartburn to do tax reform, and it is given
4 us heartburn to come as far as we have on this.

5 Now, if any of my colleagues really want to help the
6 electric motorcycle industry, then I think they should
7 vote against the amendment and start thinking about other
8 tax expenditures we can eliminate in order to bring down
9 the rates to help all businesses.

10 I just wonder, do we really want to portray
11 ourselves, as members of the Finance Committee, willing
12 to drive over the fiscal cliff riding on the back of an
13 electric motorcycle? I just do not think so.

14 I appreciate my colleague. I am not quite sure why
15 he has to have this amendment. But I hope we can vote
16 against this.

17 The Chairman. Senator Bingaman?

18 Senator Bingaman. Mr. Chairman, I support the
19 amendment. I do think it is important that we see the
20 light-duty transportation in this country move toward
21 more and more use of electricity. This is one of the
22 real opportunities that we have to do that, and these are
23 vehicles we are talking about that are produced in this
24 country.

25 We need to grow that industry. We need to increase

1 and support the demand for these vehicles, and I think it
2 is a good amendment.

3 The Chairman. Any further discussion?

4 Senator Stabenow?

5 Senator Stabenow. Just briefly, Mr. Chairman.
6 This really does go to the whole question of
7 incentivizing making technologies in America. It really
8 does. And other countries are trying to create tax
9 policy that takes our jobs overseas, and this is one that
10 is an industry that is here that I think is appropriate
11 to support.

12 The Chairman. Thank you, Senator.

13 Is there any other discussion?

14 Senator Wyden. Mr. Chairman, just very quickly.

15 Senator Hatch, I think you know I do not take a
16 backseat to anybody in terms of lowering rates to ensure
17 competitiveness. That is what is in the legislation that
18 I had with our colleague, former Senator Gregg, and
19 Senator Coats.

20 This is \$15 million over 2 years -- \$15 million over
21 2 years, thousands of jobs on the line, and American
22 jobs, particularly in the kind of small businesses that
23 you have championed in the past.

24 So Senator Baucus has indicated we have got a long
25 day ahead of us. I hope colleagues will support this.

1 And I thank Senator Bingaman and Senator Stabenow,
2 because I think they make the point about American
3 competitiveness.

4 Mr. Chairman, I yield back.

5 The Chairman. Thank you, Senator.

6 Frankly, I think it makes sense. The modification
7 gets rid of golf carts, which I think makes good sense,
8 and I urge the adoption.

9 All those in favor of the amendment, say aye.

10 [A Chorus of Ayes.]

11 The Chairman. Those opposed, no?

12 [A Chorus of Nays.]

13 The Chairman. In the opinion of the Chair, the
14 ayes have it and the amendment is agreed to.

15 Other amendments?

16 Senator Kyl?

17 Senator Kyl. Mr. Chairman, the amendment that I
18 spoke of in my opening statement I have modified on the
19 assumption that by so doing, we will adopt it.

20 What I was speaking of is the refundable feature of
21 three specific tax credits: the diesel mixture credit,
22 the alternative fuel credit, and the alternative fuel
23 mixture credit.

24 The reason for this is that IRS has had a very
25 difficult time verifying after the fact whether or not

1 the refund check that Treasury sent to someone should
2 have been sent, and they are concerned that they have to
3 pay interest if they do not send the check out.

4 So what they are doing in practice is to send the
5 refundable check out first, ask questions later. And as
6 to one of the three in particular, they are very
7 concerned about abuses. The one that they are most
8 concerned about abuses is the alternative fuel mixture
9 credit, where situations occur like have been reported
10 that one-tenth of 1 percent of a fuel like diesel fuel is
11 sprayed in an atomized form into the fuel that is being
12 produced through some other process, and that is claimed
13 as the basis for the viability of the alternative fuel
14 mixture credit.

15 There is a long memorandum from the Internal Revenue
16 Service which tells you more than you want to know about
17 anaerobic digestive, et cetera, et cetera, processes, and
18 they have some pretty firm rules about when they think
19 someone would qualify or not.

20 The reality is it is very difficult, if they have
21 made these payments after the fact, to get the money
22 back. And recall that I think it was something like \$26
23 billion was saved as a result of the reform that we made
24 on the so-called black liquor, and I am not trying to
25 take one side of that or the other. But the problem was

1 the refundable aspect of it.

2 This would, after the end of this year, simply
3 eliminate the refundable feature of this particular tax.

4 So that if you are paying taxes and you think you can
5 take the credit, you still get to do that.

6 It would not, as I originally hoped, deal with the
7 other two tax credits. So I am restricting it to one of
8 the three, just the refundable part of that. It would
9 take effect at the end of this year.

10 I hope my colleagues would agree we could at least
11 address this feature, which is apparently generating a
12 lot of public attention because of the abuses.

13 The Chairman. Discussion?

14 Senator Bingaman. Mr. Chairman?

15 The Chairman. Senator Bingaman?

16 Senator Bingaman. Mr. Chairman, I am not familiar
17 with various concerns or abuses that the Senator has
18 referred to, but his amendment, as I understand now, as
19 originally proposed, he was saying we should eliminate
20 the refundable aspects of both -- of all three of these
21 credits, the alternative fuel credit, the alternative
22 fuel mixture credit, and the biodiesel mixture credit,
23 and now he is saying that just the alternative fuel
24 mixture credit, the refundable portion of that should be
25 eliminated.

1 I think that that is now the scope of the amendment,
2 and, obviously, if there is fraud going on, we do not
3 want that to happen. I have not seen the evidence that
4 there is fraud, but I have no problem with an amendment
5 as to so narrow it.

6 Senator Wyden. Mr. Chairman?

7 The Chairman. Senator Wyden?

8 Senator Wyden. Just on Senator Bingaman's point,
9 if the Senator from Arizona could tell us about the fraud
10 and some of the concerns he has in terms of the
11 government being ripped off, taxpayers.

12 Senator Kyl. Thank you, Mr. Chairman.

13 Just in brief, I do not want to get specific people
14 in trouble, but some people down at IRS refer to it as
15 "chocolate water."

16 What IRS has done is to limit the application of the
17 credit to situations where the fuel is actually sold for
18 use for transportation, and they require some form of
19 liquification.

20 Here are the fuels to which they restrict it:
21 liquefied petroleum gas, P-series fuels as defined by the
22 Secretary of Energy, compressed or liquefied petroleum
23 gas, liquefied hydrogen fuel -- that does not extend to
24 the mark because it is already extended through 2014,
25 September -- compressed or liquefied gas derived from

1 biomass, and liquid fuel derived from biomass.

2 An alternative fuel mixture credit is given when one
3 of those fuels that I just indicated is bonded with as
4 little as one-tenth of 1 percent of a fuel like diesel
5 fuel or kerosene, gasoline, whatever it might be.

6 The problem is that there are a variety of different
7 techniques for doing this. There is an Internal Revenue
8 Service memorandum of about a year ago, it is an advisory
9 by the chief counsel that discusses the techniques that
10 are used, the concerns they have about them, and answers
11 the legal question, which one of these qualifies or not.
12 And they go through it in this memorandum and explain
13 which ones qualify, which ones do not.

14 It seems to me that they are making credible
15 distinctions and requirements based on the law, but the
16 problem I am informed of is that even that -- in effect,
17 what they do is when somebody files for the credit,
18 Treasury sends the check out, because they are concerned
19 of liability if they do not, and then they have to make
20 the determination after the fact whether the taxpayer
21 actually qualified or not.

22 In a lot of cases, I am told -- this is anecdotal --
23 that they have trouble getting the money back.

24 Senator Wyden. The staff just reported that there
25 were perhaps \$10 million worth of fraud, but that

1 certainly starts adding up to real money and it seems, to
2 me, to be a supportable amendment.

3 Senator Kyl. I appreciate it. And I would just
4 note that on -- again, I am not knocking black liquor,
5 but that what happened there was, as I understand it,
6 qualified in the maybe hundreds of millions of dollars
7 and ended up being \$26 billion when CBO finally scored
8 it.

9 I thank my colleague.

10 The Chairman. Any further discussion?

11 [No response.]

12 The Chairman. All those in favor of this
13 amendment, say aye.

14 [A Chorus of Ayes.]

15 The Chairman. Those opposed, no.

16 [No response.]

17 The Chairman. The ayes have it. The amendment is
18 agreed to.

19 I have a list here. Some Senators, I am told, want
20 to push their amendments for a vote and some do not. But
21 let me go down the list.

22 The second one on the list would be a Snowe-
23 Bingaman, but Senator Snowe is not here yet.

24 So I would like to go to the Conrad-Rockefeller No.
25 1.

1 Senator Conrad. Mr. Chairman?

2 The Chairman. Senator Conrad?

3 Senator Conrad. Mr. Chairman, this is also
4 cosponsored by Senator Enzi.

5 I would like to briefly talk about it. I will not
6 push it to a vote, because I understand that you would
7 rule it out of scope for today's markup.

8 But I do want to indicate that this involves section
9 45(q), which is a provision to provide an incentive to
10 capture and store carbon dioxide.

11 If we could store and capture carbon dioxide from
12 industrial facilities, we could boost domestic oil
13 production very dramatically. The Department of Energy
14 has reported that standard oil recovery techniques leave
15 80 percent of the oil in the ground -- as much as 80
16 percent.

17 Using CO₂-enhanced recovery could double the
18 efficiency of oil recovery, according to the industry and
19 according to the Energy Department. And we know how to
20 apply this technology. It is being done today in North
21 Dakota with what is the world's largest coal
22 sequestration, carbon sequestration project in the world.

23 It is being done by the Great Plains syn-fuels
24 plant, which delivers CO₂ to an oilfield in Canada. The
25 injected CO₂ is estimated to extend the field's

1 productive life by 25 years and produce an additional 130
2 million barrels of oil.

3 In the U.S., CO₂-enhanced recovery could increase
4 the economically recoverable oil by up to 67 billion
5 barrels. This is a big deal. But so far, the section
6 45(q) credit has not worked as well as it should. It is
7 available for no more than 75 million tons of carbon
8 dioxide, but many companies cannot be sure the credit
9 will be available when they actually finish the project.

10 So; the credit does not help as much as it could.

11 These are first of a kind projects. So the more
12 certainty you can provide, the better. This amendment
13 would modify the existing credit to provide that
14 certainty.

15 It would not change the overall cap, let me
16 emphasize that. It would not change the overall cap. But
17 it would require projects to file an application with the
18 secretary for an allocation of the available credits.
19 Once construction has begun, the project would be
20 required to file an application for certification. The
21 period between receiving an allocation and a
22 certification would be no longer than 6 months.

23 But that period of time would allow projects to
24 complete their financing with greater assurance that the
25 credit would be received once the projects are placed in

1 service.

2 The amendment also provides a cap of 15 million tons
3 per project to ensure that a variety of projects are able
4 to qualify. We do not expect this amendment would affect
5 the score at all, because the cap remains in place. That
6 is, this is an attempt to create greater certainty, to
7 get more projects done that focus on sequestration so
8 that we can expand the production of our own domestic
9 reserves.

10 So I will not push it to a vote. I would ask the
11 chairman if he would work with us, Senator Rockefeller,
12 Senator Enzi and myself, others who might be interested,
13 so that when we get to tax reform, we might consider this
14 measure.

15 The Chairman. Senator, we, as Americans, are doing
16 much better in providing for energy security. We all
17 know the developments in our country with fracturing, for
18 example, say, of more natural gas and more oil, and it is
19 really a big success story.

20 A lot of it has to do, I think, with because of
21 conservation efforts we have undertaken in our country,
22 as well. And you have spoken a lot about CO₂ capture and
23 sequestration, either store it or use it for further
24 enhanced recovery. I think it is something we should
25 pursue.

1 You are right that it is not within the scope of
2 this bill. But I think you are also right that it is an
3 incentive that could probably be very beneficial to our
4 country so that the United States is even more secure and
5 self-sufficient in producing energy.

6 Thank you for offering this. And I will work with
7 the Senator for the rest of this year and try to provide
8 opportunities to see if we can find the appropriate way
9 to provide for it.

10 Senator Bingaman. I appreciate that very much, Mr.
11 Chairman. And we have made enormous progress, from 60
12 percent dependence to 42 percent dependence. That is a
13 dramatic improvement. But we have got a long way to go
14 and this seems like a common sense measure that could
15 help us in that cost, any additional taxpayer funds.

16 The Chairman. Thank you.

17 Any further discussion?

18 [No response.]

19 The Chairman. Senator Enzi, do you want to speak
20 to your amendment?

21 Senator Enzi. Thank you, Mr. Chairman.

22 I would like unanimous consent that Senator Conrad
23 be added as a cosponsor to the amendment.

24 The Chairman. Without objection.

25 Senator Enzi. On this amendment, we have the

1 partnerships and flow-through entities that have
2 proliferated over the last 15 years, and there have been
3 a number of individuals and corporations and trusts and
4 the States that invest in those. And the current tax
5 return due dates for those major tax and information
6 returns do not reflect those changes nor logical flow of
7 information so that people can get timely information for
8 doing their taxes.

9 This provides for a better flow of required tax
10 return information between entities and those who invest
11 in them, allowing them to improve their compliance by the
12 taxpayers. And it changes the tax return dates to
13 simplify the tax administration for the taxpayers, the
14 practitioners, and the government.

15 It is not about tax policy. It is about compliance
16 and administration. Most importantly, it does not change
17 the due dates for your and my personal Federal income tax
18 returns. Instead, it changes the due dates for the
19 corporate and partnership tax returns, among other
20 changes.

21 I do realize this is not a traditional extender and
22 that it is out of the scope of this markup. I
23 reluctantly withdraw the amendment, but hope that the
24 chairman and ranking member will be willing to work with
25 us to make these common sense fixes to the tax code.

1 The proposal enjoys broad bipartisan support in both
2 the Senate and the House, and I look forward to working
3 with everybody on it. It is a simplification of our tax
4 code.

5 The Chairman. Well, thank you, Senator, for
6 drawing attention to it. You are such a valuable member
7 of this committee with your CPA background. Senator
8 Coburn is a CPA, too. But we deeply appreciate your
9 knowledge and it will prove any tax reform legislation
10 that we enact in the future.

11 But thank you very much for raising it now and
12 bringing it to our attention so we can be working to try
13 to figure out a solution at the appropriate time.

14 Thank you very much.

15 Senator Conrad. Mr. Chairman, might I just comment
16 on this amendment, as well?

17 The Chairman. Senator Conrad?

18 Senator Conrad. First of all, I want to thank
19 Senator Enzi for pursuing this. This is a good
20 government amendment. It does demonstrate, once again,
21 how screwed up our tax code is, because under current
22 law, the IRS filing deadline for pass-through entities
23 comes after the filing deadline for corporations.

24 So corporations that are involved in partnerships
25 cannot file their returns. They have got to ask for an

1 extension. It creates a huge administrative burden on
2 these companies that want to file accurate returns.

3 So I have got staff who have worked in the industry
4 of doing returns for these business entities and they
5 have told me that it just adds hundreds of hours and
6 extraordinary complexity that could be changed by a
7 simple change in date.

8 So I thank Senator Enzi. I thank the chairman for
9 his attention.

10 Senator Wyden. Mr. Chairman?

11 The Chairman. Senator Wyden?

12 Senator Wyden. Very quickly. Mr. Chairman, I
13 think your hearing yesterday --

14 The Chairman. I was just thinking of that hearing,
15 exactly.

16 Senator Wyden. I think Chairman Baucus's hearing
17 yesterday, I think, proves Senator Enzi's point, because
18 I think what we heard yesterday -- and I think Senator
19 Hatch was there for it -- we heard about the
20 proliferation of these pass-through entities. We are
21 going to have lots more of them in the future. And the
22 tax code has not kept up with the times.

23 Chairman Baucus talked about simplification
24 yesterday on the business side and I support what you are
25 talking about, Chairman Baucus, and I think Senator

1 Enzi's idea.

2 The Chairman. That is right. Sure. At the
3 hearing yesterday, it became even more clear how even
4 more complex business organizations are with the pass-
5 throughs and partly corporate form. Corporations have
6 pass-throughs. It is just ones are more apparent,
7 another might be a partner, a corporation might be a
8 partner of a pass-through.

9 This provision and the comments made by Senator
10 Enzi, and by you, also, Senator Conrad, are very
11 appropriate.

12 The amendment is withdrawn.

13 Next, I would like to recognize Senator Schumer, who
14 wants to offer an amendment.

15 Senator Schumer. Thank you, Mr. Chairman. And I
16 am not going to bring this to a vote, obviously. This is
17 a tiny little amendment. But I would like to make a few
18 points here.

19 I want to thank all of my colleagues on the
20 Democratic side for cosponsoring this amendment.

21 We all care, regardless of our party, ideology,
22 geographic region, about the future of this country, and
23 I think all of us share a view that we want to see our
24 country stay strong and prosperous. I always like to say
25 I want to see us stay number one. WE are a different

1 America if we are not.

2 If you look at the five or six reasons that could
3 stand in the way of us being number one, I think most
4 people would say that the failure to educate our
5 citizenry is on that list properly.

6 Now, we have a lot of debate about K-through-12
7 education, but a lot of that is on the quality of the
8 education there and how we should change the structure.

9 When it comes to higher education, there is a
10 general consensus that American higher education is
11 excellent. Look no more than at the fact that hundreds
12 of thousands of students from around the world, including
13 China, want to come to our universities. It is a very
14 good education. Could it be made better? Of course.
15 But our schools, both public and private, are
16 outstanding.

17 The value here is financial. Cost of tuition has
18 gone up dramatically, more than doubled in the last 7 or
19 8 years. The cost of going to college and all that
20 entails has more than doubled. And if there is one place
21 where the necessity is greater, but the ability to
22 achieve it is less, it is higher education and the
23 ability of Americans to go.

24 Every day, literally, thousands of American families
25 and young people decide either not to go to college or

1 not to go to the college they deserve to go to and would
2 be best for them because they cannot afford it. And to
3 do something to help them go to college is a good thing.

4 Now, for the poor, we have Pell grants. That is a
5 good thing, very good. But we all know it is very hard
6 for the middle class to go to college, as well. If you
7 are making \$60,000 a year and a private school is \$30,000
8 a year, you shudder.

9 Moms and dads are talking in bed late at night about
10 how they are going to pay for their kids' college from
11 almost the moment they are born. And it makes eminent
12 sense to make it easier for the middle class to afford
13 college. In fact, it is an imperative, because when that
14 young person does not go to college or does not go to the
15 college of their choice, that they deserve to go to, they
16 lose, their family loses, and our country loses.

17 The concept here is not a liberal or democratic
18 concept. It is a tax break for middle-class families to
19 afford college. It lowers taxes.

20 I find it troubling that this issue has become a
21 division between the parties. Now, we have a deduction
22 that we are renewing. That was passed in 2001 and 2003
23 with bipartisan support. President Bush supported it.
24 And the only thing that was done in the stimulus was to
25 increase it, to consolidate it and increase it. And

1 somehow, because it was in the stimulus bill, it has
2 become a no-no. I do not know why.

3 It is a tax break. It is a tax break for the middle
4 class. It is a tax break for the middle class on
5 something everyone knows we need. The statistics show --
6 look at average incomes of people with a college degree
7 compared to people with a high school degree. There is a
8 recent study that showed they even longer. And we are
9 making it harder.

10 So I cannot tell you how frustrated I am that we
11 have not accepted this measure. Some have some proposed
12 some modifications in it. We are open to those. There
13 was a study that talked about some -- a small, very, very
14 small number fraudulently say -- I guess they buy
15 paperbacks and it is a textbook and try to get the
16 deduction.

17 We were willing to say just do it for tuition, where
18 there is no fraud involved, because you just get the
19 tuition bill and you see if it is real.

20 So I am not offering this amendment because we have
21 a good package. And we have come to the middle. But I
22 will tell you this, and this is not a political stand for
23 me. I never expected this to be politically divisive.
24 As I said, the origins were with George Bush. I am going
25 to work and work and work, and I know so many of my

1 colleagues are, to make sure that his does not expire by
2 December 31.

3 I just do not understand the opposition to this. I
4 do not understand it. It is not an expenditure. It is
5 not something that is frivolous. It is not something
6 that has geographic base. And it goes right to the heart
7 of the middle class.

8 The number of people in my State who come to me and
9 say, "Thank God, you have done that," whether they be
10 young people trying to go to college or parents trying to
11 pay for it, is enormous.

12 Why are we going to disappoint them and disappoint
13 our country? So I hope, I plead. I am willing to work
14 with my colleagues on the other side of the aisle if
15 there are things that should be modified here. But the
16 basic concept I have heard no one quarrel with.

17 The only argument I have heard is it comes from the
18 stimulus bill, and that is not a good argument. The
19 stimulus bill may have had bad things, but it certainly
20 had some good things and this is one of them.

21 So at least we are continuing the deduction. That
22 is important and that gives something of a break. But
23 the cost -- since we passed that deduction, the cost of
24 college has doubled, private and public, and the
25 deduction means less and less each year. This credit is

1 the best thing that has happened to middle-class parents
2 who are sending kids to college in a long time, and I
3 just hope that this will not be a point of contention
4 come December.

5 Thank you, Mr. Chairman. I went over my time and I
6 am sorry for that.

7 The Chairman. Is there any discussion of the
8 amendment?

9 Senator Cardin?

10 Senator Cardin. I just want to thank Senator
11 Schumer for your efforts on this. And I understand your
12 decision not to pursue it.

13 But I just really want to share with my colleagues,
14 go back and talk to families in your States. Over the
15 last year, just over the last year, families have had to
16 make some very difficult decisions about whether they
17 can, in fact, allow their child to go to college or not.

18 Children are graduating from college with so much
19 debt they cannot go into the fields in which they could
20 best serve their own desires and our Nation. This is a
21 critical issue.

22 So for all the reasons that Senator Schumer has
23 said, we need to extend this provision. I hope we can do
24 it before the end of the year for the predictability it
25 gives our families. This is a common sense extension of

1 a policy that not only helps middle income families, it
2 helps our country. It allows graduates to do what they
3 want to in life, gives them a better chance to do that,
4 which will help our country.

5 So I just wanted to thank Senator Schumer. And I
6 agree with you on the urgency. This is one that we
7 cannot allow a gap. If we allow a gap, decisions are
8 going to be made that are going to affect a person for their
9 lifetime, and we can do better that.

10 Senator Hatch. Mr. Chairman?

11 The Chairman. Senator Hatch?

12 Senator Hatch. I appreciate what the distinguished
13 Senator from New York is trying to do and I appreciate
14 his desire to help students.

15 I think one of the problems that we have in this
16 country right now, and it is a serious problem, is that
17 we see college tuition and college costs going up and up
18 and up and up, and part of it is driven by the Federal
19 Government. And we see literally hundreds of transfer
20 payments that overlap. We also see -- a lot on our side
21 saw or feel that it was part of the stimulus bill, which
22 was supposed to be temporary.

23 Now, as a grandfather, I am finding that my
24 grandkids are all taking whatever college loans they can
25 take -- not all of them, but some of them, and then they

1 wind up deeply in debt.

2 I realize it is a different world, but I worked as a
3 janitor to get through college. Now, today, you could
4 not make it as a janitor, I guess. But we have got to do
5 something to cut the costs of education and we have got
6 to do something to quit bolstering it by making it so
7 easy for people to spend money.

8 Look, I have a lot of empathy for what the Senator
9 is trying to do. I have a lot of empathy for families
10 that cannot afford their kids to go to school. But we
11 have got to look at all of these transfer payments and we
12 are going to have to sit down and we are going to have to
13 really make some hard decisions if we cannot afford it
14 anymore.

15 Now, the distinguished Senator from New York makes
16 the point that we cannot afford not to, and that may be a
17 good point. All I can say is that we are going to have
18 to get real about these things. And we all know that a
19 lot of these universities are off the charts as far as
20 spending goes, and part of it is driven by us.

21 So this is something we are really going to have to
22 look at very carefully and look at it in a decent,
23 honorable way and see what we can do.

24 But I can tell you this. A lot of these kids wind
25 up going to an undergraduate school and then they wind up

1 with a huge bill on their hands and they cannot get the
2 jobs that they want and they do not know what to do. And
3 then they feel like they have really been mistreated.

4 So I will certainly do what I can to look at this
5 problem, but we have got to look at the problem of what
6 the costs are in our society, too, and we cannot just
7 overlap transfer payment on transfer payment.

8 We just have to see what we can do. But I
9 appreciate what the distinguished Senator is trying to
10 do, and I appreciate him not being willing to have it on
11 this particular bill.

12 The Chairman. Further discussion?

13 Senator Rockefeller?

14 Senator Rockefeller. Mr. Chairman, we will see
15 what we can do. That seems to be the answer. But in the
16 meantime, the answer is no to Senator Schumer's excellent
17 bill.

18 Senator Hatch. That is right.

19 Senator Rockefeller. And then, secondly, I get the
20 feeling I guess we have to completely reorganize
21 education before we can allow students to take advantage
22 of it. It has to be in a perfect situation.

23 I have rarely run into a bill which so cries out for
24 support as this, and I have rarely heard an argument
25 against it. So weak.

1 I thank the Chair.

2 The Chairman. Further discussion?

3 Senator Kerry?

4 Senator Kerry. Mr. Chairman, there are a lot of
5 things that are driving the increased cost of education,
6 but I do not believe this tax credit is one of them, by
7 any sense of imagination.

8 You look at State costs of tuition across the
9 country, like \$30,000, \$40,000, depends where you are,
10 \$15,000 in some places, lucky less. You go to any of the
11 larger, better known universities in the country, you are
12 talking \$50,000 and \$60,000 a year.

13 One of the things that has driven the costs,
14 obviously, is competition for professors in different
15 systems, where salaries and other benefits have been
16 jacked up. And so there is an inflationary price
17 increase for the competition for good professors, because
18 every university wants to have its headliners and its
19 quality, and everybody should.

20 But there are a lot of other things that have driven
21 those costs. If you are going to be a top rate
22 university or college today, you have got to have a
23 state-of-the-art laboratory, state-of-the-art computers,
24 state-of-the-art communications, or you are not able to
25 teach state-of-the-art.

1 It is more expensive than it was, a more expensive
2 world. And to suggest that 2,500 bucks, which can be the
3 difference in some families' ability to be able to say,
4 "Yeah, go ahead and do that, you should go. We are going
5 to support you. We are going to help you," or to defer
6 and not go.

7 There are increasing analyses, and some of our
8 colleagues on the other side of the aisle frequently say
9 -- I think I even heard -- I think the Republican nominee
10 was recently on television saying something to the effect
11 that your economy is so critically linked, obviously, to
12 your ability to be a first rate military power and moral
13 power in the world. And increasingly, people are asking
14 questions about the United States with respect to that.

15 So if we are not going to be serious about the
16 access to education for an increasingly unaffordable
17 system, to have some presumption that a 2,500 buck tax
18 credit is driving the cost increases is really
19 misunderstanding what is happening in academic
20 institutions.

21 Most of your top academic institutions today,
22 incidentally, are dipping into endowment and providing
23 unprecedented levels of financial assistance to students,
24 and there is greater egalitarianism in the American
25 educational system in terms of access as a result of

1 that, where kids from inner cities and kids from middle-
2 class families are getting half rides, full rides at
3 universities and places they could never have gone
4 otherwise.

5 I am going to work with Senator Schumer and others
6 on this. I hope before the end of the year, when --
7 incidentally, it's a little late for folks who are trying
8 to plan their financial situation for the next year when
9 we have these staccato sort of interim permissions to
10 understand what their financial situation may be.

11 So I hope we can resolve it really kind of once and
12 for all. But I think we need to really look carefully at
13 what the real increases and costs of education are.

14 Incidentally, the for-profit is a different thing
15 and we are seeing some serious abuses in the for-profit
16 structure, and that is a place where we try to have some
17 impact. That is driving a cost increase, and we ought to
18 be serious about it.

19 The Chairman. Further discussion?

20 Senator Thune. Mr. Chairman?

21 The Chairman. Senator Thune?

22 Senator Thune. I think every point has probably
23 been made, but I did want to take issue with one point
24 that was raised here. And I am not disputing the fact
25 that we want an education that is directly linked to our

1 competitiveness and our economy, and we all want to do
2 everything we can to make college education affordable.

3 One of the concerns that we raised, and it is a
4 valid one and maybe it can be fixed, but this is the
5 inspector general's report from the Treasury Department
6 and I think it is important to note for the record, when
7 some of our colleagues said that there is not fraud or
8 there is very little fraud, that the inspector general
9 identified 2.1 million taxpayers who appear to receive
10 \$3.2 billion in erroneous education credits.

11 So this is direct from the inspector general's
12 office of the Treasury Department. So I just think it is
13 important to put that on the record. These programs,
14 they are helpful. It was expanded dramatically in the
15 stimulus bill. It was made refundable in the stimulus
16 bill. It did not used to be a refundable tax credit.
17 The amount was increased. Whether or not it is driving
18 college education costs is a debate that we had here last
19 week when we had some of the experts come in and talk
20 about some of these various incentives and what they do
21 in terms of shaping or increasing the cost of education
22 in this country.

23 But you can dispute this. You can say we can fix
24 it. But this is the report that was filed by the
25 inspector general of the Treasury Department. It says

1 there are \$3.2 billion -- \$3.2 billion. We are not
2 talking about an inconsequential amount of money here.

3 Senator Kerry. Would the Senator yield?

4 The Chairman. Senator Kerry?

5 Senator Kerry. Also, for the record, and I think
6 it is important to make it clear, we sat in a meeting
7 with you and with other Senators and made it crystal
8 clear that we do not accept the TIGTA report, that we
9 believe that that has to be responded to, that we were
10 prepared with very simple language on two specific items
11 that would have addressed that specific problem, and we
12 are prepared to do that.

13 Also, in the audits that were done in that, there
14 was not the same finding in terms of the level, in terms
15 of the audits they did. But we are accepting. We
16 absolutely accept that.

17 Nobody is sitting here suggesting we should ratify
18 fraud, and we are totally prepared to put in place all of
19 the inspector general's recommendations, which are clear
20 as to how you can preclude that.

21 But you know the old saying, "Don't throw the baby
22 out with the bathwater." Why would you want to give away
23 -- not do the whole thing when you have a fix that has
24 been recommended by the very person you are citing for
25 the problem?

1 So we are ready to do that. We will fix it.

2 Senator Thune. If I might, Mr. Chairman.

3 All I was simply saying is it was stated by someone
4 on your side in this discussion, the Senator from New
5 York, I believe, that did not concede the fraud issue.
6 The fraud issue is well documented, and I am just
7 pointing that out and I think it is important to have
8 that on the record.

9 The Chairman. Senator Schumer?

10 Senator Schumer. That \$3.2 billion figure includes
11 -- and I think the vast majority of it is misreporting by
12 universities, not fraud by the people applying. And I
13 would reiterate what Senator Kerry said.

14 We want to work with you to eliminate the fraud. We
15 made some very constructive suggestions in our meetings.

16 And who do we leave holding the bag when you do not
17 renew this? The vast majority of people, middle class,
18 hardworking Americans who get this honestly, who do not
19 abuse it, and who do not get it anymore.

20 We see a lot of waste and fraud in the defense
21 industry. Do we have no defense budget because of that?
22 No. We worked to fix it. But we do not leave our
23 country defenseless because some contractor somewhere or
24 a group of contactors has made some errors or even
25 committed fraud.

1 Well, it should be the same here. We are taking
2 that out on average middle-class families who desperately
3 need this break.

4 I do not want to get into a great debate here about
5 it. I have said and want to work with you to eliminate
6 the fraud and not hurt the average person.

7 By not renewing this, if that is what happens
8 December 31, we will do far more harm than good. And I
9 think the vast majority of Americans and probably the
10 vast majority of people on both sides of the aisle in
11 this body agree with that.

12 Senator Kerry. Mr. Chairman, 15 seconds.

13 The Chairman. Senator Kerry?

14 Senator Kerry. Quickly. In the report from the
15 inspector general, it states specifically that the
16 erroneous claims associated with tax returns completed by
17 a tax return preparer exceeded \$1.6 billion.

18 So the lion's share of that came from the so-called
19 professional who filled this out on behalf of people, and
20 that is curable. That is the nature of the tax system we
21 have today. But at least that is curable.

22 The Chairman. So this is, without being too
23 dramatic, an extraordinarily important subject, that is,
24 education in America and how we become more competitive.

25 Clearly, education is a key central component, as has

1 been stated here.

2 I think this issue is -- I strongly support the
3 efforts by the Senator from New York. In fact, we all
4 worked to try to get this provision enacted before the
5 end of the year, and use all my efforts, too. I do not
6 think I will be working quite as hard the Senator from
7 New York is. No one is working harder than he on this.

8 But this is complicated. Higher education costs are
9 going up and I have not yet heard a good reason why they
10 are going up at such a rapid rate. There is so much more
11 than the consumer price index, the general rate of
12 inflation.

13 I asked college professors why. At the hearing, I
14 asked the question. That hearing was just a short while
15 ago. I did not get a good answer. I did not get a good
16 answer as to why higher education expenses are going up
17 at such a rapid rate.

18 We have to find a way to deal with that. We have
19 to. Outstanding student debt today equals outstanding
20 consumer debt. Outstanding student loan debt equals
21 outstanding consumer credit card debt. It is the same.
22 And so many people are so saddled with debt. Some on my
23 staff had, frankly, left my office to go work in the
24 private sector to get their loans paid off, then came
25 back. They had to get their loans paid off. It is just

1 not right that students are saddled so much with debt.

2 Now, in America, there are many sources of financing
3 for education. It is fees. It also is State aid, which
4 is declining, by the way. States are not supporting
5 higher education nearly as much as they were, because
6 State budgets are so strapped.

7 But it is also grants from various agencies, whether
8 it is NSF or NIH. Many grants go to universities, as
9 well as the endowment, which helps support their
10 financing.

11 I just believe that it is up to this country,
12 including this organization, the Senate, to get down to
13 the bottom of why education is going up at such a rapid
14 rate and what do we do to make sure more of our kids are
15 getting educated.

16 I asked an ambassador of an Asian country recently,
17 "Why do Asian students seem to be so much more interested
18 in education than American students?" And the answer he
19 gave was, "Well, 1,000 years ago, China instituted a
20 system of education based on meritocracy." And so it
21 probably overstated the point, but this fellow is someone
22 I admire very much. And I do think that is a key to why
23 Asian students work so hard and work so hard to get into
24 college, the right college, and so hard once they get
25 there.

1 We have got to do what we can in this country to
2 help generate a culture here where our kids also want to
3 work as hard as the Asian kids do.

4 I strongly support the amendment. It is not going
5 to be offered at this time. There will be an appropriate
6 time later this year when it will be offered, and I will
7 personally get it enacted, but I thank the Senator for
8 the support. But we have to get the bottom of how we get
9 more incentive for education in this country.

10 Senator Coburn, I think you had an amendment.

11 Senator Coburn. I have an amendment. This is an
12 amendment that would eliminate the tax credit for
13 efficient appliances, section 45(n). It is \$650 million
14 over 10 years.

15 There are multiple domestic manufacturers of
16 appliances in our country. There is also a great many
17 more that are outside of our country. One of those
18 manufacturers has not paid any income tax in the last 3
19 years because of the refundable tax credit. Another one
20 only paid taxes in 2 out of the last 3 years, partially
21 because of that refundable tax credit.

22 This is a very similar issue to the VETCH. If you
23 look at part B of title III of the Energy Policy and
24 Conservation Act, it is mandating energy efficiency.
25 Public Law 94-163, as amended by the National Energy

1 Conservation Policy Act, Public Law 95-619 by the
2 National Appliance Energy Conservation Act, Public Law
3 100-12 by the National Appliance Energy Conservation
4 Amendments of 1988, Public Law 100-357, the Energy Policy
5 Act of 1992, and Public Law 102-486.

6 You cannot produce an appliance in this country
7 unless it meets Department of Energy standards anymore.
8 So the standards are set. We are now paying people for
9 energy conservation that they are mandated to do.

10 The question I would raise, since the vast majority
11 of this committee recognized the stupidity of paying
12 blenders for something they already had to do, mandated
13 by fuel requirements on corn and ethanol, why we would
14 continue to do that.

15 The vast majority, as we look at the P&L statements
16 of published 10(k)s of these companies and what they -- I
17 will just give you a quote. This one company was -- the
18 quote from their statement was -- between \$300 million
19 and \$350 million in energy tax credits last year. The
20 company said in February that it expected to receive
21 another \$300 million in energy tax credits this year.
22 "Thanks to this tax credit, we have had negative
23 effective income tax rates in 2010, 2009 and 2008."

24 In other words, we are giving them a tax credit, but
25 we are also paying them back. So it would be a different

1 thing -- if we want to subsidize industries to be able to
2 compete, great. Let us call it what it is. But this is
3 not an energy appliance tax credit. This is a subsidy to
4 be able to compete in the global market.

5 That is what it is, because you cannot sell one of
6 these appliances unless it meets Department of Energy
7 standards.

8 So why would we throw out \$650 million? There is a
9 downside to this, too. When we subsidize American
10 manufacturers, this is stuff that can only be applied to
11 stuff made in this country, over our foreign competitors,
12 we make them ultimately less competitive. Ultimately, in
13 the long run, we are going to make them less competitive.

14 So I do not understand why we would do this, why we
15 would not make them have to -- we believe in a global
16 economy. We want jobs here. If we want jobs here, then
17 let us call it what it is -- a subsidy for appliance
18 makers -- and call it that and then let us debate that
19 issue.

20 But to me, I think this is a totally erroneous way
21 to solve it. It may have been good at the time. I am
22 not questioning that, and I do not question those people
23 that want to support it. But I certainly cannot support
24 borrowing \$650 million, because it is going to be
25 borrowed from our kids and grandkids, and paying it to

1 two or three companies in this country and say we have
2 done the right thing.

3 So this is an amendment that I would love to have a
4 vote on, Mr. Chairman. And it is the worst form of crony
5 capitalism I know.

6 The Chairman. Senator Stabenow?

7 Senator Stabenow. Thank you, Mr. Chairman.

8 Let me say, first of all -- let me clarify what this
9 really is. This is a credit for those appliances that
10 are high energy efficient appliances that go beyond the
11 standard. You are not getting the credit for meeting the
12 standard. That is not accurate.

13 You are getting the credit. It is based on how far
14 you exceed the energy efficiency standards. And this is
15 very much about two things -- whether or not we are going
16 to keep that business, the most high tech, the most
17 energy efficient companies -- we have one of the major
18 rogue headquarters in Michigan, and it is amazing when
19 you look at what they are doing right now.

20 If this is incentivizing consumers to look for
21 energy efficient appliances that go above the standards,
22 better for energy consumption, better for the consumer,
23 and it keeps those jobs in America.

24 Right now, the Association of Home Appliance
25 Manufacturers said back in March of 2010 before the

1 Energy Committee that this has helped retain 46,000
2 manufacturing jobs in this country; and that right now,
3 we actually have the ability -- we are, in fact,
4 exporting 12 percent of U.S. production overseas. So
5 right now, we are exporting product, not jobs.

6 We do away with this and we potentially reverse
7 that. We reverse that in terms of whether or not we keep
8 the highest, most efficient, most technologically
9 advanced production on appliances in this country or
10 whether we cede that to someplace else.

11 So I would strongly urge that we maintain this, Mr.
12 Chairman. You know how strongly I feel about American
13 manufacturing, and that is what this. And this is about
14 the future in terms of advanced manufacturing. And let
15 me just say, again, you do not receive the credit unless
16 you go above the standards.

17 The credit is determined on how far you go above
18 energy efficient standards. I think it makes sense,
19 ought to be encouraged for consumers, ought to be
20 encouraged, and I want those jobs in America.

21 Senator Coburn. Mr. Chairman?

22 The Chairman. Senator Coburn?

23 Senator Coburn. If this was about encouraging
24 consumers to buy it, why are we not giving the credit to
25 the consumer? One.

1 Number two, if this works in the appliance industry,
2 let us apply it everywhere. Let us just subsidize
3 everywhere. I can make that case in 12 or 15 other
4 industries. Why do they not have this?

5 In other words, we cannot afford to go down this
6 road. And whether it is Whirlpool or GE or whoever it
7 is, if they cannot stand on their own -- the other point
8 I would make, if it is truly highly energy efficient and
9 it is cost-effective, consumers are going to buy it
10 anyway.

11 In other words, what we are doing is substituting a
12 tax credit for what makes sense for a consumer to buy
13 that actually saves them money. So what we are saying is
14 the government can be in the middle of a market and we
15 can spend \$650 million that we do not have -- we do not
16 have -- and we can decide from Washington what the market
17 is going to be rather than the efficiency of the
18 appliance determining who buys it.

19 That is the real key. So what we say is we do not
20 believe in markets. We believe we need to manipulate the
21 market. And if they have got the better mousetrap and
22 the more efficient mousetrap, people are going to buy it.

23 Instead, we are going to have them with the more
24 efficient, but we are going to pay them \$650 million to
25 get there.

1 Senator Stabenow. Mr. Chairman? If I might
2 respond, Mr. Chairman, to the comments.

3 Let me first say that our companies are competing in
4 a global economy and the last numbers I looked at, and I
5 am sure it is higher now, is China is spending \$288
6 million every day just on clean energy technology to beat
7 us.

8 Now, they do not worry about tax credits. They fund
9 the R&D. They say, "Come on over, we will build a plant
10 for you. We will steal your patents, but we will build
11 the plant for you."

12 So we are in a global economy. Our companies are
13 competing with countries. If we have, in fact, a set of
14 policies that will help us around high energy, energy
15 efficient or clean energy manufacturing technologies, to
16 be able t keep that in America by sharing the cost, by
17 just incentivizing -- most of this is private sector
18 investment. But helping to incentivize it to bring the
19 cost down so first generation new technology efforts can
20 be purchased by consumers.

21 We all know, whether it is the first generation
22 electric vehicle or energy efficiency, prices start
23 higher, they come down, helping to be able to create that
24 marketplace so consumers can purchase is very important.

25 I would finally say this, Mr. Chairman, and I am

1 looking forward to this full discussion in tax reform.
2 1916 was the very first oil subsidy in this country. I
3 would, I am sure, at that time, have supported it to
4 create a new industry in our country.

5 But we just kept on going, not short-term policy,
6 not a 1-year wind production tax credit, whether you have
7 got to figure out whether it is going to be extended
8 another year, to create competition for consumers,
9 whether it is electric vehicles, whether it is high
10 energy appliances, whether it is wind and solar.

11 They limp along year to year, year to year, year to
12 year, and we have a whole industry that we put a
13 generation of certainty into.

14 I think we need to take a look at that whole thing
15 and where we are going if we want jobs in America,
16 because we are being passed by at a whole generation of
17 new energy efficient, clean energy technologies, where
18 the world is going, and we need to have that in America.

19 This is one piece of it, and I hope our colleagues
20 will oppose this amendment.

21 The Chairman. Any further discussion?

22 Senator Kyl. Yes, Mr. Chairman.

23 The Chairman. Senator Kyl?

24 Senator Kyl. Just two quick points. I support
25 Senator Coburn's amendment. When our colleague from

1 Michigan says this is about the future of advanced
2 manufacturing, it is a pretty scary future if what she
3 means by that is that we are going to have to subsidize
4 manufacturing in this country. If that is the future of
5 our country, it is a future of crony capitalism.

6 Secondly, it is not like the consumers are not going
7 to be paying for this subsidy at some point. It is
8 called taxes. And the money does not grow on trees. WE
9 are foregoing tax revenue with a credit.

10 All of us are preaching -- my colleague from
11 Massachusetts is absolutely certain that next year --
12 unfortunately, I will not be here, but the Congress is
13 going to enact tax reform, and, ostensibly, the way we
14 are going to do it is we are going to get rid of all
15 these loopholes.

16 Well, this is one of those loopholes. So the
17 question is when are we going to start really talking
18 about getting rid of these loopholes.

19 The Chairman. When we start taking down the rates
20 at the same time.

21 Senator Coburn. I am with you on that. But you
22 cannot deny the way our constituents might view us as
23 rather hypocritical when we say next year we are going to
24 do this, but in the meantime, let us give another subsidy
25 to another favored industry.

1 The Chairman. Discussion?

2 Senator Kerry. Mr. Chairman?

3 The Chairman. We have gone back and forth here.
4 Senator Kerry?

5 Senator Kerry. I want to respond, if I can, to
6 both Senators.

7 We sometimes, as a matter of public policy, make
8 choices because the marketplace does not function as
9 effectively as you would like it to in terms of that
10 public policy. And so there are any number of incentives
11 that we have created at one time or another to try to
12 make something more affordable or to try to help nurture
13 a market where it does not exist, because as a matter of
14 public policy, we have decided that that is important for
15 the country.

16 The fact is that Senator Coburn can sit there and
17 say, "Well, the company is going to produce it and if the
18 consumer wants to buy it, they will go out and buy it."
19 But the fact is they will not, because it is probably
20 going to be a darn site more expensive and it is going to
21 be a darn site more expensive because it is more
22 complicated to build, because it take more R&D, because
23 it takes longer, and the cost per unit is higher than the
24 cost of something that is not as efficient or is done
25 with less manual labor in order to sell it.

1 Now, if that is happening, we can just plunder along
2 the way we have been doing in a lot of parts of our
3 marketplace where we are not making wise choices.

4 I remember back in the 1960s, Volkswagen came out
5 with a small car. Detroit just scoffed at it, said, "No
6 way, Jose, we're not doing that over here," and we just
7 left the niche market and the niche became bigger and
8 bigger and they took over a lot of the market from
9 American industry. Bad decision-making.

10 The Chairman. All right.

11 Senator Kerry. Well, I think, to Senator Kyl, we
12 can lower those -- get rid of some of these things. You
13 know that I sat there with you for hours and hours,
14 months on months, and we proposed bringing the tax rate
15 down to 25 percent, revenue neutral on business, and we
16 could lower the corporate rate. But to do it, we have to
17 broaden the base and get rid of a lot of these loopholes.

18 Now, if you do it in that context, I think a lot of
19 people are absolutely prepared to throw out a lot of this
20 stuff. But you cannot just come along if you are not
21 going to allow that industry to be competitive in the
22 absence of the rest of that taking place. And that is
23 what will happen here. You will write them off and they
24 will lose jobs and we will lose the benefits, which, as a
25 matter of public policy, we want for more efficient

1 appliances.

2 The benefits are, incidentally, that is partly why
3 we have been able -- partly, not entirely. The Senator
4 from North Carolina is correct, North Dakota. They are
5 producing more and we have more production in America,
6 but we are also using less, and part of the reason is
7 through efficiency.

8 Senator Burr. Mr. Chairman?

9 The Chairman. Has everything been said on this
10 subject yet?

11 Senator Burr. No, sir.

12 The Chairman. Senator Burr?

13 Senator Burr. I think I might be the only expert--

14 The Chairman. I think you are.

15 Senator Burr. -- because I have just purchased
16 one.

17 [Laughter.]

18 Senator Burr. And I purchased a high efficiency
19 refrigerator, not because of some unbelievable incentive
20 that existed, but let me assure you, I paid dearly to
21 step up. The difference between that and the normal
22 standard is incredibly more expensive.

23 So nothing that we do in this act is an incentive to
24 the consumer to purchase this. I just went through the
25 experience.

1 Now, if the argument is that this credit is in place
2 because it saves 46,000 jobs, let me just point out a
3 simple mathematical calculation. That is only \$14,000
4 per job.

5 Now, if I was a manufacturer, I would lobby
6 extremely hard for this, because that is probably a third
7 of the salary of those 46,000 people. When did we get in
8 the business of subsidizing the salary of a private
9 company's employees?

10 I go back to Senator Coburn. If you want to make it
11 a subsidy, let us call it a subsidy. If you want to make
12 it an incentive, then put it on the consumer.

13 Senator Kerry. Every CEO in America gets
14 subsidized with some of the things we do.

15 Senator Burr. Then we ought to eliminate it. I
16 will vote with it right beside you.

17 The Chairman. Let the sponsor of the amendment
18 close. Let the sponsor close.

19 Senator Coburn. We have got to start. There is \$6
20 billion that we have done. If we pass this package, we
21 will have saved \$6 billion. That is a start. I
22 congratulate us all for saving \$6 billion.

23 Here is one that does not make sense when you look
24 at the dollars versus the benefit. Where is the cost-
25 benefit in energy savings for the country versus what we

1 spend? And so it is really not about energy efficiency.
2 It is about the parochial basis under which this started
3 in 2005 and was supported based on parochial concerns of
4 manufacturers.

5 It has nothing to do with efficiency. So we can
6 claim all we want. Our country grew and got great
7 because we really trusted markets. And I will reaffirm
8 with this. When we are subsidizing business, I do not
9 care which one it is, even the oil business, we, in the
10 long run, make them less efficient.

11 It is not going to be long, on the basis of what the
12 Senator from Michigan said, we are going to get
13 outcompeted if we keep trying to compete this way. WE
14 have got to compete on the basis of winning, and it does
15 not mean winning through the tax code. It means winning.

16 Thank you, Mr. Chairman. I would love the yeas on
17 this.

18 The Chairman. Thank you, Senator. The yeas and
19 nays have been asked. The Clerk will call the roll.

20 The Clerk. Mr. Rockefeller?

21 Senator Rockefeller. No.

22 The Clerk. Mr. Conrad?

23 Senator Conrad. No.

24 The Clerk. Mr. Bingaman?

25 Senator Bingaman. No.

1 The Clerk. Mr. Kerry?
2 Senator Kerry. No.
3 The Clerk. Mr. Wyden?
4 The Chairman. No by proxy.
5 The Clerk. Mr. Schumer?
6 Senator Schumer. No.
7 The Clerk. Ms. Stabenow?
8 Senator Stabenow. No.
9 The Clerk. Ms. Cantwell?
10 Senator Cantwell. No.
11 The Clerk. Mr. Nelson?
12 Senator Nelson. No.
13 The Clerk. Mr. Menendez?
14 The Chairman. No by proxy.
15 The Clerk. Mr. Carper?
16 Senator Carper. No.
17 The Clerk. Mr. Cardin?
18 Senator Cardin. No.
19 The Clerk. Mr. Hatch?
20 Senator Hatch. Aye.
21 The Clerk. Mr. Grassley?
22 Senator Grassley. No.
23 The Clerk. Ms. Snowe?
24 Senator Snowe. No.
25 The Clerk. Mr. Kyl?

1 Senator Kyl. Aye.

2 The Clerk. Mr. Crapo?

3 Senator Crapo. Aye.

4 The Clerk. Mr. Roberts?

5 The Chairman. Aye by proxy.

6 The Clerk. Mr. Enzi?

7 Senator Enzi. Aye.

8 The Clerk. Mr. Cornyn?

9 Senator Cornyn. Aye.

10 The Clerk. Mr. Coburn?

11 Senator Coburn. Aye.

12 The Clerk. Mr. Thune?

13 Senator Thune. Aye.

14 The Clerk. Mr. Burr?

15 Senator Burr. Aye.

16 The Clerk. Mr. Chairman?

17 The Chairman. No. The Clerk will tally the vote.

18 The Clerk. Mr. Chairman, the final tally is 9

19 ayes, 15 nays.

20 The Chairman. The amendment is not agreed to.

21 The next amendment, next on my list is No. 7,

22 Stabenow-Schumer.

23 Senator Stabenow. Thank you, Mr. Chairman. And I

24 realize that this amendment is out of scope, but I do

25 want to raise it as we go forward to the end of the year.

1 It continues our discussion, quite frankly, on
2 manufacturing. One of the things that we have done in
3 the last few years -- and I should say, for the first
4 time in 14 years, we have seen a revival of American
5 manufacturing and jobs every month.

6 Sometimes, as we look at the economy, it is the only
7 thing that has been moving up a little bit every month.

8 This is an extension of my Make it in America tax
9 credit, which I authored last year based on something
10 that Senator Bingaman and I authored a few years ago to
11 focus on a 30 percent tax credit for equipment in
12 buildings related to new clean energy manufacturing,
13 advanced manufacturing.

14 We have included in that bio-base manufacturing,
15 which reflects changes we have made in the farm bill, as
16 well. But let me just say that we have seen really
17 extraordinary things happen. The credit funded 183
18 manufacturing projects in 42 States over the last few
19 years.

20 We were told that there were another 253
21 applications from terrific projects that would create
22 jobs in advanced manufacturing that could not be funded
23 because there was a cap originally put on this credit of
24 \$2.3 billion.

25 So this would raise that cap and allow us to

1 continue to be very competitive in clean energy
2 manufacturing.

3 I realize it is outside the scope. I will not
4 proceed with it. As we go forward to the end of the
5 year, and you and I, Mr. Chairman, have talked about how
6 we incentivize advanced manufacturing in this country,
7 this is something that has worked, unleashing tens of
8 billions of dollars in the private sector by allowing
9 this 30 percent tax cut.

10 I do understand that Senator Schumer has a
11 modification to the credit that is important to him and
12 the business in his State. I look forward to working
13 with him on it.

14 But, Mr. Chairman, this is a very important
15 fundamental policy about whether or not we are going to
16 support American manufacturing. And this credit has
17 worked and it needs to be extended.

18 Senator Schumer. Mr. Chairman?

19 The Chairman. Senator Schumer?

20 Senator Schumer. Thank you, Mr. Chairman. I first
21 want to salute Senator Stabenow for her great work on
22 this issue. She has just been a leader in helping
23 manufacturing, and the example shows, in her own State
24 and so many other States where manufacturing in America
25 is making a comeback. And a good part of that, most of

1 all, the companies and the people who work there, but
2 Senator Stabenow was out there making their path and
3 making their route easier. So I want to thank her for
4 that.

5 This credit keeps jobs, and that is important. So
6 we need to get it extended this year. And as Senator
7 Stabenow pointed out, we need to make this done.

8 Now, I have one important modification of the
9 provision. As we all know, the objective of 48(c) was to
10 encourage manufacturing of technologies to reduce global
11 warming. The current structure of the credit leaves out
12 one very important piece of the puzzle, and that is black
13 carbon.

14 Like other greenhouse gases, black carbon has
15 serious global warming effect. It absorbs heat from the
16 sun rays, traps it in the atmosphere; and, second, when
17 it settles on polar ice, it absorbs heat and accelerates
18 melting.

19 Black carbon has done far worse things to our
20 atmosphere. It is more powerful, actually, than carbon
21 dioxide. And black carbon is 1,600 times more powerful
22 as a global warming agent.

23 So in the United States, diesel-powered vehicles are
24 the primary source of black carbon. You see it every day
25 on the highway. It is that black smoke you see coming

1 out of tailpipes of buses, trucks, trash haulers, other
2 diesel-powered fuel.

3 So when we make the change to the language in 48(c)
4 when we take it up later this year to promote
5 manufacturing technology, I hope that language -- and I
6 know Senator Stabenow is working with me on this -- to
7 reduce black carbon from diesel engines, it will ensure
8 that 48(c) is targeted to all emerging technologies.

9 I look forward to working with her, as well as
10 Senator Carper, who has shown great leadership on this
11 issue, when we move this bill forward at another time.

12 The Chairman. Further discussion?

13 [No response.]

14 The Chairman. I guess the amendment is offered and
15 withdrawn.

16 Next on my list is No. 9, Cantwell-Bingaman-Nelson-
17 Cardin-Stabenow, to extend section 45 clean energy
18 production tax credits and an investment tax credit
19 option.

20 Senator Cantwell. Mr. Chairman, given the progress
21 that was made working among my colleagues, I am not
22 offering this amendment, given the chairman's mark that
23 we made on the production tax credit.

24 The Chairman. Thank you, Senator.

25 Next, I have No. 10, No. 115, Senator Thune. Thune-

1 1.

2 Senator Thune. This amendment would just express
3 the sense of this committee regarding three very
4 important points pertaining to comprehensive tax reform.

5 And the first is that the -- and by the way, the
6 amendment, I should say, based on discussions with the
7 chairman, has been modified from its original form.

8 But the first point of the amendment is it would
9 express the sense that comprehensive tax reform is vital
10 to economic growth and American competitiveness; second,
11 that a major focus of that reform should be lowering tax
12 rates by broadening the tax base; and, finally, that all
13 Federal tax expenditures, including the very provisions
14 that we are extending today, should be on the table for
15 consideration of tax reform.

16 I am offering this amendment because I believe it is
17 important that as we extend a number of existing tax
18 incentives, which may many of us support, that we not
19 lose sight of the fact that the most critical role this
20 committee can play in turning our economy around is not
21 tinkering around the edges of tax policy, but rather
22 fundamentally reshaping the tax code through tax reform,
23 similar to the role that this committee played in the
24 1986 tax reform process.

25 My amendment also stipulates that Federal energy tax

1 subsidies, both traditional and alternative energy
2 subsidies, need to be part of that effort and that no one
3 should interpret this committee's extension of existing
4 incentives in the near term as a weakening of our
5 commitment to longer-term reform.

6 Our bill today is short-term and limited in scope,
7 not the appropriate place to begin the kind of serious
8 reform of many tax expenditures that will ultimately be
9 necessary in order to bring down the tax rates,
10 especially the corporate tax rate, which we all know is
11 the highest in the developed world.

12 So I guess, Mr. Chairman, most people on this
13 committee, on both sides, have expressed support and our
14 desire to move to comprehensive tax reform next year.
15 This is probably the last markup that we will have for
16 the remainder of this year in terms of scheduling.

17 So I would just simply ask that as a committee, that
18 we be on the record in support of our willingness to be
19 ready, willing and able to make the necessary and hard
20 choices that will be required as a part of tax reform.

21 Given the state of our economy and the competitive
22 pressures that are facing our Nation today and the global
23 economy, I think the sooner that we get there, the
24 better.

25 So I would ask my colleagues to support the

1 amendment.

2 The Chairman. Senator Hatch?

3 Senator Hatch. Mr. Chairman, I want to thank the
4 distinguished Senator for his remarks here. This is
5 really important what we are doing here today, but it
6 pales in comparison to what we need to do on tax reform.

7 So he has made very good case and I hope that once
8 we pass this bill, that -- and I think this bill is a
9 step in the right direction toward tax reform, too. And
10 I want to compliment this committee for being able to
11 make some of these tough decisions that have been made to
12 make this bill.

13 So I just want to thank the distinguished Senator
14 and appreciate his remarks very much.

15 The Chairman. All right. All those in favor of
16 the amendment, signify by saying aye?

17 [A Chorus of Ayes.]

18 The Chairman. Those opposed, no?

19 [No response.]

20 The Chairman. The ayes have it. The amendment is
21 agreed to.

22 I understand, Senator Snowe, you are ready. Are you
23 ready? There are two of them. One of them is No. 12.
24 It is Snowe No. 4.

25 Senator Snowe, if you want to defer, we can go to

1 another one.

2 Senator Snowe. Yes.

3 The Chairman. Let us go to No. 13 on the list.
4 That is Amendment 25, Carper-Snowe.

5 Senator Carper. Thanks, Mr. Chairman. I call up
6 Amendment No. 25, and I ask unanimous consent to add as a
7 cosponsor Senator Menendez.

8 The Chairman. Without objection.

9 Senator Carper. I want to just briefly describe
10 this amendment and will not ask for a recorded vote. We
11 will withdraw the amendment. But I appreciate the chance
12 to, again, revisit this particular issue.

13 This deals with investment tax credit. The focus is
14 investment tax credit for offshore wind. The point I
15 have made to my colleagues before is of all we do is have
16 production tax credits for offshore wind, we are not
17 going to want to build an offshore windmill farm. They
18 cost a good deal more money to build offshore than they
19 do to build onshore, but the virtue of having them
20 offshore is the wind is better. So there is a tradeoff
21 here.

22 What we have been able to do with agreement,
23 actually, with the support of Chairman Baucus and a
24 number of our colleagues, we have been able to agree on
25 extending the existing form of the investment tax credit

1 to the end of 2013 and to allow the credit to count for
2 projects begun by the end of 2013. It is a very positive
3 step, and we appreciate that.

4 The amendment that Senator Snowe and I and a number
5 of our colleagues have offered, No. 25, that I will be
6 withdrawing, says there is actually a smarter way to do
7 that. And we are not going to do it this time, but I
8 just want to flag it for my colleagues as we go down the
9 road and use a way that uses the smarter mousetrap.

10 That would be to say, in our amendment that I will
11 be withdrawing, the investment tax credit should go to
12 the first 3,000 projects that are involved in generating
13 the first 3,000 megawatts of electricity offshore.

14 After those projects have been built, there will be
15 no more investment tax credit for offshore wind. The
16 idea is to be able to build the first half-dozen or so of
17 those, getting built, operating, show that we can run
18 them, as they are doing in other parts of the world.
19 After that, the investment tax credit really goes away.

20 I think that is the smarter way to do it. It is not
21 the way they are going to be able to do it, in this
22 instance, in this bill, but I like that idea better.

23 Having said that, we are grateful for the
24 cooperation we have had in pursuing the investment tax
25 credit as it exists to the end of next year. We thank

1 you for that. And at some point in the future, when that
2 expires, we would like to be able to come back and do
3 what we really think is a smart approach.

4 I think that is pretty much what I wanted to say,
5 Mr. Chairman. So I thank you very much.

6 With that, I would -- unless Senator Snowe has
7 something. She has done a lot of work on this, as well,
8 and it has been great to work with her.

9 Senator Snowe. Thank you. And I want to thank the
10 Senator Delaware for his leadership on this issue,
11 because I think it is a whole new dimension in developing
12 alternative energy, and that is certainly occurring off
13 the coast of Maine. But it is something that this
14 country can truly be competitive with in other countries.

15 So I just want to thank you for crafting this
16 amendment. Hopefully, this is something that we can
17 continue to pursue in the future and very vigorously and
18 aggressively, as other countries are exploring this
19 avenue.

20 We have natural resources in the State of Maine, but
21 off the coast of the United States that can certainly
22 contribute to a whole new world of providing wind
23 development.

24 Thank you.

25 The Chairman. Thank you, Senator.

1 Next on the list is Senator Stabenow. That is No.
2 16 on the list, and it turns out to be the number 16. It
3 is Stabenow 3.

4 Senator Stabenow. Thank you very much, Mr.
5 Chairman. If I might, at this moment, just because of
6 the fact that I am wanting to leave momentarily to speak
7 about a Michigan judge who is being considered on the
8 floor. If it would be agreeable to you for me to speak
9 about No. 20.

10 The Chairman. Absolutely.

11 Senator Stabenow. Thank you very much. In case we
12 are not able to move ahead time-wise on the other.

13 This is a very, very important amendment. I
14 understand your concern about it being, at the moment,
15 out of scope of the bill. It is certainly not out of
16 scope of what we need to do before the end of the year.
17 It is something we have come together on before, and that
18 is the question related to bonus depreciation and, in the
19 alternative, allowing companies to use AMT credits when
20 they do not have a tax liability.

21 This is a very, very important issue. And I want to
22 thank Senator Roberts and Senator Cardin, Senator Snowe,
23 for joining with me in this bipartisan effort. We all
24 know that allowing a policy of bonus depreciation has
25 allowed us to create jobs, create more investments in

1 this country.

2 We have used it very successfully going forward --
3 excuse me -- up to this point regarding 100 percent bonus
4 depreciation, and we have allowed a policy also connected
5 to AMT credits.

6 Mr. Chairman, I think this is very, very important
7 for investment in our country to have this policy
8 extended by the end of the year. I would ask your
9 willingness to sit down with us to work on this. There
10 is a large coalition, very, very concerned about not
11 extending bonus depreciation in AMT. I share that
12 concern. We have bipartisan support for extending it.

13 I realize, within the context of what you are doing,
14 that you are not wishing to do it at this moment, but it
15 really needs to get done by the end of the year. And I
16 would ask for your support in working with us to do that.

17 The Chairman. Thank you, Senator. I clearly
18 understand the argument in favor of this provision. It
19 is all intertwined, as you have said, with the bonus
20 depreciation.

21 A big question is, later on this year, the degree to
22 which -- maybe next year -- the degree to which we extend
23 or expand the current depreciation.

24 Even having said that, I understand that there are
25 many companies for whom it is virtually impossible to

1 take advantage of certain depreciation provisions. That
2 is why this provision to them is so important.

3 I deeply appreciate, in addition, the way in which
4 the Senator has raised the subject, as you keep talking
5 about the subject on the merits, trying to find a way to
6 proceed forward.

7 Without being too presumptuous, I have a hunch that
8 some of that approach style is because of the chairman's
9 great work in passing the agriculture bill and working
10 with other members of the Agriculture Committee to reach
11 success, which I deeply appreciate.

12 So thank you, Senator. I will work with you to try
13 to get this passed.

14 Senator Stabenow. Thank you, Mr. Chairman.

15 The Chairman. Next, we will move to No. 15 on the
16 order here. That is No. 51. That is Enzi-Rockefeller-
17 Cardin No. 3.

18 Senator Enzi. Mr. Chairman?

19 The Chairman. Senator Enzi?

20 Senator Enzi. I would ask consent to add Mr.
21 Bingaman as a cosponsor on the amendment.

22 The Chairman. Without objection.

23 Senator Enzi. And thank Senators Cardin and
24 Rockefeller and Bingaman for joining me on this.

25 I do intend to withdraw the amendment, but I want to

1 bring up the importance of this so that we can fill a
2 loophole that was created by a decision in 1992, when the
3 Supreme Court challenged us to bring some marketplace
4 fairness in and allow States the right to collect sales
5 taxes on out-of-state sales.

6 I appreciate the hearing that you held on that
7 earlier and the hearing that Senator Rockefeller held on
8 it yesterday. This is an opportunity for us to, like I
9 say, plug a loophole and quit picking winners and losers
10 and subsidizing some businesses and subsidizing some
11 taxpayers at the expense of the local ones.

12 As I have explained, I have never been aware of a
13 legislature passing a bill that said "Let's just penalize
14 the people that pay the property taxes in our community,
15 that hire the people in our community, and that
16 participate in the community, and we'll let all the
17 people that are out-of-state off the hook on it and give
18 them a supreme advantage in their marketing."

19 I think that we have an opportunity this year to fix
20 this loophole and it should end or at least greatly
21 reduce the number of States to have an excuse to come
22 knocking on the Federal door, where we have less money
23 than some of the States, and asking for money, and it
24 will solve some of their problems. In some States, it
25 will allow to even reduce the tax that they have.

1 So I appreciate those that are cosponsoring with me,
2 and I will withdraw the amendment.

3 The Chairman. Thank you, Senator. I appreciate
4 your raising this subject and withdrawing the amendment.
5 Thank you.

6 I wonder, Senator Cantwell, if you might be willing
7 to offer you low income housing amendment.

8 Senator Cantwell. Thank you, Mr. Chairman. I want
9 to thank Senator Snowe for helping to offer the Cantwell-
10 Snowe Amendment No. 2, which is an amendment that would
11 provide some certainty to property developers by ensuring
12 that the current fixed 9 percent rate can still be used
13 until this program expires in 2013.

14 This is an important amendment that we believe
15 should be incorporated into this Family and Business Tax
16 Certainty Act of 2012, because we are talking about
17 certainty of the tax code as it relates to extensions, so
18 that we can continue to focus on job creation.

19 Our amendment would adjust the current requirement
20 that low income housing projects be completed or placed
21 in service by the end of 2013. This would allow needed
22 time for the projects to secure the necessary financing
23 from start to construction.

24 By the way, most people say that this is something
25 that is -- these projects are anywhere from 12 to 18

1 months, and that is not even including the financing
2 aspect of the projects.

3 So this tax credit is a policy tool that we think
4 effectively promotes job creation and affordable places
5 for millions of Americans. Since it has been enacted,
6 the credit has led to the development of more than 2.4
7 million affordable housing units.

8 It is a very smart investment and we think that
9 while we are considering this legislation, that this is
10 really timely and appropriate if we want to see continued
11 housing creation in 2013.

12 The Chairman. Is there further discussion?

13 Senator Snowe?

14 Senator Snowe. Thank you. And let me thank
15 Senator Cantwell for offering this amendment, because I
16 think it is so critical with respect to a low income
17 housing tax credit.

18 It certainly allows the Federal Government to
19 provide funds to the construction of new rental housing,
20 to the acquisition, rehabilitation in existing rental
21 housing for low income households, and is the largest
22 Federal initiative to stimulate the production of
23 affordable rental housing nationwide. And it would set
24 the minimum credit at 9 percent for new construction, 4
25 percent for rehabilitation of low income housing built

1 through 2013.

2 This is one that allows the taxpayers who claim the
3 credit, who are typically the investors in real estate
4 development projects that have traded their cash for a
5 tax credit to support the production of affordable
6 housing, which, obviously, is desperately needed. And
7 the cut is intended to lower the financing costs of
8 housing developments so that rental prices of units can
9 also be lower than market rates, making them more
10 affordable.

11 So far, thanks to this program, over 1.7 million
12 units for low income families and seniors have been
13 constructed and preserved since 1987.

14 When this provision was originally enacted in 2008
15 for a 5-year period, the Joint Tax Committee estimated
16 10-year costs of \$7 million. The reason it cost so
17 little is that these tax credits are almost fully
18 allocated by every State. Additionally, these credits
19 are provided over a 10-year period and determined based
20 on the prevailing market interest rate at the time the
21 project is completed.

22 So I would urge the committee to continue to support
23 this approach. It is truly important to providing more
24 affordable units. I know how much they are needed in my
25 State and across this country.

1 The competition for them continues to rise. In
2 fact, a study conducted by the Joint Center for Housing
3 Studies of Harvard University reported in 2001, 8.1
4 million low income renters competed for 5.7 million
5 affordable units, leaving a gap of 2.4 million units. By
6 2010, the gap more than doubled to 5.1 million units.
7 That is, I think, an indication of the demand that is
8 needed for affordable housing throughout this country.

9 So it has been a very effective tax credit and,
10 certainly, investment. It is worthwhile to those who
11 could not afford otherwise to have this type of housing.

12 Thank you, Mr. Chairman.

13 I want to thank, again, the Senator from Washington
14 for her leadership in this very critical matter.

15 The Chairman. Further discussion?

16 Senator Coburn. Mr. Chairman, could we have staff
17 tell us what their estimate of the cost of this is?

18 The Chairman. Mr. Barthold?

19 Mr. Barthold. Mr. Chairman, we have estimated the
20 budget effect to be a revenue loss of \$8 million over the
21 10-year budget period.

22 Senator Coburn. Thank you.

23 The Chairman. Sorry. Is that an M or a B?

24 Mr. Barthold. That was M.

25 The Chairman. M. Thank you.

1 All those in favor of the amendment by Senator
2 Cantwell, say aye?

3 [A Chorus of Ayes.]

4 The Chairman. Those opposed, no?

5 [A Chorus of Nays.]

6 The Chairman. The ayes have it. The amendment is
7 agreed to.

8 Next, Senator Coburn, do you have another amendment?

9 Senator Coburn. I do. Mr. Chairman, this is an
10 amendment that would decrease the value of the wind
11 energy production tax credit. And I understand that we
12 are going to approach all this probably at a later time.
13 But let me give you some financial numbers right now.

14 The Chairman. For reference, is this your No. 37?

15 Senator Coburn. Yes, it is.

16 The Chairman. Thank you.

17 Senator Coburn. This would eliminate the value
18 just for 1 year, the value of the credit. The credit
19 began in 1992 with 1.5 cents per kilowatt hour and is
20 annually adjusted for inflation.

21 By 2005, 2.1 billion, 23 percent of the energy tax
22 expenditures, were associated with the production tax
23 credit, which is largely claimed by the very large wind
24 projects. Seventy-five percent of that funding is
25 expected to go toward wind projects.

1 A 2006 analysis described the true value of the
2 production tax credit, and the numbers are pretty
3 astonishing. I am not fighting the idea that we have to
4 have a production tax credit, but over the period of
5 years, it is going to have to decline.

6 But if you take a 1.5 million/1 megawatt capacity
7 and if you knew the numbers on the investment,
8 discounting it, what you get is about a 45 percent return
9 of the original investment.

10 So not only is alternative energy contributing to
11 what we are doing, which I think is great, but the
12 question is the rate at which we are making this
13 beneficial is fairly high.

14 The other point I would make is I know we cannot
15 tell people who have got plans going now or have made
16 plans recently all of a sudden, everything is going to go
17 away, and the purpose of this amendment is to take a
18 small portion of that and decrease it. And, again, it is
19 just on the value of what we are doing with the adjusted
20 mark that the chairman has laid.

21 Wind power accounted for 26 percent of all new U.S.
22 electric capacity in 2010, with 15 percent growth in the
23 same year. There were over 400 wind-related
24 manufacturing facilities in the U.S. in 2010, with 38
25 States operating utility scale facilities. My State

1 happens to be one of those.

2 So, again, looking at \$16 trillion worth of debt,
3 looking at a \$1.3 trillion deficit this year, this is a
4 small maneuver in the value. It does not take it all the
5 way, recognizing that some needs to be there, but it does
6 adjust it and does give us some savings.

7 The Chairman. Senator Bingaman?

8 Senator Bingaman. Mr. Chairman, let me just say I
9 would oppose the amendment, as I understand it, and do so
10 primarily on the basis that Senator Thune had earlier
11 proposed his amendment on comprehensive tax reform, which
12 I thought was appropriate. We adopted that. And it
13 calls for, as part of that comprehensive tax reform, a
14 statement by the committee that we would look to phase
15 out, where possible, in a manner that allows technologies
16 to function without a reliance on Federal subsidies.

17 Frankly, that is a good thing for this committee to
18 be doing and when comprehensive reform occurs, but we are
19 not sufficiently informed right now, I do not believe, to
20 be making those judgments on one particular energy tax
21 credit.

22 As to this particular energy tax credit, we think
23 there ought to be a reduction of X percent. I do not
24 think we know how to calibrate that at this point, and I
25 think that to do so with just a particular tax credit,

1 leaving all the rest unaffected, I think, is not
2 justified.

3 So I would oppose the amendment on that basis.

4 The Chairman. Senator Enzi, before I recognize
5 you, let me just point out that it looks like we might
6 have a 1:50 p.m. vote, and it would sure be good if we
7 could wrap this up by that vote.

8 Senator Enzi?

9 Senator Enzi. I will keep my comments brief. But
10 there has been a huge change in wind energy, and that is
11 the fact that it has to be supplemented with natural gas
12 so that there is some production when the wind is not
13 blowing.

14 I think that the wind developers have suggested that
15 they can live with this reduced production tax credit
16 because the price of natural gas has gone from \$9.50 an
17 MCF down to \$2.20. I know that that is causing huge
18 financial problems in my State, because we get a royalty
19 off the natural gas. And when it plunged that much, it
20 is causing an 8 percent reduction in budgets for the
21 State, which is something we have never experienced at
22 the Federal level. I call it reconciling the income with
23 the revenues.

24 But at any rate, they are getting -- in comparison
25 to, say, solar, they are getting a reduction because of

1 the reduction in the support gas that they have to use.

2 So I think this would be a worthwhile amendment.

3 The Chairman. All those in favor of the amendment,
4 signify by saying aye?

5 [A Chorus of Ayes.]

6 Senator Coburn. Mr. Chairman, I would like a
7 recorded vote.

8 The Chairman. A recorded vote has been requested.
9 The Clerk will call the roll.

10 The Clerk. Mr. Rockefeller?

11 The Chairman. No by proxy.

12 The Clerk. Mr. Conrad?

13 The Chairman. No by proxy.

14 The Clerk. Mr. Bingaman?

15 Senator Bingaman. No.

16 The Clerk. Mr. Kerry?

17 The Chairman. No by proxy.

18 The Clerk. Mr. Wyden?

19 The Chairman. No by proxy.

20 The Clerk. Mr. Schumer?

21 The Chairman. No by proxy.

22 The Clerk. Ms. Stabenow?

23 The Chairman. No by proxy.

24 The Clerk. Ms. Cantwell?

25 Senator Cantwell. No.

1 The Clerk. Mr. Nelson?
2 The Chairman. No by proxy.
3 The Clerk. Mr. Menendez?
4 Senator Menendez. No.
5 The Clerk. Mr. Carper?
6 The Chairman. No by proxy.
7 The Clerk. Mr. Cardin?
8 The Chairman. No by proxy.
9 The Clerk. Mr. Hatch?
10 Senator Hatch. Aye.
11 The Clerk. Mr. Grassley?
12 Senator Grassley. No.
13 The Clerk. Ms. Snowe?
14 Senator Snowe. Aye.
15 The Clerk. Mr. Kyl?
16 Senator Hatch. Aye by proxy.
17 The Clerk. Mr. Crapo?
18 Senator Hatch. Aye by proxy.
19 The Clerk. Mr. Roberts?
20 Senator Hatch. No by proxy.
21 The Clerk. Mr. Enzi?
22 Senator Enzi. Aye.
23 The Clerk. Mr. Cornyn?
24 Senator Hatch. Aye by proxy.
25 The Clerk. Mr. Coburn?

1 Senator Coburn. Aye.

2 The Clerk. Mr. Thune?

3 Senator Thune. Aye.

4 The Clerk. Mr. Burr?

5 Senator Burr. Aye.

6 The Clerk. Mr. Chairman?

7 The Chairman. No.

8 The Clerk will tally the vote.

9 The Clerk. Mr. Chairman, the final tally is 9
10 ayes, 15 nays.

11 The Chairman. The amendment is not agreed to.

12 Next, I would like to recognize Senator Menendez.

13 Senator Menendez. Thank you, Mr. Chairman.

14 Mr. Chairman, I would like to speak briefly about my
15 amendment, which I think is listed on your order here as
16 No. 22.

17 The Chairman. Correct.

18 Senator Menendez. It is an amendment that, in
19 essence, seeks to do what we originally intended, which
20 is to support the essential government operations in the
21 United States Virgin Islands and Puerto Rico.

22 Today, there is an excise tax that is imposed on
23 distilled spirits produced in or imported into the United
24 States, and this includes rum produced in Puerto Rico or
25 the Virgin Islands and shipped to the United States. The

1 production of rum is clearly a major industry in both
2 territories.

3 I think as some members of the committee may know,
4 there was a deal that was struck with a company named
5 Diageo with the U.S. Virgin Islands that has now
6 mushroomed to where, within a couple of years, more than
7 40 percent of the entire program and 40 percent of the
8 entire money will be going to the rum company to do what
9 they are already doing in Puerto Rico and the U.S. Virgin
10 Islands; that is, produce rum.

11 Incredibly, the U.S. Virgin Islands will pay Diageo
12 with Federal money around \$2 million per year per job
13 created. Talk about transfer of payments -- \$2 million
14 per year per job created.

15 So it seems to me, Mr. Chairman, the status quo is
16 simply unacceptable, and it is happening on our watch and
17 we have to find a solution to this issue to make the
18 cover of a program work for the people of the
19 territories, which it was intended to do.

20 I know that Senator Bingaman is the chairman of the
21 Jurisdictional Committee on the Territories and might
22 have a few words to say.

23 The Chairman. Senator Bingaman?

24 Senator Bingaman. Thank you, Mr. Chairman.

25 Let me just compliment Senator Menendez for the

1 amendment. I agree that the status quo is not
2 acceptable. These deals, like the one he described, are
3 siphoning off revenues that are needed by these
4 territories to fund public services, and they set a
5 terrible precedent that I think we need to deal with.

6 So I am persuaded that whatever funds the Federal
7 taxpayers are providing are actually used -- need to be
8 used to help the people in these territories. I think
9 that is good policy for Puerto Rico, that is good policy
10 for the U.S. Virgin Islands.

11 I hope that at some stage -- I gather that this is
12 not going to be included as part of this package of
13 extenders. But at some stage, I hope very much, Mr.
14 Chairman, that we can move this legislation through. I
15 think is very good government, and I, again, commend
16 Senator Menendez for his initiative on this.

17 The Chairman. Thank you, Senators. I appreciate
18 your efforts. This is, obviously, a problem. It has got
19 to be resolved. And we have got to find something to
20 reform the program. And I do pledge to work with you,
21 Senator Menendez, to find a solution.

22 I want to assure my colleagues, though, determine
23 the best approach, how to strike that right balance.
24 This issue has arisen for a while now, and I would just
25 like to resolve it at the first appropriate date. We

1 cannot do it now, but certainly hope to very soon.

2 Senator Menendez. Well, Mr. Chairman, I want to
3 thank you for your sharing our concerns and hopefully
4 helping us move forward here. And I appreciate Senator
5 Bingaman's leadership on this. We have worked with him
6 on this, as well.

7 I would just close simply by saying some of us are
8 not going to cease in pursuing this. We are talking
9 about billions of dollars that were meant for the
10 residents of the territories, that, in essence, have a
11 transfer of payments going to a private sector entity in
12 which you pay \$2 million per job per year. That is just
13 pretty outrageous.

14 I am sure if I go to the floor and start doing a
15 series of speeches on this, that we will have the
16 Nation's attention in terms of the cost to them as
17 taxpayers.

18 So I look forward to working in a reasonable way to
19 find the right balance here. And I appreciate the
20 chairman's commitment to help us work in that direction.
21 And, therefore, I will not offer the amendment today.

22 The Chairman. Thank you, Senator.

23 Next, Senator Snowe?

24 Senator Snowe. Thank you, Mr. Chairman.

25 The Chairman. Is this 34 or 35?

1 Senator Snowe. One.

2 The Chairman. Snowe 32.

3 Senator Snowe. Yes. Snowe 32.

4 The Chairman. Thank you, Mr. Chairman. And I am
5 not going to call for a vote. And I just wanted to bring
6 it up for a matter of discussion, because I know in the
7 underlying amendment, the Chairman's mark includes an
8 extension of the 25(c) tax credit at the reduced levels;
9 tax credit providing 10 percent of the cost up to \$500.

10 I just have been very pleased to work with Senator
11 Bingaman, who is one of the leaders in this country in
12 energy efficiency. And this legislation is based upon
13 the Cut Energy Bills at Home Act and has the potential
14 really to be transformative.

15 I hope as we are going forward with this tax
16 extenders package, that perhaps we could modify the
17 underlying provisions to go in more of a performance-
18 based initiative that has been incorporated in this
19 amendment, Mr. Chairman.

20 The policy that I have developed, along with Senator
21 Bingaman, is the idea of making it technology neutral;
22 that any improvement on existing primary residences that
23 increases the efficiency of the home, for example, the
24 full 20 percent would be provided or 30 percent tax
25 credit up to \$2,000. The cap would actually be up to

1 \$5,000 for tax credits, achieving up to 30 percent of tax
2 credit of the overall cost.

3 But the idea is to have technology that is actually
4 proven to enhance energy efficiency, to reduce energy
5 consumption, rather than just simply cost of the
6 individual products.

7 So in this instance, what we would have is that
8 policy would continue to drive innovation and it would be
9 much more flexible and desirable, because as innovations
10 develop in the energy efficiency fields, then this
11 approach would adapt to that, because it would have to
12 prove, one, that they can reduce energy costs; two, they
13 would have to do an energy audit to demonstrate that they
14 are eligible for the potential tax credit; three, it
15 drives the underlying market for domestic manufacturers
16 as they innovate in these various areas of energy
17 efficiency. Their products can be included in this
18 approach without having to identify specific products
19 within the legislation or making sure that those products
20 actually do achieve energy consumption reductions, which
21 is, obviously, the overall goal of this approach.

22 So, hopefully, as we are going forward with this
23 legislation, rather than just providing a simple
24 extension of the residential energy efficiency property,
25 that we could change the underlying provision, Mr.

1 Chairman, to incorporate much more technology neutral,
2 proven and demonstrable results by making sure that the
3 products that they actually incorporate or the approaches
4 they actually incorporate in their residences actually
5 achieve the energy consumption reductions and prove
6 overall energy efficiency. And it would have to be
7 proven. They would have to demonstrate through an energy
8 audit that it actually reduced energy consumption.

9 I had the support of more than 700 businesses
10 represented by different organizations across this
11 country who are very supportive of this approach, because
12 they think that it would do more to support domestic
13 manufacturers in small businesses, because it is another
14 way of incentivizing innovation in new technology,
15 because it is not technology-specific and it is not just
16 based on the cost of the products, but, rather, proven
17 and demonstrated results.

18 For example, we received a letter on behalf of the
19 A.O. Smith Corporation in support of this approach. And
20 as they were saying, domestic manufacturers would be
21 creating jobs here at home; that United States tax policy
22 should not promote or support an unlevel playing field
23 that is detrimental to domestic manufacturers.

24 So the way it is designed now, this tax credit
25 favors foreign manufacturers. They give the example of

1 foreign water heater manufacturers, and the fact is that
2 they are eligible for this tax credit. Their products
3 are eligible for this tax credit.

4 So I think that we could create a more level playing
5 field and, also, create more jobs here at home, but, more
6 importantly, that will be an efficient and effective
7 approach to reduce energy consumption.

8 Mr. Chairman, I just would hope that as this
9 legislation, once it is reported to the floor, if we can
10 work to modify the existing provision that is included in
11 the legislation I think really would go a long ways to
12 achieving the kind of energy efficiency that we should be
13 encouraging and be far more effective in achieving the
14 kind of results -- both from a manufacturing standpoint,
15 but, also, for achieving energy efficiency.

16 The Chairman. Thank you, Senator.

17 As usual, the Senator from Maine brings very
18 thoughtful, intelligent improvements to the legislation.
19 I very much agree with you, Senator. This provision has
20 to be modified. And Senator Bingaman, too, both of you
21 working together to bring more reason to the energy
22 efficiency credit here.

23 You make very good points and the two of you
24 discussing these points now I think will encourage many
25 of us to work with you to try to find a way to make these

1 changes, because they are clearly necessary. It is a
2 little premature at this point.

3 In fact, there are a lot of great points raised
4 during this markup that are now out in the open. It is
5 going to help us as we move forward to do our business
6 even better.

7 Thanks.

8 Senator Snowe. Thank you.

9 The Chairman. Thank you. And I will work with
10 you.

11 Senator Snowe. Thank you.

12 The Chairman. Senator Roberts?

13 Senator Roberts. Mr. Chairman, I am not going to
14 keep you long. Here is another amendment that I would
15 put in that category.

16 It is an amendment that is important to folks in
17 farm country, as well, for national security. It
18 actually came out of the Intelligence Committee some
19 years ago.

20 My amendment would simply extend the agriculture 230
21 tax credit, which will expire at the end of this year,
22 through 2013. This important tax credit helps eligible
23 agriculture businesses secure facilities where
24 agriculture pesticides and fertilizers are kept.

25 Agriculture pesticides and fertilizers, while

1 important to farmers and agriculture business, can also
2 be used, as we all know, for illegal purposes, including
3 the manufacture of explosives and meth.

4 This dual use makes sites where agriculture chemical
5 is stored potential targets for terrorists and drug
6 dealers. We should continue to encourage agriculture
7 businesses to take proactive steps to secure these
8 chemicals against those who commit acts of terror and
9 those who would use them to manufacture illegal drugs.

10 Businesses are eligible for a 30 percent tax credit
11 up to \$100,000 year per facility, with a maximum of \$2
12 million per year per company. This tax credit helps
13 businesses safeguard our national security, while
14 managing the current high cost of agriculture production
15 by providing incentives to improve agricultural chemical
16 security.

17 This extension is a fiscally responsible proposal
18 that enables agriculture businesses to continue to make
19 the necessary security investments to better protect
20 these facilities.

21 I hope to work with you, Mr. Chairman -- I know you
22 share my concern in this regard -- to make this happen.
23 I know that at this particular time, that is not
24 possible, but I would love to work with you in regard to
25 that amendment.

1 I also want to thank my good friend, Senator
2 Stabenow, who is not here right now, but for talking
3 about the bonus depreciation issue. It is no secret that
4 our Nation's manufacturers have been struggling over the
5 past 5 years, which is why the inclusion of provisions
6 like the 100 percent bonus depreciation and increasing
7 the amount of the AMT credits that corporate taxpayers
8 may elect to accelerate in the taxable year in lieu of
9 claiming bonus depreciation are so important.

10 Bonus depreciation encourages purchases of assets in
11 years where businesses otherwise would have deferred
12 capital investments. Its positive effect on
13 manufacturing has been undeniable.

14 Unfortunately, under the current economic climate,
15 many companies operating at a loss have now been able to
16 take advantage of bonus depreciation, therefore, allowing
17 businesses to utilize more of their unused corporate AMT
18 credits for capital reinvestment is just as important to
19 help stimulate our struggling economy.

20 So thank you, again, for the opportunity to speak in
21 support of this common sense amendment. I look forward
22 to working with Senator Stabenow and yourself with regard
23 to this provision during the full consideration of tax
24 policy later this year.

25 Thank you.

1 The Chairman. Thank you, Senator. And we will
2 work with you.

3 Senator Schumer?

4 Senator Schumer. Thank you, Mr. Chairman.

5 This is an amendment on behalf of Senator Enzi and
6 myself, and we are not going to offer it. It is called
7 the startup innovation tax credit. It is a brand new
8 proposal, spearheaded really by my colleague, Senator
9 Coons of Delaware, and Senator Enzi, and cosponsored by
10 Senators Rubio and myself.

11 So it is very bipartisan and I think it is one of
12 the best legislative proposals put on the table in a long
13 time for startup companies. We did the START Act a while
14 ago to help startups.

15 Let me explain this one. Early investment in
16 research and development is vital to helping a startup
17 get off the ground and running. And the R&D tax credit
18 is a great thing, but it does not help new companies,
19 because they do not have tax income. They do not have
20 income to lay off the tax against.

21 The proposal would ensure that startups can take
22 advantage of the credit by making it creditable against
23 payroll taxes paid, because they all pay payroll taxes,
24 even though they do not have income yet.

25 A business professor up at Syracuse University

1 recently told us that the proposal makes a lot of sense
2 and will empower startups like never before.

3 So I am excited about the work of Senator Coons and
4 Senator Enzi and Senator Rubio, and I hope that we can
5 make this become a reality at some point in time.

6 Senator Enzi. Mr. Chairman, I would just like to
7 add, the R&D tax credit that we give out now primarily
8 only benefits those who have more than \$1 billion in
9 sales, and we are talking about the companies that are
10 startup, that are doing a lot of R&D, but do not have any
11 taxes to take it off of. And this would provide them an
12 opportunity to -- some incentive to continue and to be
13 able to possibly develop to the point where they have a
14 product.

15 The Chairman. Thank you, Senators.

16 I appreciate the desire to start up startups, but
17 this is a bit novel, that is, to debit a credit. I know
18 you are not, but just crediting payroll tax, it just
19 raises lots of issues.

20 Senator Enzi. Next time, it will not be quite as
21 novel, though.

22 The Chairman. But it may be as difficult.

23 Senator Enzi. Yes.

24 The Chairman. Senator Enzi, I think you had
25 another one.

1 Senator Enzi. Yes, I do. And, again, I am going
2 to withdraw this one, but --

3 The Chairman. Senator, I might say, before you
4 proceed, the Majority Leader has indicated he will keep
5 the vote open. So I urge us to get our work done. We
6 are almost to the end here. And even though the upcoming
7 vote starts soon, maybe it just started, actually, the
8 Leader will keep it open. So we can keep doing our work
9 and then go to the floor and vote.

10 Senator Enzi. Yes. As Senator Wyden said earlier,
11 we need to be interested in all of the energy sources.
12 And there was also earlier mention about black diesel
13 carbon; of course, the coal that is converted to diesel
14 that does not have sulfur in it helps to eliminate that
15 problem.

16 But my amendment would provide an investment tax
17 credit for companies who build a super-critical clean
18 coal facility, and that would produce modern, highly
19 efficient generating fleet at an energy cost of a nearly
20 30-year-old existing coal facility.

21 If we are going to have a tax code that incentivizes
22 energy, we should find a way to make clean coal a part of
23 that. I realize that this is not a traditional extender,
24 so it would not fit in this package, but I want everybody
25 to be thinking about that.

1 The Chairman. Thank you, Senator. I appreciate
2 that.

3 On my list, there are no other amendments. We have
4 yet to hear, though, from Senator Coburn. Senator Coburn
5 may have additional amendments, but there are no other
6 amendments on my list. I am unaware of any Senators who
7 wish to offer any amendments on this bill.

8 So we will wait to see, for a reasonable period of
9 time, for Senator Coburn.

10 Senator Bingaman. Mr. Chairman?

11 The Chairman. Senator Bingaman?

12 Senator Bingaman. I would just point out that
13 while we are waiting, we are missing this pulled pork,
14 beef brisket, baby-back pork ribs, baked beans, coleslaw,
15 rolls, macaroni-and-cheese, and pecan pie that our good
16 friend, Johnny Isakson, is providing to all Senators over
17 in the caucus room.

18 The Chairman. That would be good incentive to wrap
19 up. Sounds good to me.

20 [Laughter.]

21 Senator Snowe. Mr. Chairman?

22 The Chairman. Senator Snowe?

23 Senator Snowe. Yes. I had another amendment that,
24 obviously, I am not going to offer here today. And I
25 know it is one that had been discussed in an attempt to

1 incorporate it into the overall legislation. But it was
2 regarding allowing self-employed small business owners to
3 deduct the cost of health insurance.

4 There had been a provision in the Small Business
5 Jobs Recovery Act for 1 year, in 2010, that really helped
6 to alleviate the costs for the self-employed. The NMTE
7 is about \$39 billion in the U.S. economy every year and
8 allowing increased employment to allow this reduction of
9 the cost of health insurance for themselves and their
10 family members really is crucial.

11 I hope that going forward, somehow we can work
12 through this issue, because the problem is going to
13 become even more pronounced for the self-employed in
14 terms of the cost of overall health insurance, and, also,
15 the enormous inequity that exists that the self-employed
16 cannot deduct it as other small business owners can.

17 So I would hope to work with you in the future on
18 this question so that they can be included in the overall
19 cost of doing business as self-employed.

20 The Chairman. You make a good point, Senator, a
21 very good point and we want to work with you down the
22 road.

23 Senator Snowe. Thank you.

24 Senator Cardin. Mr. Chairman?

25 The Chairman. Senator Cardin?

1 Senator Cardin. I know that Senator Enzi had filed
2 an amendment, I coauthored it with him, on marketplace
3 fairness. It, obviously, would not be in the scope of
4 the bill we have before us, but I did not want this to go
5 by without using the opportunity to speak about it, to
6 point out the urgency of being neutral as to where a sale
7 takes place for the collection of our taxes.

8 I know in Maryland, we lose an estimated \$376
9 million a year as a result of the failure to be able to
10 collect taxes on Internet sales. And I hope that as we
11 get into tax reform, that we will have an opportunity to
12 make sure that we are neutral as to sites of sale and do
13 not disadvantage our States from the collection of their
14 sales and use taxes.

15 The Chairman. Thank you, Senator.

16 Senator Bingaman. Mr. Chairman, are you expecting
17 to get a quorum back here before we vote?

18 The Chairman. I certainly am.

19 Senator Hatch. Senator Coburn is on his way.

20 The Chairman. Well, there are two parts. One, I
21 understand, is that Senator Coburn is on his way; but,
22 number two, I do expect to have a quorum. I am informed
23 that there will be a sufficient number of Senators.

24 Senator Bingaman. I am just wondering if we should
25 go vote and come back before the --

1 The Chairman. Oh, no. No.

2 [Laughter.]

3 Senator Bingaman. I think several members stood up
4 after I read off the list of what is being served and
5 walked out. So I just thought I would mention that.

6 The Chairman. That is our reward.

7 [Laughter.]

8 The Chairman. While we are waiting for Senator
9 Coburn, I, again, thank all our members for working so
10 hard to get to the point where it looks like we are going
11 to pass this bill. It is a good first step. It is the
12 preliminaries. It is all that has been said about this.

13 Senator Coburn, do you have an amendment?

14 Senator Coburn. Yes, sir. It is my Amendment No.
15 43.

16 The Chairman. Forty-three.

17 Senator Coburn. As many of you know, we developed
18 the usaspending.gov, and many of the things that we do in
19 here in terms of credits are actually spending. And so
20 this is an amendment that would require, not individual,
21 but corporate listing under the tax spending in
22 spending.gov so the American taxpayer -- they can see
23 everywhere else we are spending, but they cannot see
24 where we are spending on credit.

25 So there are no individuals included in this. This

1 is companies only, so that the American people can
2 actually see every area where we are spending money.

3 It is very straightforward and it is very simple.
4 It just says if we are granting money through the tax
5 code in this bill, what we would do is require that that
6 money that went to corporate benefit be included in
7 usaspending.gov.

8 The Chairman. Discussion?

9 Go ahead, Senator.

10 Senator Bingaman. Mr. Chairman, let me just ask
11 Senator Coburn. Is it your intent that this would apply
12 to accelerated depreciation?

13 Senator Coburn. It is my intent that this would
14 apply to anything in this bill.

15 Senator Bingaman. So every corporation that takes
16 advantage of accelerated depreciation --

17 Senator Coburn. No. That is not spending. A tax
18 credit, where we actually spend money by the credit, by
19 either issuing a credit against taxes or send a credit
20 out.

21 Senator Bingaman. But there are lots of ways
22 through the tax code that we provide a tax benefit.

23 Senator Coburn. I did not say tax benefit. I said
24 tax credit.

25 Senator Bingaman. I am just wondering why we would

1 list the tax credits and not the other tax benefits that
2 corporations are receiving as part of this.

3 Senator Coburn. Well, ideally, we would do that,
4 but that would be a very difficult thing to do. This is
5 not difficult and the more transparent, the better.

6 If I could every dollar that the government sent out
7 available to the American citizens to know where it was
8 going, I think that would be idea. I cannot do that.
9 But in this bill, we are talking mainly about tax
10 credits.

11 So the idea is add that to it, because it is a tax
12 expenditure.

13 The Chairman. I would like to ask Treasury the
14 Treasury view on this amendment, one point of view on
15 administration. How easily can this be administrated?
16 And I would guess that the credits that might be dealt
17 with here are not only corporate, C-corp credits, but,
18 also, pass-through credits, without ever getting to the
19 question of starting to encroach upon the pretty strong
20 principle in this country that taxpayer information is
21 private.

22 But I am asking the question more about how well
23 Treasury, IRS, could administer this provision.

24 Ms. McMahon. Well, Mr. Chairman, I think we,
25 obviously, do not have an official view on this

1 amendment.

2 The Chairman. I am not asking that question. I am
3 asking about the administrability of this.

4 Ms. McMahon. I suspect that you are correct that
5 it would be somewhat difficult to administer given the
6 fact that a number of the credits then that would be
7 subject to this provision --

8 The Chairman. Would you mind pulling the
9 microphone closer to you, please, ma'am?

10 Ms. McMahon. I suspect that you are correct that
11 it would be difficult to administer given that a number
12 of the credits that would be subject to this disclosure
13 will flow through business entities of a number of
14 different forms.

15 You are also correct to point out that this is
16 information that normally would be kept private under the
17 section 6103 privacy rules governing taxpayer
18 information.

19 Senator Cantwell. Mr. Chairman, can I follow-up?

20 Senator Coburn. Mr. Chairman, may I follow-up with
21 a question?

22 The Chairman. Senator Cantwell?

23 Senator Cantwell. On that point. So companies
24 that basically file for the R&D tax credit, which, to a
25 certain degree, I would assume is -- not every company

1 wants to tell every competitor what they are spending on
2 R&D. That would become public information; is that
3 right?

4 Ms. McMahon. That is my understanding, yes.

5 Senator Coburn. Mr. Chairman?

6 The Chairman. Senator Coburn?

7 Senator Coburn. Which begs the point. We have
8 spending in the tax code which should be, if we are going
9 to spend it, we ought to be spending on the
10 appropriations side of the ledger.

11 So we want transparency as long as it is
12 appropriated. But when it comes to the spending that w
13 do through the tax code, we are not so sure.

14 I would wonder. I would ask the representative from
15 Treasury if the Administration has a policy on
16 transparency. And if so, I think I know what it is. I
17 have had conversations with the coauthor of the
18 usaspending.gov bill, and I also have heard his
19 statements of late about the benefits of most of this
20 going to the very well to do and well connected in this
21 country, and why we would not want the American citizens
22 to know who that is, which goes back to the example on
23 appliances.

24 Senator Burr made a great example. It is not your
25 average American that is going to buy that high dollar

1 appliance. It is the well to do, well connected.

2 So we are giving tax credits of \$650 million to
3 subsidize the purchase of the well to do to buy a very
4 advanced piece of equipment.

5 So the whole point is, and this does not include
6 individuals, the whole point is transparency is hard.
7 But because something is hard is not an excuse not to do
8 it.

9 The Chairman. I might say, Senator, there is a
10 difference between appropriations and tax policy. Taxes
11 are paid by individuals and the credits will be available
12 to individuals or individual companies -- individuals.

13 I think Senator Cantwell makes a very interesting
14 point when she asked her question about divulging
15 information to competitors.

16 Appropriations, and this Senator knows this to be
17 the fact, because I think he is one of the strongest
18 advocates, have general applicability.

19 We are trying to get away from single shots,
20 earmarks. If every appropriation was an earmark, every
21 appropriation was an earmark, the Senator would have a
22 point. But appropriations are not earmarks. They are
23 not earmarks. And if they are earmarks, then there would
24 be certain privacy questions, there would be certain
25 administration questions.

1 But tax policy is not appropriation policy, because
2 individuals pay taxes, companies pay taxes. But with
3 respect to corporations, corporations have general
4 applicability. A certain broad number of dollars goes to
5 the Defense Department, for example, or a certain number
6 of dollars go to education.

7 There is a significant difference between
8 appropriations, with respect to transparency and the tax
9 policy with respect to transparency.

10 Senator Coburn. I understand there is a difference
11 of opinion, but we have a great example just in terms of
12 the electric motorcycle. Why should not the American
13 people know what company is going to get Senator Wyden's
14 electric motorcycle credit? Why should they not know
15 that?

16 If they can know where we are spending money
17 everywhere else, why should they not know that? There is
18 not a good reason not to be transparent. I would agree
19 that there is some difficulty. This could be refined.

20 But every public corporation has to report these tax
21 credits already. And the whole purpose for
22 usaspending.gov was to put it on a Website where
23 everybody can see where the money that is coming from the
24 Federal Government in terms of tax expenditures, credits,
25 will have an effect.

1 I do not expect to win the amendment and I will
2 limit the debate.

3 The Chairman. I would like to move along here,
4 unless Senators -- go ahead.

5 Senator Kerry?

6 Senator Kerry. I just wanted to ask you, Mr.
7 Chairman, what your plan is --

8 The Chairman. Keep moving along. We are going to
9 finish this bill.

10 Senator Kerry. And what about the vote on the
11 floor?

12 The Chairman. The vote will stay open until we
13 finish.

14 Senator Schumer. It will stay open until 2:30. So
15 we ought to finish before 2:30.

16 The Chairman. We have 25 minutes.

17 Senator Kerry. Can I just state one 60-second
18 statement to the Senator? I have enormous respect for
19 Senator Coburn's knowledge and tenacity with respect to
20 some of the spending issues, and I think a lot of us over
21 here would agree there are a lot of things that are
22 duplicative, a lot of things that are wasted, a lot of
23 things ought to be better known.

24 But I do think there are implications here with
25 respect to either proprietary information or

1 confidentiality that we ought to work through before we
2 pass it.

3 Now, I think this belongs in the discussion of the
4 larger scope of tax reform. And I would say to the
5 Senator, while I would oppose the amendment here today, I
6 think this is the kind of thing we ought to be dealing
7 with. And I applaud him for bringing it up and I hope we
8 will consider how we do that.

9 He is absolutely correct. People ought to know what
10 is happening --

11 The Chairman. Do you want a voice vote on this?

12 Senator Coburn. What I would like is a roll call
13 vote and then what I will do is one other amendment, and
14 I will be through.

15 Senator Wyden. Mr. Chairman, just on the
16 transparency issue, very quickly. I would like to put
17 into the record my prepared statement, which lists small
18 companies from all over the country that would benefit
19 from what we adopted in terms of a technology-neutral
20 policy on the vehicles.

21 The Chairman. You bet. Thank you, Senator.

22 [The statement appears in the appendix.]

23 The Chairman. The Senator requests a vote. The
24 Clerk will call the roll.

25 The Clerk. Mr. Rockefeller?

1 Senator Rockefeller. No.
2 The Clerk. Mr. Conrad?
3 The Chairman. No by proxy.
4 The Clerk. Mr. Bingaman?
5 The Chairman. Pass.
6 The Clerk. Mr. Kerry?
7 Senator Kerry. No, not now.
8 The Clerk. Mr. Wyden?
9 Senator Wyden. No.
10 The Clerk. Mr. Schumer?
11 Senator Schumer. I have the same vote as Mr.
12 Kerry.
13 The Clerk. Ms. Stabenow?
14 Senator Stabenow. No.
15 The Clerk. Ms. Cantwell?
16 Senator Cantwell. No.
17 The Clerk. Mr. Nelson?
18 The Chairman. No by proxy.
19 The Clerk. Mr. Menendez?
20 Senator Menendez. No.
21 The Clerk. Mr. Carper?
22 Senator Carper. Aye.
23 The Clerk. Mr. Cardin?
24 Senator Cardin. No.
25 The Clerk. Mr. Hatch?

1 Senator Hatch. Aye.
2 The Clerk. Mr. Grassley?
3 Senator Hatch. No by proxy.
4 The Clerk. Ms. Snowe?
5 Senator Snowe. Aye.
6 The Clerk. Mr. Kyl?
7 Senator Hatch. Aye by proxy.
8 The Clerk. Mr. Crapo?
9 Senator Crapo. Aye.
10 The Clerk. Mr. Roberts?
11 Senator Hatch. Aye by proxy.
12 The Clerk. Mr. Enzi?
13 Senator Hatch. No by proxy.
14 The Clerk. Mr. Cornyn?
15 Senator Cornyn. Aye.
16 The Clerk. Mr. Coburn?
17 Senator Coburn. Aye.
18 The Clerk. Mr. Thune?
19 Senator Thune. Aye.
20 The Clerk. Mr. Burr?
21 Senator Burr. Aye.
22 The Clerk. Mr. Chairman?
23 The Chairman. No.
24 The Clerk. Mr. Bingaman?
25 Senator Bingaman. No.

1 The Chairman. The Clerk will tally the vote. The
2 Clerk will announce the vote.

3 The Clerk. Mr. Chairman, the final tally is 10
4 ayes, 14 nays.

5 The Chairman. The amendment is not agreed to.

6 Senator Coburn. I have one final amendment, Mr.
7 Chairman.

8 This is an amendment that would prohibit any new
9 markets tax credit from being received by an individual
10 company also receiving a Federal grant or another Federal
11 tax benefit for the same purpose.

12 There is a lot about what we know about this.
13 Federal spending is wrought with duplication. IN the
14 last 2 years, GAO has released scathing reports exposing
15 duplication throughout the Federal Government, including
16 in the tax code.

17 These reports, which identified more than \$100
18 billion in savings by eliminating duplicative programs,
19 today's findings are a testament to failed congressional
20 efforts of oversight and a reminder Congress continues to
21 shirk its duty to address even blatant areas of waste and
22 mismanagement.

23 In many cases, this duplication results in multiple
24 Federal benefits being disbursed for a single project.
25 This is certainly the case with the new markets tax

1 credit, which many recipients combine with other sources
2 of Federal funding.

3 In a report released in February of 2012, the
4 Government Accountability Office identified 23 community
5 development tax expenditures available in fiscal year
6 2010. Five, or \$1.5 billion of it, was targeted to
7 economically distressed areas; and, nine, \$8.7 billion,
8 reported specific activity, such as rehabilitating
9 structures for business use.

10 Each of the tax expenditures overlap at least one
11 other tax expenditure.

12 In addition, in March 2011, GAO identified more than
13 80 similar programs funded through the Department of
14 Commerce, HUD, Agriculture, as well as the Small Business
15 Administration targeting economic development. These 80
16 programs, of which 28 are designed specifically to spur
17 growth in new markets, received a combined \$6.5 billion.

18 Along with the duplication of government programs
19 and tax expenditures, businesses have been able to
20 combine the new market tax credit with other sources of
21 government program funding for specific projects, such as
22 the historic preservation tax credit, the renewable
23 energy tax credits, the brown field economic development
24 grants, the Department of Transportation funding,
25 stimulus funding, earmarks, and HUD funding.

1 Several States had their own NMTC programs that can
2 be combined with the Federal new markets tax credits.

3 I have two examples. I will not go into them. But
4 one of them is in my hometown. I will go into that one,
5 since I can work on it.

6 The Scoggin Hotel, located in downtown Oklahoma
7 City, was awarded an NMTC for renovations in 2007. It
8 has been synonymous with elegance and it has a long
9 history. But in addition to the NMTC, the project
10 utilized Federal and State historic tax credits, a
11 section 108 loan, a Federal economic development grant, a
12 brown field loan, bond proceeds from two separate tax
13 increment financing districts.

14 So public financing for this one project contributed
15 over \$18 million to the total of \$55 million. So they
16 went to seven different programs to get money for it.

17 We do not know what we are doing, and we do not
18 eliminate. So the whole purpose of this would be to put
19 a limit on new markets tax credit. If you are getting it
20 somewhere else, you cannot get it here, on that specific
21 project.

22 The Chairman. Senator Menendez?

23 Senator Menendez. Mr. Chairman, in concept, I get
24 what Senator Coburn wants to do. But in reality, this is
25 a very different set of circumstances.

1 The reason that, for example, someone might take a
2 new market tax credit and a historic preservation credit
3 is because they have to meet different standards,
4 different obligations.

5 You just do not get a historic preservation credit
6 unless you are doing certain things to historically
7 preserve that site, which, if you were not seeking that
8 credit, it would be far less costly to you to ultimately
9 pursue the development of that site.

10 But to preserve the very essence of its historic
11 preservation, you are going to have to do certain things
12 that are far more costly. Hence, that has a societal
13 purpose which has a benefit.

14 So looking at all of these and saying, "Well, you're
15 just drawing from different pots to accomplish one goal"
16 does not look at the obligations that flow to meet the
17 criteria for those different initiatives that have what
18 the Congress has passed and said there is a desired
19 public policy here we want to achieve by creating that
20 credit. And you undermine the very essence of what the
21 new market tax credit can create as leverage, because
22 sometimes the projects in some areas of the country, I
23 would say probably very often when these are used, would
24 not be achieved in the private sector alone but for the
25 use of a combination of sources to make that project a

1 reality, create a new ratable base for those communities,
2 and, also, create the economic flow and job flow from it.

3 So I think this is not as benign as it would seem
4 and is consequential, and I certainly hope we would
5 oppose it.

6 The Chairman. Senator Cardin?

7 Senator Cardin. Mr. Chairman, I just want to
8 emphasize what Senator Menendez has said. And I
9 understand what Senator Coburn is trying to do achieve,
10 but in reality, to get major redevelopment projects
11 completed is a major task today.

12 I have several specific projects in Maryland that
13 did use multiple funding sources from the Federal
14 Government, and I am familiar with each of those. Let me
15 just talk about one in East Baltimore, 88 acres of
16 redevelopment in a part of Baltimore that is a very, very
17 difficult area to get businesses and residents and people
18 to come into the community.

19 It could not have been done but for the fact that
20 they could get partners, including the Federal
21 Government. The historic tax credit is different than
22 the new market tax credit, as Senator Menendez has said.
23 It is for a different purpose. When you combine it, you
24 can get some things accomplished.

25 The low income housing tax credit is different than

1 the new markets credit. If you have multiple use
2 projects that you are trying to develop, commercial and
3 residential, the financing does not add up unless you
4 have all these tools.

5 So if you do not allow the use of multiple different
6 federal tax credit programs for the same projects, what
7 you end up doing is having very narrowly focused efforts
8 for development that will not achieve the objectives that
9 we are trying to achieve on employment and economic
10 growth.

11 I can point to this particular 88 acres of
12 redevelopment that would not be taking place today if we
13 restricted it only to the new market credits. It could
14 not have been done.

15 What is going to happen and I think the unintended
16 consequence of Senator Coburn's amendment is that we will
17 go to the easier projects, but we will not get to the
18 real challenging redevelopments that we need for our
19 communities.

20 So I would urge us to reject the amendment.

21 The Chairman. Senator Hatch?

22 Senator Hatch. Mr. Chairman, I intend to support
23 Senator Coburn's amendment. There are many double-dip
24 provisions throughout the tax code, and I think it makes
25 sense here.

1 My understanding of the new markets credit, and I
2 may be wrong here, is that its purpose is to spur new and
3 increased investment into depressed census tracts and not
4 to spur new and increased Federal benefits or grants into
5 certain areas.

6 Now, I think this provision will strengthen the NMTC
7 program so that the program assists projects that need it
8 the most. I think the Senator is right on that. But I
9 intend to support it.

10 The Chairman. Further discussion?

11 Senator Rockefeller?

12 Senator Rockefeller. Mr. Chairman, I think Senator
13 Menendez and Senator Cardin were absolutely on target. I
14 hope that Senator Cantwell might speak, also.

15 I have been in government for 8 years and if you try
16 to do the really hard stuff, the building of
17 infrastructure, of housing, of whatever it might be, and
18 you go into southern West Virginia, you go to virtually
19 any part of southern West Virginia, you cannot put
20 anything together with a variety of funding sources.

21 In this case, the \$20 billion is backed up by --
22 leverages \$25 billion private capital. But that is not
23 the point.

24 The government is there for a variety of purposes.
25 It is not to be duplicative in a malicious way. It has a

1 purpose of achieving certain things which could otherwise
2 never happen in certain areas, and it is called a social
3 good.

4 I think the Senator's sense of propriety is offended
5 by this, and I understand that, but I think it is the
6 only way we get things done.

7 Thank you.

8 The Chairman. Senator Hatch?

9 Senator Hatch. I would just like to personally
10 thank Senator Coburn for the way he delves into these
11 issues and, I think, the intelligent way he presents
12 them.

13 Whether you agree with him or not, this man makes a
14 difference in the United States Senate, and I, for one,
15 respect him greatly for it, and I am happy he is on this
16 committee.

17 So that is all I want to say.

18 Senator Conrad. And I will speak to the other side
19 of that, Mr. Chairman.

20 [Laughter.]

21 The Chairman. Senator Conrad?

22 Senator Conrad. That was a joke.

23 [Laughter.]

24 Senator Coburn. I think I get to close this out.
25 Is that correct?

1 The Chairman. You certainly may.

2 Senator Coburn. Maybe you did not hear me. We
3 have got 80 programs that are doing the same thing. And
4 I am not against a greater social good. But one of the
5 questions you ought to ask is where is the authority in
6 the Constitution that you are doing it from?

7 We do not use it. We just do it because we think it
8 is a good thing to do. Let me give you some examples of
9 the new markets tax credits that have been done.

10 So we have had an ethanol company in Minnesota that
11 went bankrupt. That is a greater social good, I know it
12 is. I know Senator Grassley would agree with me.

13 A car museum in Tacoma, Washington; a 2-mile trolley
14 in St. Louis; a greenhouse to grow lettuce in downtown
15 Cleveland; owner of a speedway dirt track; performance
16 arts centers.

17 I am all for that, maybe those that cannot get done,
18 but most of them do get done without taking on some of
19 that. Workout facilities, film studios, art studios,
20 beauty salons, bowling alleys, bakeries, drive-in movie
21 theaters, dance studios, yacht manufacturers, day spas,
22 doggy day cares, fast food, Flores Funeral Home, nail and
23 hair salons, as well as Starbucks, Subway, and IHOP.

24 So I do not doubt that there are projects in
25 downtown Baltimore or in New Jersey that need our help.

1 We do not need 80 programs. We need to start limiting --
2 matter of fact, I would suggest that they are spending a
3 ton of money trying to figure out how to utilize all
4 those programs that could have gone into the project in
5 the first place.

6 And limiting one program -- we are not limiting all
7 the other 80. We are just limiting one program that says
8 you cannot go all the way, you cannot use all the rest of
9 them.

10 So I will close with that.

11 The Chairman. Senator Cantwell?

12 Senator Cantwell. I do not mean to prolong the
13 debate and I certainly recognize the Senator's right to
14 close debate. But since he mentioned several Northwest
15 companies or sites, I just feel obligated to say I
16 understand part of your objective.

17 But when I look at projects in my State, like Far
18 West Steel that used this in Vancouver, Washington, are
19 you saying that Far West Steel cannot benefit from the
20 new market tax credits and a TIGER grant?

21 Another organization in the State, Seattle
22 Children's Research Institute, the Northwest's largest
23 research facility for pediatric disease and illness, they
24 cannot use the new market tax credit and get any NIH
25 finding?

1 Probably the greatest example is Pike Place Market,
2 probably someplace that everybody here has been. If you
3 have been to Seattle, you have probably been to Pike
4 Place Market. They are about to finish a renovation that
5 was supported by the new market tax credit. Does that
6 mean they cannot get any support for market hubs out of
7 the farm bill?

8 Is that what we mean, you cannot get any support?
9 So I understand what you are trying to do, in general,
10 but I think that these projects do touch and interface
11 with other programs. And I think the way it is crafted
12 would certainly cause me great concern.

13 So I thank the chairman.

14 Senator Coburn. I would just close with this. We
15 are going to make these decisions, colleagues. We are
16 not making them now. They are going to be a whole lot
17 more painful when we make them.

18 I understand the resistance. I understand the want
19 to do good and help. This has no effect on an NIH grant.
20 The point is we are going to ultimately make these. So
21 kicking the can down the road, it just makes it harder
22 when we get ready to do it.

23 So I am fine. I am fine losing it. But hear my
24 warning. You are going to do this. You are going to do
25 things like this. You are going to eliminate half of

1 those 80 programs, because we are not going to be able to
2 borrow the money to continue to run them.

3 So it is going to happen and I understand and I know
4 I am kind of a voice crying in the wilderness. It is not
5 going to happen today. I am fine with it.

6 Thank you, Mr. Chairman. And I ask for the yeas and
7 nays.

8 Senator Kerry. Mr. Chairman, I do not think he is
9 a voice in the wilderness. I think the way it is drafted
10 does not satisfy everybody here that you are not going to
11 do harm at the same time.

12 There is no cornering of the market on virtue here
13 with respect to the desire not to have duplication. But
14 the mere fact that it is introduced does not suggest that
15 it is written as accurately or appropriately as possible.

16 So do not put us all in the position --

17 Senator Coburn. I would just remind you of the
18 votes that we have had on duplication and where the votes
19 have come to eliminate.

20 Senator Kerry. Senator, the context -- we have all
21 said 100 times, it is all well and good to sit here and
22 be proposing this and that, but it does not fit into a
23 context of really doing the tax reform and things we
24 ought to be doing.

25 A lot of us tried to do that over 6 months on the

1 super committee, and we could not do it because there was
2 a pledge around here that said we are not going to do
3 anything. And that is why we are not doing anything
4 mostly right now.

5 The Chairman. The Clerk will call the roll.

6 The Clerk. Mr. Rockefeller?

7 Senator Rockefeller. No.

8 The Clerk. Mr. Conrad?

9 Senator Conrad. No.

10 The Clerk. Mr. Bingaman?

11 Senator Bingaman. No.

12 The Clerk. Mr. Kerry?

13 Senator Kerry. No.

14 The Clerk. Mr. Wyden?

15 Senator Wyden. No.

16 The Clerk. Mr. Schumer?

17 Senator Schumer. No.

18 The Clerk. Ms. Stabenow?

19 Senator Stabenow. No.

20 The Clerk. Ms. Cantwell?

21 Senator Cantwell. No.

22 The Clerk. Mr. Nelson?

23 The Chairman. No by proxy.

24 The Clerk. Mr. Menendez?

25 Senator Menendez. No.

1 The Clerk. Mr. Carper?
2 Senator Carper. No.
3 The Clerk. Mr. Cardin?
4 Senator Cardin. No.
5 The Clerk. Mr. Hatch?
6 Senator Hatch. Aye.
7 The Clerk. Mr. Grassley?
8 Senator Hatch. Aye by proxy.
9 The Clerk. Ms. Snowe?
10 Senator Snowe. No.
11 The Clerk. Mr. Kyl?
12 Senator Hatch. Aye by proxy.
13 The Clerk. Mr. Crapo?
14 Senator Crapo. Aye.
15 The Clerk. Mr. Roberts?
16 Senator Hatch. Aye by proxy.
17 The Clerk. Mr. Enzi?
18 Senator Hatch. Aye by proxy.
19 The Clerk. Mr. Cornyn?
20 Senator Cornyn. Aye.
21 The Clerk. Mr. Coburn?
22 Senator Coburn. Aye.
23 The Clerk. Mr. Thune?
24 Senator Thune. Aye.
25 The Clerk. Mr. Burr?

1 Senator Burr. Aye.

2 The Clerk. Mr. Chairman?

3 The Chairman. No.

4 The Clerk will tally the vote.

5 The Clerk. Mr. Chairman, the final tally is 10
6 ayes, 14 nays.

7 The Chairman. The amendment is not agreed to.

8 I do not see any more amendments here. If there are
9 no further amendments, I would entertain a motion that
10 the committee impart the chairman's mark, as modified, on
11 the Family and Business Tax Cut Certainty Act.

12 Senator Hatch. So moved.

13 The Chairman. I would like a recorded vote on
14 this. Let us have a recorded vote. The Clerk will tally
15 the vote on reporting the bill.

16 The Clerk. Mr. Rockefeller?

17 Senator Rockefeller. Aye.

18 The Clerk. Mr. Conrad?

19 Senator Conrad. Aye.

20 The Clerk. Mr. Bingaman?

21 Senator Bingaman. Aye.

22 The Clerk. Mr. Kerry?

23 Senator Kerry. Aye.

24 The Clerk. Mr. Wyden?

25 Senator Wyden. Aye.

1 The Clerk. Mr. Schumer?
2 Senator Schumer. Aye.
3 The Clerk. Ms. Stabenow?
4 Senator Stabenow. Aye.
5 The Clerk. Ms. Cantwell?
6 Senator Cantwell. Aye.
7 The Clerk. Mr. Nelson?
8 The Chairman. Aye by proxy.
9 The Clerk. Mr. Menendez?
10 Senator Menendez. Aye.
11 The Clerk. Mr. Carper?
12 Senator Carper. Aye.
13 The Clerk. Mr. Cardin?
14 Senator Cardin. Aye.
15 The Clerk. Mr. Hatch?
16 Senator Hatch. Aye.
17 The Clerk. Mr. Grassley?
18 Senator Grassley. Aye.
19 The Clerk. Ms. Snowe?
20 Senator Snowe. Aye.
21 The Clerk. Mr. Kyl?
22 Senator Hatch. No by proxy.
23 The Clerk. Mr. Crapo?
24 Senator Crapo. Aye.
25 The Clerk. Mr. Roberts?

1 Senator Hatch. Aye by proxy.
2 The Clerk. Mr. Enzi?
3 Senator Hatch. No by proxy.
4 The Clerk. Mr. Cornyn?
5 Senator Cornyn. No.
6 The Clerk. Mr. Coburn?
7 Senator Coburn. No.
8 The Clerk. Mr. Thune?
9 Senator Thune. Aye.
10 The Clerk. Mr. Burr?
11 Senator Burr. No.
12 The Clerk. Mr. Chairman?
13 The Chairman. Aye.
14 The Clerk will announce the vote.
15 The Clerk. Mr. Chairman, the tally of the members
16 present is 17 ayes, 30 nays. The final tally, including
17 the proxies, is --
18 The Chairman. I would like Senators to stay. We
19 are not through yet. We are not through yet. WE are
20 about through, but we are not through yet. Let us wait
21 until we are through.
22 The Clerk will announce the vote.
23 The Clerk. The tally of members present is 17
24 ayes, 3 nays. The final tally, including proxies, is 19
25 ayes and 5 nays.

1 The Chairman. The bill is ordered reported.

2 I ask consent to grant the committee staff technical
3 information authority to conform the committee reported
4 bill to the chairman's mark, as amended and adopted.

5 I would like to thank everybody so much here. And I
6 want to make the point basically that Senator Coburn has
7 been making here.

8 Senator, you are not a voice in the wilderness. We
9 all here agree what needs to be done, and this bill is a
10 good first step. It is a good first step. I think we
11 have just eliminated about 20 provisions in the code.
12 That is a good start. We have got a long way to go.

13 But I want to thank all of our members here, and
14 you, too, Senator, for your help. I want to also
15 especially thank Senator Hatch. I am proud of what we
16 have done as a committee. Thank you.

17 The committee is adjourned.

18 [Whereupon, at 2:34 p.m., the hearing was
19 concluded.]

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25

I N D E X

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STATEMENT OF:

THE HONORABLE MAX BAUCUS
A United States Senator
from the State of Montana 2

THE HONORABLE ORRIN HATCH
A United States Senator
From the State of Utah 5