

1 EXECUTIVE BUSINESS MEETING TO CONSIDER THE ECONOMIC
2 STIMULUS ACT OF 2008; TO CONSIDER CHANGES TO THE RULES OF
3 PROCEDURE OF THE COMMITTEE ON FINANCE
4 THURSDAY, JANUARY 30, 2008
5 U.S. Senate,
6 Committee on Finance,
7 Washington, DC.

8 The meeting was convened, pursuant to notice, at
9 2:30 p.m., in room 215, Dirksen Senate Office Building,
10 Hon. Max Baucus (chairman of the committee) presiding.

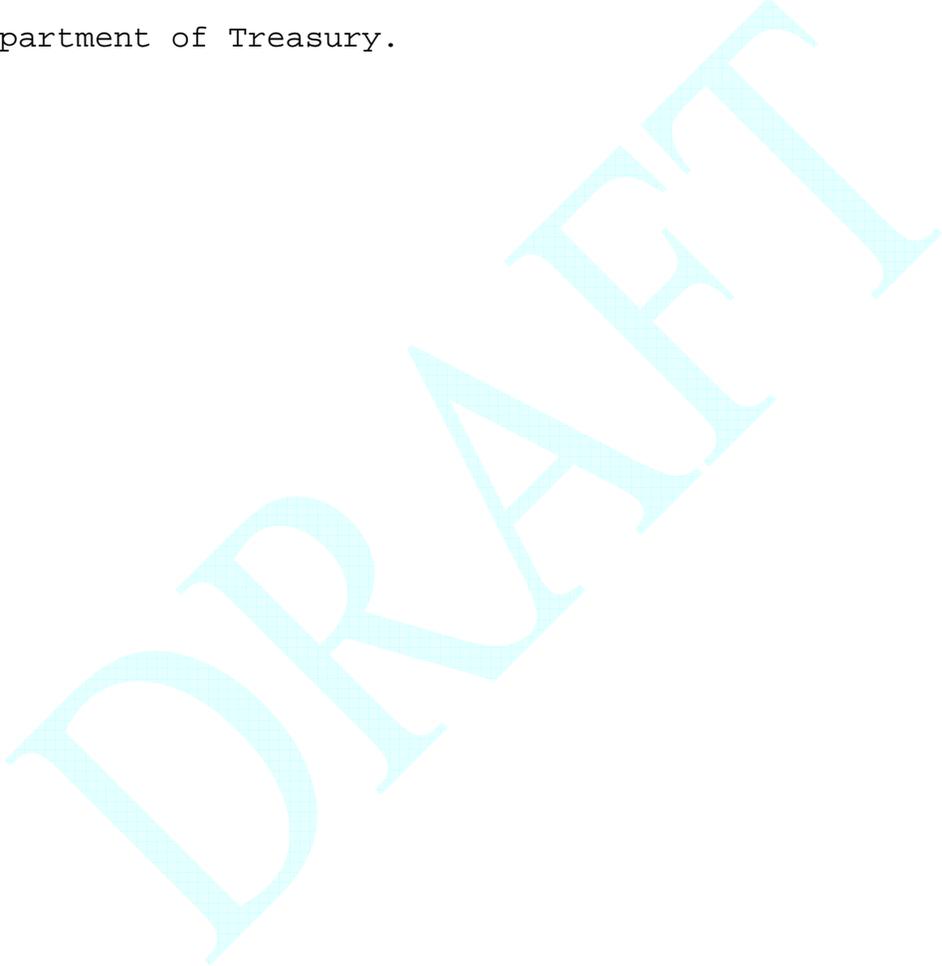
11 Present: Senators Rockefeller, Conrad, Bingaman,
12 Kerry, Lincoln, Wyden, Schumer, Stabenow, Cantwell,
13 Salazar, Grassley, Hatch, Snowe, Kyl, Smith, Bunning,
14 Roberts, Ensign, and Sununu.

15 Also present: Russ Sullivan, Democratic Staff
16 Director; Bill Dauster, Deputy Staff Director and Chief
17 Counsel; Kolan Davis, Republican Staff Director and Chief
18 Counsel; Dean Zerbe, Tax Counsel and Senior Counsel to
19 the Ranking Member; Mark Prater, Deputy Chief of Staff
20 and Chief Tax Counsel; Cathy Koch, Senior Advisor, Tax
21 and Economics; Alan Cohen, Senior Budget Analyst; Josh
22 Odintz, Tax Counsel; Ellen McCarthy, Tax Counsel; Josh
23 Levasseur, Archivist; Carla Martin, Chief Clerk; Mark
24 Blair, Deputy Clerk; and Jewel Harper, Hearing Clerk.

25 Also present: Edward D. Kleinbard, Chief of Staff,

1 Joint Committee on Taxation; Thomas Barthold, Deputy
2 Chief of Staff, Joint Committee on Taxation; Peter
3 Orszag, Director, Congressional Budget Office; Mark
4 Prater, Deputy Chief of Staff and Chief Tax Counsel; Eric
5 Solomon, Assistant Secretary for Tax Policy, U.S.
6 Department of Treasury.

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3 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM
4 MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

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6 The Chairman. The committee will come to order.

7 The committee meets today to consider two items, an
8 original bill regarding economic stimulus, and changes to
9 the Finance Committee rules.

10 The economy is increasingly a cause for concern, and
11 clearly we need to act to assure Americans that we are
12 addressing the economic concerns. I would note today
13 that the Federal Reserve lowered interest rates by
14 another half percent. Clearly the Fed is concerned, and
15 clearly those actions, I think, are very helpful to the
16 economy.

17 But they do not address underlying fiscal needs that
18 the government has to address, that is, to stimulate
19 consumer demand, because those rebate checks are going to
20 help put money in consumers' pockets to spend it. It is
21 just a much more fundamental need now, in addition to
22 interest rate changes that the Fed is making. The
23 benefits may not be realized for a longer period of time,
24 compared with the immediate effect of the stimulus
25 package.

1 Senator Grassley and I have developed an economic
2 stimulus package before us today in consultation with our
3 House colleagues. Our package has much in common with
4 the one that the House passed yesterday. We agree on the
5 basic principles of the economic stimulus, so we built on
6 the ideas in the House package. We added to them in some
7 critical way.

8 Three changes that I think are especially key are,
9 first, simplicity. We proposed a rebate proposal which
10 is much more simple than the House rebate plan, which
11 when looked at more closely one realizes that it is quite
12 complex. Americans will not know what the amount of the
13 rebate check is with much precision under the House-
14 passed measure.

15 Second, seniors, as a group of Americans that we are
16 addressing in this mark, which is not covered nearly as
17 much in the House, we proposed tax rebates for seniors,
18 too.

19 Third, support. We propose to support those hit
20 hardest by the economic downturn with extended
21 unemployment benefits and tax relief for struggling
22 businesses.

23 First, worry about simplicity. Walt Whitman wrote
24 that "The art of art is simplicity." We propose a
25 greatly simplified individual tax stimulus. The tax

1 stimulus check would be a flat amount. It would be fully
2 refundable to tax filers report at least \$3,000 in
3 income. It would be available to those who had income of
4 \$150,000 for singles and \$300,000 for couples. We are
5 putting back a cap.

6 It is a stimulus incentive that varies only with the
7 size of the household. People will be able to figure it
8 out quite easily. People will be able to count on it.
9 This package would reach more taxpayers. It would reach
10 Americans who pay excise taxes, gas taxes, and payroll
11 taxes. They are all taxpayers. The amount of the rebate
12 in this plan is \$500 for single filers and \$1,000 for
13 joint filers, with an additional \$200 per child.

14 By making the stimulus program fully refundable for
15 all tax filers reporting \$3,000 of income, we have
16 increased the stimulus going to lower-income Americans.
17 Dr. Orszag of the CBO and other economists have testified
18 that this would increase bang for the buck. People with
19 low incomes. They would spend it faster. That is what
20 makes a stimulus program work.

21 Second, we would extend the individual tax stimulus
22 incentive to seniors. We can count on seniors to spend
23 their stimulus checks quickly. Americans 55 years and
24 older spend more of their income than any other age group
25 in America. Many seniors live on fixed incomes. Many

1 struggle to pay bills, heating costs, and medical care
2 costs have skyrocketed.

3 In the administration's proposal, that is, the
4 House-passed bill, would exclude at least 20 million
5 seniors, including 55,000 seniors in my home State of
6 Montana. Why are they excluded? Because they do not
7 make at least \$3,000 in earned income or enough taxed
8 income to get a fully refundable credit.

9 Our plan would allow almost all seniors to receive a
10 rebate by filing a tax return, even if they do not have
11 any earned or taxable income. The IRS says that it can
12 administer this without a problem. We should do the
13 right thing for our seniors. We should include them as
14 part of our stimulus package.

15 Third, we would offer support for those hit hardest
16 by the economic downturn. We have added supports for the
17 unemployed. They have little power to protect themselves
18 and their families from the effects of the economic
19 downturn. Because they have lost their jobs, they will
20 spend their benefits quickly.

21 In a recession, workers stay unemployed longer, so
22 in a downturn more workers exhaust the 26 weeks of
23 benefits provided for under current law. What is more,
24 the share of the labor force for the unemployed for more
25 than 26 weeks is now twice as high as it was at the

1 beginning of the last recession. Economist Mark Zandy of
2 Moody's estimates that extending the number of weeks of
3 unemployment benefits generates \$1.64 of increased
4 economic activity for every dollar spent. That is one of
5 the highest bangs for the buck of any proposal he
6 estimated.

7 In the same vein, CBO has rated extending
8 unemployment benefits as having large cost effectiveness,
9 only a short lag from enactment to stimulus, and small
10 uncertainty about its policy effects. We have also added
11 support for companies experiencing losses due to the
12 current economic downturn. When companies experience
13 losses, it can lead to bankruptcies, closures, and lay-
14 offs. It can relieve those losses by letting companies
15 recoup some of the taxes they paid during profitable
16 years in the past.

17 New equipment and property are necessary to
18 successfully operate a business. The taxpayer generally
19 requires businesses to deduct expensive businesses
20 purchases over a number of years. Small businesses can
21 deduct business purchases more quickly with expensing
22 under Section 179 of the Code. Section 179 allow for an
23 immediate 100 percent deduction in the cost for most
24 personal property purchased for use in a business.

25 Small business owners may deduct up to \$125,000 of

1 equipment expenses under current law. Our plan would
2 increase the amount of equipment expenses a small
3 business owner may deduct to \$250,000, that is, doubling
4 it. We also increase a phase-out level from \$500,000 to
5 \$800,000, which means more small businesses would be able
6 to use the deduction. In order to accelerate purchases
7 of equipment and to promote capital investments among
8 businesses, this package also includes a bonus
9 depreciation deduction.

10 That is our plan. It is simple, virtually the same
11 rebate for every eligible American. It helps seniors,
12 and it supports those hit hardest by the economic
13 downturn with extended unemployment benefits and tax
14 relief for struggling businesses, and I urge my
15 colleagues to support the package.

16 Senator Grassley?
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OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR
FROM IOWA

Senator Grassley. I start out by thanking you for your courtesy, hard work, and patience in this legislative process, specifically this bill. You and I shared a goal at the start of this process. We think the Senate works better when it works in a bipartisan way. This responds in that bipartisan way to the needs of Americans and business and would provide a much-needed boost to our economy.

The President recently sent a strong message to the people that Congress must act, and act quickly, to design a Federal stimulus plan aimed at boosting the economy. The President said that such a plan would provide "a shot in the arm" to keep the economy healthy. I am happy to say that we responded quickly to this message and are here today to vote on a much-improved version of the stimulus bill that recently passed the House.

While some, including many in the leadership on my side, have said the Senate should have no role here other than to rubber stamp the House bill, they are rightly concerned about the Senate process that might bring about

1 a bill that would drag out the process, or that the bill
2 would be loaded up. Certainly those are reasonable
3 concerns.

4 That concern with timing must be weighed also,
5 though, against the question of the quality of the House
6 bill. In other words, is it take it or leave it? In the
7 case of the House bill, that bill passed quickly. Or is
8 it better that the Senate bill be an instrument to allow
9 the Senate to work its will? I know other members on
10 both sides have asked themselves the very same question I
11 just posed right now.

12 So, let us examine one side of the question. Here,
13 I am referring to a potentially improved Senate bill.
14 One thing I heard loud and clear from Republicans was
15 concern about suffocating income limits. The Chairman
16 heard me out and agreed to eliminate them. Unfortunately,
17 the support from our side of the aisle did not line up
18 with that principle. On the Chairman's side of the
19 aisle, taking the caps off developed a great deal of
20 controversy.

21 We heard the uncapped proposals over and over again,
22 somehow defined by the words "Bill and Melinda Gates", as
23 an example. To those on the left, let me tell you that
24 there must be a lot of Bill and Melinda Gateses then.
25 The reason I say that, is \$12 billion of rebate checks is

1 involved in going back to the House income caps. The
2 amount of checks capped means millions of families, not a
3 few millionaires, are the folks affected.

4 Like I said, those facts did not move many on my
5 side from the House position that contained caps. So I
6 revisited the issue with the Chairman after getting push-
7 back from my side. The caps are back, but at a much
8 higher level. It is safe that the taxpayers might
9 intersect with the AMT-paying population. From my
10 perspective then, this is a big improvement in the House
11 bill.

12 On the other end of the income scale, there are 20
13 million low-income seniors. Let us underscore this
14 point. The House bill leaves out 20 million low-income
15 seniors. The Chairman's mark that we are considering
16 today corrects that defect. The Chairman's mark also
17 beefs up the business stimulus package by adding
18 additional years to the current law net operating loss
19 carry-back rules.

20 The Chairman's mark adds extension of Unemployment
21 Insurance benefits. I know this is a big sticking point
22 in negotiations between the House of Representatives and
23 the White House in those original negotiations. In this
24 respect, I can say that I quite frankly favor the House
25 bill. My personal preference would be to eliminate this

1 provision. It, however, was the key issue for all
2 Democrats. So in compromise, the Chairman has worked
3 this out. This was an essential part of that compromise.

4 I pushed hard for investment energy incentives, and
5 the Chairman agreed with me in this respect. So the last
6 piece of this compromise is an expansion of the
7 investment incentives to seamlessly extend investment
8 incentives for wind, biomass, and other renewable energy
9 projects.

10 So, Mr. Chairman, I compliment you on bipartisan
11 middle ground. The committee's stimulus package raises
12 the caps on rebate checks, expanding the benefit to more
13 middle class Americans, Social Security recipients, and
14 disabled veterans. It also expands some of the business
15 relief and addresses unemployment benefits. The energy
16 investment incentives round out a package that we ought
17 to be able to get through the Senate.

18 We must keep our eye on the ball, of course, as we
19 move through on this committee and when it reaches the
20 floor. I think the Chairman would agree with me that
21 this cannot be loaded down as a stimulus package, kept
22 narrow as it is now, or it is likely to sink.

23 Thank you, Mr. Chairman.

24 The Chairman. Thank you, Senator. I might just
25 follow up on that last point. It has been my intent all

1 along to get the stimulus package passed, to defer to and
2 honor the House and the President in putting together an
3 agreement to pass its version, for the Senate to act in
4 conjunction with them, but in a very speedy, responsible
5 way, because clearly we want to get this package passed
6 very quickly. That is why we negotiated this package
7 well before the House passed its version.

8 The House passed its version yesterday, and here we
9 are today already with our mark-up. It is my hope that
10 we can reach a successful conclusion here today with a
11 package of our own so we can work very quickly with the
12 House and with the President, well advance of the earlier
13 February 15th date, which everyone really felt would be
14 the date by which we should get stimulus legislation
15 passed.

16 So, in the spirit of bipartisanship and working
17 together with both ends of Pennsylvania Avenue, it is
18 quite clear to me that we can come up with a very good
19 package and get it passed very quickly so we are serving
20 the people we represent, our folks back home, very, very
21 quickly and very efficiently.

22 Now I would like to recognize Senators for
23 statements. We will go by the order in which they
24 arrived. I would urge Senators to limit their remarks to
25 no more than four minutes, but if you can cut it down

1 less than that, that would be deeply appreciated.

2 Senator Conrad?

3 OPENING STATEMENT OF HON. KENT CONRAD, A U.S. SENATOR
4 FROM NORTH DAKOTA

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6 Senator Conrad. Mr. Chairman, I want to commend
7 you and commend the Ranking Member for moving responsibly
8 to address the risk of a substantial downturn. We had in
9 the Budget Committee this morning three prominent
10 economists, and two of them felt strongly that there was
11 sufficient risk to go forward with a stimulus package.

12 One of the economists was Mark Zandi of Moody's
13 Economy.com, who presented, I thought, a compelling
14 message of the serious risk of an even further downturn.
15 And while he stated clearly that monetary policy needs to
16 play the most significant role, but that requires an
17 extended period to play out. Fiscal stimulus, however, is
18 an immediate need. So, I again want to thank the
19 Chairman and Ranking Member.

20 One other point I want to make. That is, I have an
21 amendment on net operating losses, to give people the
22 choice of two years. It is in the bill in 2006-2007.
23 This would allow companies to choose 2006, 2007, or 2008.
24 The reason is this. The builders in this country are not
25 in a recession, they are in a depression. If we fail to

1 provide them some relief on NOLs, they are going to
2 continue to have to lay off people.

3 The reason is, they are being compelled by their
4 accountants to write off their deferred tax assets, which
5 further reduces access to capital. The deferred tax
6 assets are being lost because there is no ability to
7 carry back any losses that would be generated by the sale
8 of these assets to profitable years.

9 I had hoped that this could be included in the
10 package. I understand there are reservations because
11 there are concerns about the fire sale of assets.
12 Economists on my staff brought to me their conclusion
13 that the greater risk of a fire sale is if we fail to
14 act. This has an estimated cost of \$2.9 billion over 10
15 years. Again, it is targeted right at the industry that
16 is hardest hit. So, I hope my colleagues will give
17 thoughtful consideration to this amendment.

18 The Chairman. Thank you, Senator.

19 Senator Kyl, you are next.
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3 OPENING STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM
4 ARIZONA

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6 Senator Kyl. Thank you, Mr. Chairman. I am
7 pleased that we are considering options to encourage
8 economic growth, and I certainly understand the desire of
9 elected officials to take action when it appears that the
10 economy is faltering.

11 With the recent news of very anemic growth estimated
12 for the fourth quarter, we certainly appreciate the need
13 to consider what we should be doing. Unfortunately, in
14 my view, the legislation we have before us will do very
15 little to stimulate the economy.

16 You mentioned at the beginning of your remarks that
17 "the art of art is simplicity." There is another old
18 saying that for every complex problem there is a simple
19 and wrong solution, and that is my view of what we are
20 doing here.

21 We held two committee hearings on stimulus options,
22 but I do not think they were anything more than an echo
23 chamber really for demand-side stimulus. There are
24 economists who believe it is not possible to provide
25 short-term demand-side stimulus to our economy or that it

1 is really appropriate to try to fine-tune the economy,
2 and I wish we would have had one of those witnesses to
3 visit with us.

4 I do not believe that tax rebate checks and
5 extension of unemployment benefits will boost the
6 economy. Obviously everybody would be happy to receive a
7 check. I do agree that Americans deserve to keep more of
8 their hard-earned dollars and that we should spend less
9 of them. But giving people tax rebates and telling them
10 to go shopping will do virtually nothing to grow our
11 economy. Our economy grows as GDP increases, when goods
12 and services are produced. A one-time shopping spree is
13 not going to encourage a business to hire one additional
14 worker or invest in one additional machine. Only a
15 permanent reduction in taxes will do that.

16 I think the most telling moment of our hearings came
17 when Senator Smith asked if Milton Friedman, the great
18 Nobel Prize-winning economist, supported the concept of
19 short-term demand-side stimulus. Our witness from The
20 Brookings Institution very honestly shook his head to
21 indicate that, no, Milton Friedman would not.

22 Remember that Friedman developed a permanent income
23 hypothesis which states that the only way to boost
24 consumption effectively is to provide a permanent
25 increase to a person's income, in this case through

1 permanent tax cuts rather than through temporary rebates.

2 One can even question whether asking Americans to go
3 shopping is in their best interests when we are aware of
4 the need for greater savings and investment.

5 I also think an extension of unemployment benefits
6 is at best premature. We have never provided extended
7 benefits when the unemployment rate is this low. In
8 fact, the Council of Economic Advisors cites studies by
9 various economists that found that extending benefits by
10 13 weeks will increase the duration of the typical spell
11 of unemployment for an individual by one to two weeks.
12 Like everyone else here, I am concerned about the economy
13 and our ability to create good jobs.

14 I think that we risk dashing the hopes of Americans
15 if we promise that our stimulus package can deliver an
16 effective boost to the economy. I think Americans would
17 much rather find and keep good jobs than receive a one-
18 time check from the government. I suspect that some form
19 of short-term stimulus is a foregone conclusion.

20 There is a lot of talk about a larger stimulus
21 package later this year, and I hope my colleagues will
22 take an honest look at the kind of tax changes that
23 really will help the economy at that time, and that we
24 can use that package to work on a bipartisan basis to
25 prevent tax increases, like the Alternative Minimum Tax

1 this year and the massive tax increases coming after the
2 year 2010, because in the end keeping taxes low is the
3 best recipe for sustainable, broad-based economic growth.

4 The Chairman. Thank you, Senator.

5 I have a long list here. Senator Bingaman, you are
6 next. It would be appreciated if maybe not all four
7 minutes was used.

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3 OPENING STATEMENT OF HON. JEFF BINGAMAN, A U.S. SENATOR
4 FROM NEW MEXICO

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6 Senator Bingaman. Thank you very much, Mr.
7 Chairman. I congratulate you and Senator Grassley on
8 this proposal. I think a stimulus package is
9 appropriate. I notice the Federal Reserve cut interest
10 rates again today. They clearly believe that monetary
11 stimulus is needed. I believe a fiscal stimulus makes
12 sense as well to try to head off economic problems.

13 This package is substantially better than what the
14 House and the White House agreed to earlier in that it
15 does cover seniors, low-income seniors. It does provide
16 additional unemployment benefits. It does provide
17 additional incentives for small business to invest in the
18 short term.

19 I particularly congratulate you for including the
20 extension that I know Senator Cantwell has been
21 advocating strongly for as well, the extension of the
22 renewable energy and energy efficiency tax provisions. I
23 think even a one-year extension of those is helpful.
24 Obviously I would favor a much longer extension, but we
25 have had great difficulty getting agreement to do that.

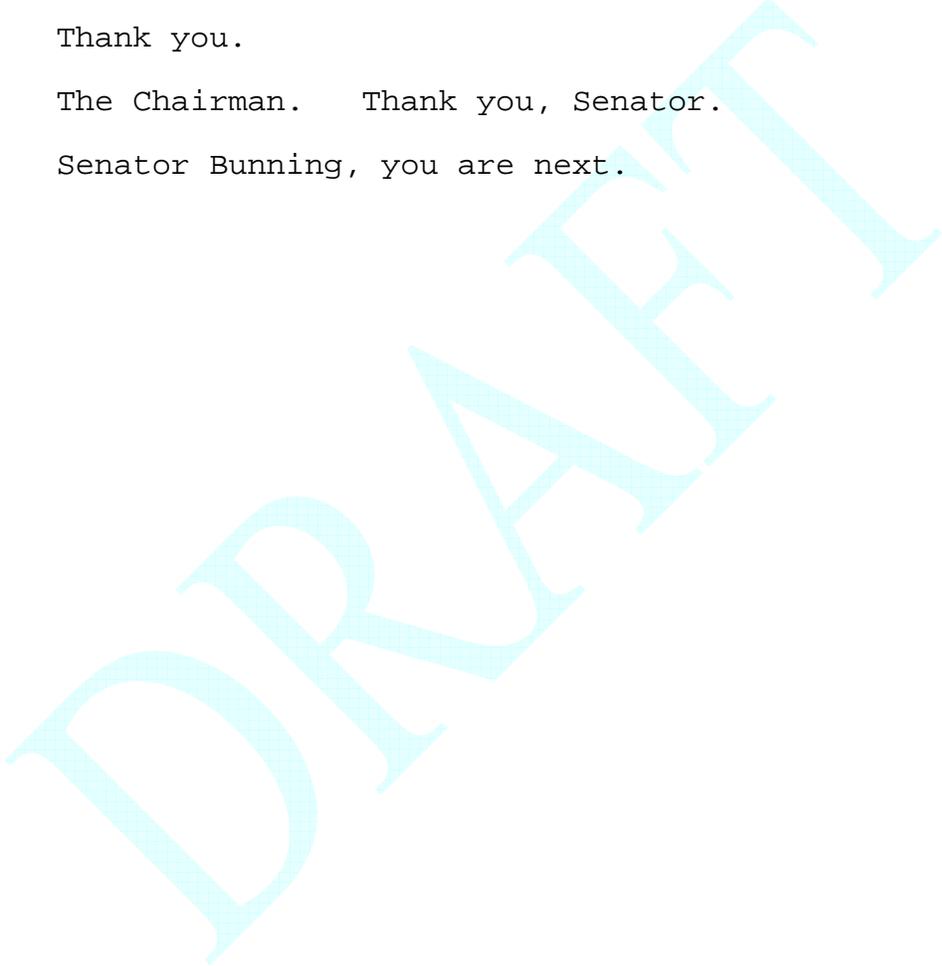
1 So this is a major step forward. I will have an
2 amendment I want to call up and discuss related to a
3 moratorium on a Medicaid regulation that we had earlier
4 put into force or put into law, but when it is time for
5 amendments I would want to bring that up and discuss it.

6 Thank you.

7 The Chairman. Thank you, Senator.

8 Senator Bunning, you are next.

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3 OPENING STATEMENT OF HON. JIM BUNNING, A U.S. SENATOR
4 FROM KENTUCKY

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6 Senator Bunning. Thank you, Mr. Chairman.

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8 First, I would like to thank you for holding this
9 mark-up. In nearly every case, I believe it is important
10 for this committee, because of its expertise in tax
11 policy, to review tax legislation before it goes to the
12 full Senate. This situation may be one of the exceptions
13 because of the urgency and the need to address the
14 rapidly deteriorating state of our economy, but I
15 appreciate the willingness of the Chairman to move
16 quickly.

17 Many economists are skeptical about a fiscal
18 stimulus because Congress typically acts too late to do
19 anything about it. Today, we are proving that Congress
20 can act quickly, members can put aside their differences
21 and work together for our common good when we face a
22 clear threat to our economy. Over the past several
23 months, we have witnessed an unprecedented decline in the
24 real estate market. This is something that we all
25 thought could never happen, but it is happening.

It has sparked a global credit crunch--global credit

1 crunch. The housing market represents only 4 percent of
2 our economy, but it affects on the availability of credit
3 as much more substantial. It is encouraging to see both
4 parties come together to respond to this crisis, and I
5 appreciate that many people have made sacrifices in their
6 legislative priorities to craft the package that the
7 House passed overwhelmingly on Tuesday.

8 I do not know if we can improve on the House bill,
9 but I do know we can make it worse. Therefore, I will be
10 watching this process closely, and if in the end the
11 resulting package is less likely to spur the economy
12 before the fourth quarter of this year, which I believe
13 is essential, I will oppose it here and on the floor of
14 the U.S. Senate. Thank you.

15 The Chairman. Thank you, Senator.

16 Senator Stabenow?

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3 OPENING STATEMENT OF HON. DEBBIE STABENOW, A U.S. SENATOR
4 FROM MICHIGAN

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6 Senator Stabenow. Thank you, Mr. Chairman. I want
7 to thank you and Senator Grassley for working together in
8 such a wonderful way to put together a package that I
9 think is important for Americans. I particularly want to
10 thank you for your leadership and for working with me to
11 include an extension of unemployment compensation
12 benefits for those who have exhausted benefits and are
13 still unable to find a job.

14 We in Michigan, unfortunately, in the last seven
15 years, have lost about 400,000 good-paying, middle-class
16 jobs. Seventy-two thousand unemployed workers exhausted
17 benefits in the first half of this year. I can assure my
18 colleagues that I do not know anyone in Michigan who
19 would not rather have a good-paying job than continue to
20 limp along and try to care for their family and save
21 their home being on unemployment compensation. So, I
22 want to thank you very much for that.

23 I also just want to say thank you as it relates to
24 including seniors, for including net operating loss. I
25 would share also Senator Conrad's feeling about expanding

1 and looking at what we can do to help homebuilders who
2 are certainly in crisis, and look forward to working with
3 the Chairman and the committee, as this goes to the
4 floor, to adequately address that under the net operating
5 loss provisions.

6 I also will be speaking later about the alternative
7 that Senator Rockefeller and Senator Hatch and I worked
8 on that relates to bonus depreciation so that more
9 businesses can benefit from that.

10 Then finally, I just want to thank both Senator
11 Cantwell, Senator Grassley, and again you, Mr. Chairman,
12 for including the alternative energy production tax
13 credits. It is about jobs, it is about energy, and I
14 want to thank you for your vision in including that.

15 The Chairman. Thank you, Senator.

16 Next on the list is Senator Sununu, a new member of
17 our committee. Welcome to your first mark-up, Senator.

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3 OPENING STATEMENT OF HON. JOHN E. SUNUNU, A U.S. SENATOR
4 FROM NEW HAMPSHIRE

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6 Senator Sununu. Thank you very much, Mr. Chairman.

7 This is obviously very important legislation. It is

8 important to people in New Hampshire, but I think even

9 more important than the substance, the specific

10 components of the legislation which I think has the

11 potential to increase consumption, increase investment

12 and help the economy, is that it is timely. We need to

13 act now. We need to act quickly.

14 That does not mean we need to rubber stamp anything

15 else that has been done, but it does mean we have got to

16 avoid contentious issues, fractious issues, issues that

17 are going to be very difficult to reconcile with the

18 House, and I just hope we keep that foremost in front of

19 us, whatever the committee produces; when we go to the

20 floor of the Senate, that we work to get something done

21 that is meaningful, but will be completed quickly.

22 People in New Hampshire do not care about the rights

23 and prerogatives of the House or the rights and

24 prerogatives of the Senate. They want to see some

25 action. I hope that we drive toward a very timely

1 conclusion and get something on the President's desk that
2 will make a difference in the economy sooner rather than
3 later.

4 The Chairman. Thank you, Senator.

5 Senator Cantwell, you are next.

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3 OPENING STATEMENT OF HON. MARIA CANTWELL, A U.S. SENATOR
4 FROM WASHINGTON

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6 Senator Cantwell. Thank you, Mr. Chairman. I want
7 to thank you and your staff for moving quickly to put
8 together a good stimulus package which I believe does
9 improve upon the House bill.

10 Our goal here is to act on policy that will
11 stimulate our economy now and over the next 12 months.
12 We should not lose focus on that key goal. The
13 Chairman's mark made some important changes to the
14 stimulus payment that was passed by the House, and I
15 believe that approach will get money into the hands of
16 more families and they will use to spend that wisely.

17 I want to thank you, Mr. Chairman, and Senator
18 Grassley, and Senator Grassley's staff for recognizing
19 the urgent need and including in your modification a
20 modest temporary extension of stimulative energy tax
21 credit investments that I, along with many other
22 Senators--Senator Snowe, Senator Smith, Senator Kerry,
23 Senator Hatch, Senator Schumer, Senator Stabenow--all
24 pushed for.

25 Let me be clear, this discussion is not about energy

1 policy, it is about investment dollars and jobs in 2008,
2 and what we can be losing if we fail to act. It is about
3 helping consumers and businesses make stimulative
4 investment decisions in 2008 in one of their most
5 pressing cost areas of needs.

6 This bipartisan measure will stimulate \$20 billion
7 in the next 12 months, including \$7 billion spending in
8 the wind industry and will help make sure that other
9 important measures do not fall off when investment does
10 not help predictability.

11 We have been told by just one appliance manufacturer
12 that they will not give the go-ahead for about \$30
13 million in investments in 2008 to put new efficiency
14 appliances into production if the tax credit is not
15 extended, and that the extension of investment credit for
16 solar means that one grocery store chain will fail to
17 inject an additional \$30 million in the economy if we do
18 not see predictability in this area.

19 We know that consumers can have benefits of over
20 \$5,000 in tax credits for efficiency in their homes.
21 Combined with these savings, the average homeowner could
22 see anywhere from \$600 to \$870 per year in additional
23 savings and energy costs.

24 I am sensitive, like my colleagues, to the urgency
25 of acting on this critical measure and that it be based

1 on true 2008 stimulus. I believe that this package
2 before us is just that kind of stimulus. It is a two-for
3 in my mind: it creates jobs and generates capital
4 spending now and it helps businesses and consumers cut
5 down on vital energy costs.

6 Congress should not be taking one step forward with
7 the economy with an infusion of cash, and then take two
8 steps backwards by choking off business investment and
9 job creation that are already ready to go. That is why I
10 think, Mr. Chairman, you have hit the right mark with
11 this legislation in stimulating both consumer and
12 business needs immediately, and it just the type of
13 leadership America needs right now.

14 I thank the Chair.

15 The Chairman. Thank you, Senator Cantwell, very
16 much.

17 Senator Ensign, you are next.
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3 OPENING STATEMENT OF HON. JOHN ENSIGN, A U.S. SENATOR
4 FROM NEVADA

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6 Senator Ensign. Thank you, Mr. Chairman.

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8 I had a few concerns to just point out real quickly
9 about this bill. First of all, like Senator Kyl, I think
10 that doing the extension of the unemployment benefits, we
11 have never done it this low. The lowest we have ever
12 done it before, and we discontinued it, was when it was
13 5.7 percent. That was the lowest we have ever done it
14 before.

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15 If you would have put the Unemployment Insurance
16 extension in effect at 5 percent, which this bill does,
17 it would have been in effect 80 percent of the time since
18 1970. Why do you not just make it permanent? Why do we
19 not just always have the extension of the unemployment
20 benefits if you are going to do it 80 percent of the
21 time? I think that is a dangerous precedent.

21

22 The second thing, and we have heard this the past
23 couple of days, this bill allows people who are here
24 illegally in this country to get the rebate. That has
25 been confirmed by the Congressional Research Service. I
am not sure that the American taxpayer would like people

1 who are here illegally in this country to be getting a
2 tax rebate from the American taxpayer, so that is
3 something I have a concern with.

4 Lastly, I will have an amendment. We did a bill a
5 couple of years ago on repatriation, bringing money back
6 into the country. We are talking about \$150 billion
7 stimulus package. If we were to pass my amendment, it
8 would bring at least twice as much new capital back into
9 the United States. When companies invest overseas, they
10 do not bring the money back. It is sitting over there
11 creating jobs in Europe and other places in the world
12 because it is up to a 35 percent corporate tax rate if
13 they bring the money back. So what do they do? They
14 leave it overseas.

15 Well, when we brought it back in 2004, that was a
16 bill that I had, it passed 75:25 on the Senate floor.
17 And guess what? Over \$300 billion came back into the
18 United States. As much money has already built up
19 overseas again, and we need to have as part of this
20 stimulus package, and we can do it within the first 90
21 days. Before any of the tax rebate checks go out, we can
22 have hundreds of billions of dollars come back in to this
23 country to stimulate the economy. So, I will be offering
24 that amendment.

25 I thank you, Mr. Chairman.

1 The Chairman. Thank you, Senator, very much.

2 One statement which I think needs to be addressed,
3 namely whether rebate checks go to illegal aliens. We
4 were alerted to that possibility in the House bill, as a
5 result of the House bill's wording, and we wanted to
6 address that. It is our hope and it is our intent that
7 we made some changes here in the mark to address that
8 situation, but if we have not, we are going to make
9 certain and clear that rebate checks do not go to illegal
10 aliens.

11 Senator Salazar, you are next.

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3 OPENING STATEMENT OF HON. KEN SALAZAR, A U.S. SENATOR
4 FROM COLORADO

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6 Senator Salazar. Thank you very much, Chairman
7 Baucus. I want to thank both you and Senator Grassley
8 for delivering on what you have called a targeted,
9 timely, and temporarily jump-start to our economy. It is
10 a package that I intend to support. I appreciate the
11 simplicity of the package in terms of tax rebates. I
12 appreciate the fact that you have extended it to 20
13 million seniors here in America, and you have extended
14 the Unemployment Insurance benefits as well.

15 Finally, Mr. Chairman, I appreciate what you have
16 done with respect to small businesses and injecting the
17 opportunity for businesses to grow jobs in our economy,
18 and also what you have done to include Senator Cantwell's
19 proposal with respect to renewable energy.

20 Senator Salazar. I want to make one more comment
21 just in general. That is, while this is a targeted,
22 temporary stimulative piece of legislation, it seems to
23 me that as a committee and as a U.S. Senate, we need to
24 move to get this passed and then quickly move on to a
25 phase II. It seems that that phase II is something that

1 is within reach, almost within our hands. We passed a
2 farm bill, the 2007 farm bill which will have significant
3 stimulative effects for our economy if we can just get
4 that across the finish line. Hopefully we can get that
5 done.

6 I think the energy bill that we passed out of this
7 committee, where we failed to get that through the Senate
8 by one vote, we ought to be back on that so that we can
9 deliver on these long-term programs on the whole
10 renewable energy future. There are a whole set of
11 housing issues that also need to be addressed, for the
12 home industry as well as for homeowners. Those also need
13 to be addressed.

14 So my hope is that we can get this legislation
15 through, get it done, stimulate the economy, and then
16 quickly pivot over and start working on these other
17 issues where we know what we have to do. I think we can
18 deliver on those quickly as well. Thank you.

19 The Chairman. Thank you, Senator. A lot of
20 Senators agree with you, some kind of follow-on Stimulus
21 II, if you will. This clearly is not the sole solution.
22 But thank you very much.

23 Senator Rockefeller?
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3 OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER, IV, A U.S.

4 SENATOR FROM WEST VIRGINIA

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6 Senator Rockefeller. Thank you, Mr. Chairman.

7 I will strongly support this package. I think it is

8 active, disciplined, with appropriate restraint on the

9 part of you, Senator Grassley, and your staffs. You have

10 been most cooperative. I think you have made it stronger

11 by making it simple. Quite honestly, we pass legislation

12 up here and we sit back and think about, how is this

13 going to do in conference, and this, that, and other

14 kinds of things.

15 What I tend to think of is, how is it going to

16 affect people back in West Virginia and in other States

17 who are average people, who now have something--or will

18 shortly know that they have something--they can literally

19 look forward to. A lot of people become unemployed

20 through no fault of their own. We are responding to

21 their human needs. We are not rewarding ourselves in the

22 rebate as members of Congress, and I am very happy about

23 that.

24 I would also agree with what Senator Stabenow said,

25 and that is, in the so-called next round there is

1 something with the funny name of FMAP, which is not
2 funny, because every time the unemployment rate goes up 1
3 percent in this country--and I do not think that one can
4 preclude that possibility--two or three more million
5 people go onto Medicaid. Medicaid has to, in large part,
6 be paid by the State depending upon the State/Federal
7 ratio. We did that once before in a stimulative package,
8 I think of about \$16 billion. It put a lot of money into
9 my State and, frankly, bailed us out in an important way.
10 But that is not for this particular piece of legislation,
11 because I think it would not end up being passed.

12 I think that the second round, as Senator Salazar
13 talked about, is important. It is extremely important
14 because the interrelationship obviously between
15 unemployment and Medicaid is huge, and therefore the
16 effect on individuals' lives and what they can do to
17 bring up their children, what they cannot do, what their
18 own hopes are in their own lives, is integrally tied to
19 that. So, I would look forward to that.

20 But having said all of that, I think this is a very
21 fine package, understandable through its simplicity,
22 powerful through its simplicity, and passable through its
23 simplicity.

24 I thank the Chairman.

25 The Chairman. Thank you, Senator.

1 Senator Wyden, you are next.

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3 OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM
4 OREGON

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6 Senator Wyden. Thank you, Mr. Chairman.

7 It seems to me our challenge is to wring every drop
8 of the stimulus dollar. Senator John Thune and I, along
9 with 20 other U.S. Senators, have developed a proposal
10 that we believe helps attain that objective. Our group
11 of Senators would spend \$5 billion on infrastructure,
12 with the primary focus being road resurfacing, an area
13 where our Congressional Budget Office Director, Peter
14 Orszag, said in our hearing last week was an area of
15 infrastructure that could be spent out quickly.

16 I want to just begin my short remarks with a quote
17 from a fellow who knows a little bit about creating
18 wealth in our country, and that is Michael Bloomberg.
19 Mr. Bloomberg said the other day, "The best way to pump
20 money into the economy in the short term and get
21 something out of it in the long term is to finance
22 immediate infrastructure projects." It is easy to see
23 why someone like Mike Bloomberg would say that.

24 The Department of Transportation found that for
25 every billion dollars of transportation funding, you

1 generate 47,000 good-paying jobs. So we are talking
2 about something that is an immediate economic multiplier
3 and dollars are spent on American goods and services and
4 would be spent on projects that the States have on the
5 shelf within 90 days.

6 So what we learned in the course of the hearings,
7 and I have a list of the projects that are ready to go in
8 each of the Senators' individual States, these are
9 projects where the dollars can be spent, the dollars can
10 actually get out, before the tax rebate checks arrive in
11 the hands of our people.

12 So I look forward to discussing this further with
13 our Chairman and the distinguished Ranking Minority
14 Member. My sense is that now this is a matter of
15 scheduling. When our Chairman returns, I hope to
16 describe how the infrastructure matter will be handled
17 today. Additional Senators are very interested in doing
18 this on the floor. When the Chairman returns, we will
19 talk further about scheduling for this afternoon.

20 Senator Grassley. Mr. Schumer?

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OPENING STATEMENT OF HON. CHARLES E. SCHUMER, A U.S.
SENATOR FROM NEW YORK

Senator Schumer. Thank you, Mr. Chairman. I want to thank you. Thank you, Mr. Ranking Member. I want to thank you and Mr. Chairman for your diligent, hardworking, and bipartisan efforts to do this.

First, we definitely need a stimulus package. The housing crisis has been at the center of our declining economy, but it has caused housing prices to decline. Housing price declines have caused the consumer to spend less. This Christmas season showed that. So to pump some money into the economy from the fiscal side makes a great deal of sense. I think we would be derelict in our responsibilities if we did not do it.

There is also a credit problem, but the Fed is handling that as best it can with both the three-quarter point drop last week and the half-point drop today. So we have to do this. I think speed is of the essence to slow this down. Every week matters because the economy is moving at its own velocity, southward. The quicker we can get the money into the economy, the better it is.

So you have to thread a needle here. Every one of

1 us has goals and desires that we think matter. There are
2 different sectors, and a complicated economy, but keeping
3 it simple and getting enough votes to pass it quickly is
4 very, very important. That does not mean we should
5 rubber stamp what the House did.

6 I think our package, in many ways, improves on what
7 the House did, but it means we cannot deviate too far or
8 have so many items different than the House that will get
9 bogged down in conference, and either we will get no bill
10 or a bill that is too late. There is a great bipartisan
11 spirit here. The White House has worked with us
12 Democrats on a major bill for the first time since we
13 have been in the Majority, and I think we ought to take
14 advantage of it.

15 So for that reason, for instance, I have a whole
16 bunch of amendments that I think are important and could
17 deal with the crisis, but I am not going to push them,
18 particularly \$500 million to loan counselors. That is
19 very important, but it is something that we could do a
20 later date. We have to thread the needle here. We want
21 to improve the bill, but we do not want to move it so far
22 away from the House bill that we slow it down. I think
23 you have done a very, very good job, Mr. Chairman, you
24 and the Ranking Member, at threading that needle.

25 Having said that, I do think we need a second

1 package to deal with the broader and long-term problems
2 in the economy, and I hope we will take that up. It may
3 not move as quickly. It will not have to move as quickly
4 because it is dealing with the long term. It should
5 include infrastructure.

6 It should include some help to localities. If we
7 give people a rebate and their property taxes go up, they
8 do not have extra money in their pocket. Most
9 importantly, it should include things for housing. The
10 conforming loan limit is one thing I will make every
11 effort to see stays in the package.

12 It is not this committee's jurisdiction, but it is
13 vital in terms of dealing with the housing crisis. I
14 think that for Fannie, Freddie, and FHA, raising those
15 limits is very important. But there are other things we
16 must do in housing if we are going to get out of the
17 trough we are in, and they will have to be in that second
18 package as well.

19 So I do not think this is the only bite at the
20 apple. I would urge my colleagues to show some degree of
21 restraint, because we do have to get this done. Then we
22 can move on to the longer term issues that affect our
23 economy and we can work on solving them. But as I said,
24 Mr. Chairman, I think this is a very fine effort that
25 improves on the House bill but does not move so far away

1 from it that it will bog it down.

2 The Chairman. Thank you, Senator, very much. I
3 think you stated the goal here, moving out, moving up,
4 but not too much. That is the whole goal. Thank you.

5 Senator Roberts?
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DRAFT

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2 OPENING STATEMENT OF HON. PAT ROBERTS, A U.S. SENATOR
3 FROM KANSAS

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5 Senator Roberts. Thank you, Mr. Chairman.

6 With brevity and repetition in mind, let me say that
7 I share the concern of Senator Kyl about the efficacy of
8 this whole stimulus package, especially over the long
9 term.

10 I think Senator Kyl made some good points, and I
11 want to thank Senator Sununu for bringing up the point of
12 timeliness, which I think is extremely important.

13 Mr. Chairman, we just heard from Senator Schumer,
14 indicating the bipartisan effort that has been put forth
15 here. When you do that, you do not get everything that
16 you want, but you compromise. When you compromise you do
17 not get best possible bill in your own mind that you
18 would write, but you get the best bill possible under
19 difficult circumstances. I think that is what has
20 happened.

21 And if you do that, Mr. Chairman--and I would say to
22 the distinguished former Chairman--if you get into a
23 climate where you may be able to make progress on AMT, on
24 the Medicare package, there is a whole host of things
25 that we need to do around here. So if we can do this in

1 a way where we do achieve some bipartisan progress, I
2 think it would serve the committee well. Thank you.

3 The Chairman. Thank you, Senator.

4 Senator Hatch?

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24 OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR

25 FROM UTAH

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2 Senator Hatch. Thank you, Mr. Chairman. I want to
3 thank you for your hard work in putting this bill
4 together, and to commend you and Senator Grassley for
5 having the courage of your convictions that the Senate
6 should also have a say on the economic stimulus package.

7 I am generally pleased with the Chairman's mark and
8 believe that it is a broader and more inclusive bill than
9 the one passed by the House yesterday. The House bill is
10 not a bad bill, and I think the President and the House
11 leadership did a pretty good job in negotiating it.

12 Now, it seems to me that there are almost as many
13 ideas on how to stimulate the economy as there are
14 economists. No bill contains the perfect prescription
15 for what ails our economy, and each of us has ideas on
16 what should or should not be done.

17 Mr. Chairman, I especially applaud you for not
18 including in your mark the income caps for the tax
19 rebates, and also for finding a way to make low-income
20 senior citizens eligible for them. While my concept of
21 tax fairness may differ from many on your side of the
22 aisle, I agree with you that it was wrong to exclude
23 either low-income seniors or higher-income families.

24 This is why I am troubled about what I see happening
25 with this bill, not in this committee, but after we

1 approve it. The Majority Leader has made it very clear
2 that he intends to add income limitations to the rebates
3 when this bill reaches the floor. Moreover, other
4 colleagues have plans to add much more spending to the
5 bill.

6 Unfortunately, I see this bill not only becoming
7 bogged down and delayed because of partisan sniping, but
8 also turning into a tool for the redistribution of
9 wealth. This is very wrong, Mr. Chairman. We need to
10 pass a fair and effective stimulus package quickly. The
11 Joint Committee on Taxation, yesterday, released a
12 distribution table showing the effects of this bill on
13 taxpayers in various income categories. I do not know
14 how many of my colleagues have studied this table, but I
15 want to point out something.

16 Yes, it is true that the bill would reduce taxes for
17 those in every income category, including those making
18 over \$200,000 per year. However, if you look closely at
19 the table you will see that taxpayers making less than
20 \$100,000 a year will end up paying less of the percentage
21 of the total Federal tax burden, but those making more
22 than \$100,000 per year would see a large increase in
23 their relative tax burden, from 65.7 percent to 68.1
24 percent.

25 Therefore, any talk that income caps are needed to

1 make this fair, in my opinion, is just plain bunk. My
2 fear is that this bill will be transformed on the floor
3 from a lean-and-mean stimulus package into a bogged down,
4 extra spending-laden couch potato that we will not be
5 able to get to the President in time to accomplish its
6 purpose.

7 In short, I do not want the economy to be a victim.
8 In my book, this is not the way to go. Therefore, after
9 much thought I have concluded that the responsible path
10 for me to take is to reject this approach, both here in
11 committee and on the floor, and work on my colleagues to
12 bring the House bill to quick passage. I appreciate the
13 work of Senator Cantwell, and I do support that
14 amendment, and others as well.

15 But again, Mr. Chairman, I commend you for your fine
16 efforts, and I would emphasize to you that my votes
17 against this bill are not a reflection of any lack of
18 esteem for your hard work and commitment to this
19 committee and defense of Senate prerogatives, nor are
20 they a criticism of my dear friend, Senator Grassley.

21 Thank you, Mr. Chairman.

22 The Chairman. Thank you, Senator.

23 Senator Snowe is next.

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1 OPENING STATEMENT OF HON. OLYMPIA J. SNOWE, A U.S.
2 SENATOR FROM MAINE

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4 Senator Snowe. And thank you very much, Mr.
5 Chairman. I want to thank you for your stalwart
6 leadership, and Ranking Member Grassley, for spearheading
7 this economic stimulus package. You have worked together
8 once again on an issue of great consequence to this
9 Nation. I think it is imperative that we move as quickly
10 as possible. Obviously we have a responsibility to take
11 action. We cannot afford to sit idly by as the economy
12 continues to erode. I appreciate, Mr. Chairman, the
13 numbers of hearings that you have held on this question.

14 We will all recall Dr. Martin Feldstein, who is the
15 former chair of the Council of Economic Advisors for
16 President Reagan, when he said, "Because of the current
17 credit market conditions, there is a risk that interest
18 rate cuts would not be as effective in stimulating
19 economies as they were in the past. That is why fiscal
20 stimulus deserves attention."

21 So I think that is why we are at this point. I
22 appreciate the modifications that you included in your
23 mark, Mr. Chairman. We did witness demonstrable progress
24 with the agreement that was voted upon by the House
25 yesterday, but I do think that there are some alterations

1 that you have made that I think will significantly
2 improve the package as we face a conference of troubling
3 economic indicators. I mean, look at where we stand
4 today economically.

5 Today we just heard from the Commerce Department
6 that we have had the worst economic growth in five years,
7 only 0.6 percent. The annualized growth rate last year
8 in 2007 was 2.2 percent. We have anticipation of the
9 reset of adjustable rate mortgages of more than \$600
10 billion. New home sales have plunged to the point that
11 it is the lowest since the Commerce Department has been
12 keeping records, since 1963, not to mention the oil price
13 increases that have recently spiked to \$100 a barrel, and
14 gasoline to more than \$3 a gallon.

15 So, all combinations, I think does suggest that we
16 have an obligation to use the fiscal tools that are at
17 our disposal to take action and to avert a recession if
18 possible, or at least to blunt or mitigate, as we heard
19 from so many of the witnesses before this committee. It
20 acts as an insurance policy, without question.

21 So I think that this stimulus package meets the
22 challenge. It is well structured. It is balanced.
23 Particularly through the efforts to cast a wider economic
24 net, which you have done, Mr. Chairman, by extending it
25 to not only the 20 million low-income Americans, but you

1 went a step further to include the seniors who are on
2 fixed incomes.

3 I think that is in alignment with what Chairman
4 Bernanke had said recently, not only to have a fiscal
5 package acted upon quickly by the Congress, but also at
6 the same time to have it structured in a way that has the
7 most impact and direct effect on aggregate spending. I
8 think that is exactly what this does through the
9 refundability provision, to spur the buying power of all
10 Americans across the board, and extension of the
11 unemployment benefits.

12 We heard once again, and even Dr. Orszag indicated,
13 unemployment benefits has a maximum cost effectiveness,
14 the shortest lag time, and the least uncertainty about
15 the effects. The fact of the matter is, the highest
16 long-term unemployment rate that we have right now is
17 twice as high as it was during the 2001 and 2002
18 recession.

19 So a number of people have exhausted their benefits,
20 so now we are doing a benefit that not only maximizes
21 return on our dollar, we have heard it will affect direct
22 spending immediately within two months, whereas a rebate
23 is going to take many more months in terms of maybe mid-
24 year. As you mentioned, Mr. Chairman, Mark Zandy of
25 Moody's Economy indicated that for every dollar spent on

1 unemployment benefits, we get a return of \$1.64.

2 Furthermore, refundability of the tax rebate
3 provision will have a direct impact on the Gross Domestic
4 Product. Again, we heard that from The Brookings
5 Institution, Jason Furman, who presented the Hamilton
6 Project report. What it said was that 1 percent of GDP
7 can translate into increasing the Gross Domestic Product
8 by a percent or more, and then in two consecutive
9 quarters from an annualized 4 percent. But we are not
10 spending \$140 billion directly in tax rebates, but it is
11 close to it. The fact remains, we will have the ability
12 to affect the increase in economic growth, and that is
13 exactly what we want to accomplish.

14 Finally, I would say, as the Ranking Member of the
15 Small Business Committee, along with Chairman Kerry, we
16 appreciate the fact that you have also included small
17 business expensing, plus extending the carry-back period
18 of operating losses from 2 to 5 years, and both of those,
19 in conjunction with bonus depreciation, will do a lot, I
20 think, to ignite economic growth and job creation, which
21 small businesses are really the job creators in our
22 economy.

23 So, thank you, Mr. Chairman. Hopefully we can enact
24 this package swiftly and decisively.

25 The Chairman. Thank you, Senator, very much.

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Senator Lincoln?

DRAFT

1 OPENING STATEMENT OF HON. BLANCHE L. LINCOLN, A U.S.
2 SENATOR FROM ARKANSAS

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4 Senator Lincoln. Thank you, Mr. Chairman. I, too,
5 want to offer my thanks to you and Senator Grassley for
6 bringing us together here for something that I do think
7 will be very effective in stimulating the short-term
8 economy, but also giving us a springboard to move even
9 further into some long-term stimulus that I know that we
10 are all very dedicated to doing.

11 I just wanted to say that I hope as we move forward,
12 without a doubt, that the final package, with the rebates
13 and making sure that those rebates will not only reach
14 the working families of America who need them and who
15 will spend them, but also as we work to improve the House
16 piece, as we have done here in the modification, that we
17 will embrace the idea that seniors on a fixed income
18 certainly need those rebates, as well as our disabled
19 veterans who were also left out of that House package.

20 I have submitted an amendment which I will not offer
21 because it is not in the jurisdiction of this committee,
22 but just to reinforce the implication that food stamps do
23 have a tremendous impact. People in this country, over
24 85 percent of the food we consume in this country is
25 produced, it is processed in this country, it is American

1 jobs. I think, without a doubt, all of the studies that
2 we have seen indicated that for the number of families in
3 this country that are hungry, who have food insecurity,
4 that this is an incredible way of infusing the economy.

5 These are people that not only need the assistance
6 in terms of nutrition for their families, but they are
7 also individuals who are going to spend the dollars, and
8 food stamps is the quickest way that we get it into the
9 system. Again, it is enormously beneficial to not only
10 the food stamp recipient, but the producers and the
11 businesses as well. So I hope that as we work forward in
12 this package, that we will recognize that.

13 As a member and co-chair of the Hunger Caucus,
14 having heard from our food banks and food assistance
15 folks from across the country over the past six months,
16 the record lows that they have had, that clearly this is
17 a problem we have had and it is a way that we could
18 stimulate the economy. So I hope that we will look
19 further, on the floor perhaps, to see if there is not an
20 opportunity there.

21 But I do want to applaud you on the hard work that
22 you and Senator Grassley have put into this. To the
23 other members, I want to applaud Senator Cantwell because
24 there is so much in terms of the immediate impact that we
25 will see from energy conservation. It is one of the most

1 immediate impacts we can make on both conservation of
2 energy, but also moving us towards I think a more
3 reliable, and certainly a better way to use our energy.

4 So thank you so much. I look forward to working
5 with you as we move forward on this, and appreciate the
6 fact that we are going to target it, we are going to make
7 it timely, we are going to get out there and we are going
8 to take the next step, the next bite at the apple in
9 making further investments. Thank you.

10 The Chairman. Thank you, Senator, very much.

11 Senator Smith, I think you are clean-up here. No,
12 Senator Kerry. I am sorry.

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1 OPENING STATEMENT OF HON. GORDON SMITH, A U.S. SENATOR
2 FROM OREGON

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4 Senator Smith. Thank you, Mr. Chairman. I think
5 the thing I like best about this package is that it is an
6 admission by this committee, and I think the whole
7 Congress, that money left in the private sector is better
8 than money, too much of which, we take to Washington, DC.
9 Certainly the government is dependent on a healthy,
10 private economy. I think we are demonstrating that very
11 clearly to the American people: we take too much.

12 What I do like about your package, Mr. Chairman, is
13 that it is simpler than the House approach. I am pleased
14 with the tax rebates in the mark. I am also pleased that
15 the definition of qualifying income will include Social
16 Security benefits, as well as wages. Our seniors deserve
17 the same refunds as all other Americans. So, I am glad
18 that you and the Ranking Member made this change.

19 I am disappointed, though, that if we were serious
20 about addressing the root causes of our current economic
21 difficulties, that we have not done more as it relates to
22 housing. Senator Kerry and I have proposed an amendment.

23 I hope it is adopted. It relates to mortgage revenue
24 bonds. If we are serious about economic stimulus, we
25 need to take seriously the impact the downturn in the

1 housing market is having on the American economy.

2 Across the country, working families are facing
3 ballooning interest rates that threaten to force them out
4 of their homes. I believe our amendment gives them a
5 chance for a work-out, and not a bail-out. I think they
6 would rather have a work-out. Our amendment targets
7 those people and provides them with an option to avoid
8 foreclosure and to stay in their homes.

9 When a family loses its home, no matter the reason,
10 the entire community suffers emotionally and
11 economically. When Americans wake up to headlines like
12 we saw last week, "Housing Starts At 16-Year Low", that
13 too has a very real impact on the economy and on consumer
14 confidence.

15 The Kerry-Smith amendment provides help to those who
16 need it most and does so in a way that is fiscally
17 responsible. Our proposal, moreover, has the support of
18 the President of the United States. He mentioned it in
19 his State of the Union address. I am hopeful that this
20 committee will adopt the amendment today. I think it
21 would be a very big mistake not to do so.

22 Thank you, Mr. Chairman.

23 The Chairman. Thank you, Senator.

24 Senator Kerry?

25

1 OPENING STATEMENT OF HON. JOHN F. KERRY, A U.S. SENATOR
2 FROM MASSACHUSETTS

3
4 Senator Kerry. Well, Mr. Chairman, let me first of
5 all thank you and the Ranking Member, as everybody else
6 has. I think that, first of all, we are all appreciative
7 that you were willing to stand up and not sort of just be
8 steamrolled, if you will--that is the wrong term--by the
9 agreement that was reached, because I think your efforts
10 have created a better bill. Notwithstanding what I am
11 going to say, and Senator Smith, in a moment, but it is a
12 better bill. It is simpler than the House, it is more
13 effective than the House.

14 Senator Hatch, before you rush out, if you would
15 take a look at the chart that shows the hoops people have
16 to jump through in order to qualify under the House
17 arrangement. This is direct and simple and it is fast,
18 and therefore more effective. So I join my colleagues in
19 congratulating you both for having the wisdom and the
20 courage to sort of say, wait a minute, we have got to
21 take a look at this. I think it has improved as a
22 consequence of that.

23 It has improved, number one, because the way you
24 have restructured the rebate makes certain that people
25 without taxable income are still going to get a rebate,

1 and they work and they deserve it, and they are at the
2 same end of the income scale in terms of costs and
3 payments, if not more so, than a lot of other folks. The
4 committee has had testimony about the way in which that
5 will help stimulate the economy.

6 Second, I join with colleagues in applauding the
7 fact that senior citizens, likewise, receiving Social
8 Security but do not have taxable income are going to be
9 eligible for the rebate because they face the same
10 increases in their cost of living, and that will also
11 have an impact on the local community. I want to second
12 what Senator Snowe said. We really appreciate, from my
13 vantage point on the Small Business Committee, you
14 accepting our effort to help small businesses.

15 The doubling of the amount of business purchases
16 that a small business can write off from \$125,000 to
17 \$250,000 limited to this year will accelerate capital
18 expenditure for this year, and that is going to have a
19 very positive impact in terms of business expansion.

20 Also, the net operating loss carry-over, making it
21 going from two years to five years, is a targeted
22 business provision and it is going to address business
23 losses, allowing that to be carried back for a longer
24 period of time, so it really does have a very positive
25 impact.

1 Let me just speak very quickly. I know we will get
2 to the amendment. But you know, the whole reason we are
3 here, this whole thing has been kicked up by the sub-
4 prime crisis. That is why we are here. The
5 reverberations throughout the financial world, all the
6 way through the rest of the world -- I mean, literally,
7 Europe and elsewhere, the Asian markets, is because they
8 are all uneasy about what is in their portfolios with
9 respect to the sub-prime. People do not know, they do,
10 some are finding out.

11 The fact is, the uncertainty in the marketplace is
12 what we are trying to address with the stimulus. The
13 market is a psychological place as well as an exchange of
14 money. You want to try to address that psychology. If
15 we do nothing at all about sub-prime prices, we are still
16 in at 1.7 million sub-prime adjustable rate mortgages
17 worth \$367 billion that are going to reset during this
18 year or next year.

19 Now, every colleague here has been going back to
20 their communities, listening to the mayors tell us what
21 is happening to their school budgets, the property tax
22 base, the foreclosures they are going to, the destruction
23 to the local convenience store, the gas station; the
24 downstream impact of those foreclosures is enormous. A
25 whole bunch of people in those foreclosure pools are not

1 able to pay the adjustable rate mortgages (ARM), but they
2 are able to pay a fixed-rate mortgage if they could
3 refinance. If we could keep people in their homes,
4 folks, you will do more to send a message of confidence
5 to the marketplace and adjust for the cost of \$2.3
6 billion. That is what it is scored at.

7 You get a \$15 billion increase in the revenue bond
8 cap, which specifically allows communities to refinance
9 over the next three years and helps people stay in their
10 homes. You want to reduce crime? Help them stay in
11 their homes. You want to reduce the burden to the
12 communities of houses that nobody is in and all that that
13 does to the property values of the community? Keep them
14 in the homes. I cannot think of one thing that addresses
15 the root cause of what brings us here faster and more
16 effectively than that. So, I will come back to it at the
17 appropriate time.

18 Mr. Chairman, I really think to have a stimulus
19 package that does not address that, in my judgment, is
20 missing the one point here that I think would ultimately
21 help this package.

22 The Chairman. Thank you, Senator.

23 The next order of business is the stimulus bill
24 mark.

25 Senator Wyden. Mr. Chairman?

1 The Chairman. Senator?

2 Senator Wyden. Can I ask a procedural question?

3 The Chairman. It is all right.

4 Senator Wyden. Mr. Chairman, you were not in the
5 room when I was offering all the profound thoughts about
6 infrastructure, with Mr. Bloomberg and John Thune and all
7 of us feeling that there was immediate permanent
8 stimulative effect, areas like road resurfacing that we
9 have projects on in all of our States.

10 This is really a question about the schedule, Mr.
11 Chairman. Could you provide your personal assurance to
12 our group of 22 Senators, Democrats and Republicans who
13 wanted infrastructure in this package, that there could
14 be a mark-up on an infrastructure agenda, I guess, let us
15 say within two months?

16 The Chairman. Well, Senator, there is a lot of
17 interest in follow-on infrastructure in a large bill,
18 which I strongly support. We clearly have this business
19 before us now that we have to do first. I do not know if
20 we can have that mark within two months. Someone earlier
21 said on this panel that although that is very important,
22 that is not quite as timely because that is a little more
23 fundamental than the stimulus bill, which is very timely.
24 We have to act very quickly.

25 First of all, you have a deep personal interest.

1 The next question is, by what date? I cannot give a
2 precise date at this point. That depends upon other
3 issues that might arise in the interim. But certainly I
4 will give it very high priority and we will get to a mark
5 very, very quickly, and I will be consulting with you,
6 consulting with other Senators on both sides of the aisle
7 as to what should be in it, and the timing, and so forth,
8 because it is very important and we must address it. I
9 thank you.

10 The mark is now before the committee. There is also
11 a modification to the mark which is before the committee
12 in connection with the mark. Therefore, the mark is so
13 modified.

14 The next order of business is to walk through the
15 mark and modification. Mr. Kleinbard, could you briefly
16 describe the main features of the mark and modification?
17 Then I will ask Dr. Orszag to briefly describe the main
18 spending features of the modification. Then after that,
19 it would be in order for Senators to ask questions,
20 anybody who might wish to ask, so we can answer any
21 questions they may have.

22 So Mr. Kleinbard, why do you not proceed, quite
23 quickly?

24 Mr. Kleinbard. Thank you, Mr. Chairman.

25 You have before you an explanation of the Chairman's

1 mark of the Economic Stimulus Act of 2008, together with
2 a revenue table. You also have a detailed explanation of
3 the Chairman's modification to the Economic Stimulus Act,
4 again with a revenue table that summarizes the revenue
5 implications of these modifications.

6 Consistent with past practice and with your
7 permission, I propose briefly to summarize the revenue
8 provisions of the modification.

9 The Chairman. If you would, please.

10 Mr. Kleinbard. What I would like to do, first, is
11 turn to the largest, most important item, of course,
12 which is the individual rebate. Things have obviously
13 moved very quickly in this respect. I think it might be
14 helpful if I were to quickly summarize the five principal
15 criteria of the rebate package and to help everyone to
16 compare the House version, the Senate mark, and the
17 Chairman's modification so that you can see the changes
18 that have been made.

19 The five criteria that I looked to to summarize the
20 rebate are as follows: What is the maximum that the
21 taxpayer is going to get? Second, who qualifies to get a
22 rebate? Third, is there a phase-out of the rebate by
23 income level, and if so, what is it? Fourth, how does
24 the rebate package handle non-citizens of the United
25 States? Finally, how much money does it cost? Those are

1 the five criteria.

2 The House bill, as you all remember, permitted a
3 maximum of \$600 for single, \$1,200 for joint filers, and
4 \$300 a child. The Chairman's mark here in the Finance
5 Committee proposed a maximum rebate of \$500 single,
6 \$1,000 joint, and \$300 per child, and unlike the House
7 version, effectively was a flat amount, whereas the House
8 version the minimum was \$300, and could go up to \$600.
9 The Senate's mark was a flat \$500. The Chairman's
10 modification does not change that key feature to the flat
11 \$500/\$1,000, plus \$300 a child.

12 Who qualifies? On the House version, you qualified
13 for the minimum rebate if you had at least \$3,000 of
14 earned income or \$1 of tax liability. You required more
15 tax liability to earn the full \$600/\$1,200 joint rebate.

16 In the Chairman's mark, you needed \$3,000 of earned
17 income plus Social Security benefits, thereby bringing in
18 retirees, or \$1 of tax liability in order to earn the
19 flat \$500/\$1,000 rebate.

20 The Chairman's modification further expands the
21 definition of qualifying income. The rule now would be
22 \$3,000 of earned income, plus your Social Security
23 benefits, plus Veterans Affairs disability benefits, will
24 all count towards getting to the \$3,000 hurdle, or again,
25 \$1 of tax liability.

1 Third, the phase-out. The House version had a
2 phase-out at incomes above \$75,000 for a single, \$150,000
3 for joint. The Chairman's mark had no phase-out in
4 income levels. The Chairman's modification, by contrast,
5 does have a phase out, at \$150,000 for singles, \$300,000
6 for joint, and a special rule under which no member of
7 Congress can qualify for the rebate.

8 Fourth, how do we deal with non-citizens? The House
9 bill provided that non-resident aliens are excluded from
10 the benefits of the rebate. The Chairman's mark followed
11 that and again excluded non-resident aliens. The
12 Chairman's modification heightens that by requiring that
13 the taxpayer, the taxpayer's spouse, and all qualifying
14 children must have valid Social Security numbers.

15 Finally, how much money does it cost? The House
16 version, we at the JCT estimated would cost \$109 billion;
17 the Chairman's mark, we estimated it would cost \$131
18 billion over 10 years; and the Chairman's modification,
19 we estimate at \$126.4 billion over the same 10-year
20 period. That is the largest single change in the
21 Chairman's modification. There is, however, an important
22 package of --

23 The Chairman. Say, Ed, would you repeat those
24 numbers again? It was not fully heard.

25 Mr. Kleinbard. Sorry. The House version was \$109

1 billion over 10 years. Mr. Chairman, your mark, your
2 original mark, would have cost \$131 billion over 10
3 years. The modification, with the tightening of the
4 rules for non-citizens and the phase-outs, would, we
5 estimate, cost \$126.4 billion over 10 years.

6 So turning then to the package of energy extenders,
7 the total package costs about \$4.5 billion, of which most
8 is accounted for by two items alone, and I will identify
9 them. I apologize, it is \$5.5 billion. There are 11
10 different items in here. I will go through them very
11 quickly and identify only those in particular that have
12 changes that go beyond simple extensions of current law
13 or that have very substantial revenue implications.

14 So within the package, the first item is an
15 extension of the Manufacturer's Energy-Efficient
16 Appliances Credit. This is a credit that is made
17 available to producers of dishwashers, clothes washers,
18 and refrigerators that meet energy efficiency standards.
19 This is a two-year extension, but it also has an
20 additional change, which is that the provision had a \$75
21 million lifetime cap per producer for the maximum amount
22 of credits that could be claimed. The extension resets
23 the clock on that \$75 million per producer, so they now
24 start again with zero and can earn up to \$75 million more
25 in credits.

1 The second provision is a straightforward extension
2 for two years of provisions permitting homeowners to
3 invest in energy-efficient windows, doors, furnaces, and
4 water heaters. This provision will cost, we estimate,
5 about \$1.5 billion over 10 years.

6 The third, is an extension for two years of a
7 provision permitting the percentage depletion to be
8 claimed on marginal oil wells beyond 100 percent of the
9 taxable income from those wells.

10 The fourth, is a credit that homeowners again can
11 obtain for solar energy and similar investments. It is a
12 one-year extension.

13 The fifth, is the Section 45 credit that producers
14 can obtain for producing electricity from alternative
15 sources. This is a one-year extension for everything
16 except coal-fired properties on Indian reservations, and
17 this is the most expensive single proposal, at \$3
18 billion.

19 The sixth, is a provision under which manufacturers
20 of new homes can obtain a credit for building energy-
21 efficient homes. That is extended for one year.

22 The seventh, is actually a package of three
23 subproposals that extend for one year tax credits
24 available to businesses for investing in alternative
25 energy facilities.

1 The eighth is a provision which contemplates the
2 extension for one year of a program called CREBs, Clean
3 Renewable Energy Bonds. But in addition to extending
4 that for one year, it increases the volume cap of bonds
5 that can be issued by \$400 million, thereby effectively
6 renewing the program since the program is out of
7 authorization at this point.

8 Ninth, and the final proposal on my list, because I
9 have combined three as I went through them, is a proposal
10 that will permit energy-efficient commercial buildings to
11 obtain a special one-year, one-time deduction of \$1.80
12 per square foot for energy-efficient build-outs that
13 comply with certain energy efficiency standards. That is
14 a one-year extension.

15 Mr. Chairman, that completes my summary of the
16 revenue provisions of your modification to the mark.

17 Senator Bingaman. Mr. Chairman, could I ask a
18 question? Let me ask on solar. As I understand it, the
19 mark extends for a year the production tax credit that is
20 available to solar energy facilities that were put in
21 place prior to January 1 of 2006, but there is no
22 extension of the investment tax credit for solar energy.

23 Is that right?

24 Mr. Kleinbard. I think it is the other way around,
25 yes. I think it is the other way around. Yes.

1 Senator Bingaman. Maybe someone could explain to
2 me where you have got a solar facility there, this is on
3 page 12 of your description of the modification. At the
4 top, you say a solar facility is a facility qualified --
5 it has to have been put in service prior to January 1,
6 2006. How does that work? How does that encourage
7 people to build facilities in the next year?

8 Mr. Barthold. Senator, the Section 45 production
9 credit, out of the 2004 tax bill, created a production
10 credit for solar facilities. If some facilities were
11 placed in service, they may continue to claim the
12 production credit as provided under present law. But
13 this bill does not contemplate permitting an extension of
14 the placed-in-service date for new solar production
15 facilities. The Investment Tax Credit for solar
16 facilities is still part of current law, and the
17 Chairman's modification would extend the placed-in-
18 service date for such facilities.

19 Senator Bingaman. So the new date for putting a
20 facility into service would be by the end of 2009 to
21 claim the Investment Tax Credit?

22 Mr. Barthold. That is correct. That is correct,
23 Senator.

24 Senator Bingaman. All right. Thank you.

25 The Chairman. Thank you. Are we finished? Dr.

1 Orszag, are you finished? I am sorry. Do you have a
2 question.

3 Senator Kyl. I just had a question on this point.

4 The Chairman. All right. Go ahead.

5 Senator Kyl. It plays a little bit off of what
6 Senator Kerry was talking about earlier as to some of the
7 specific reasons for the problems that we have right now,
8 part of which is an over-supply of certain kinds of
9 construction. Was there any testimony in our hearings by
10 any of the witnesses in support of the proposition that
11 this \$5.57 billion package would help to stimulate in the
12 short-term economic growth along the lines that the other
13 parts of the package would?

14 I know, for example, just to pick out items 6 and 7,
15 which are credits or deductions for construction of new
16 buildings, given the fact we have an over-supply right
17 now, even though these would be preferable because they
18 are energy efficient, it does not seem to me that this is
19 quite the way to help solve the problem of a surplus of
20 property right now on the market. Is there any evidence
21 or any studies, or was there any testimony that validates
22 these provisions as stimulus?

23 Dr. Orszag. At least at the hearing that I
24 testified at, there was no evidence presented for that.

25 Senator Kyl. I am sorry. There was not?

1 Dr. Orszag. No, there was not.

2 Mr. Kleinbard. I do not recall such testimony at
3 the other hearing either, but obviously I defer to the
4 Chairman and his staff as to what communications they may
5 have had.

6 Senator Kyl. Thank you, Mr. Chairman.

7 Ms. Koch. We have had testimony before as to the
8 job effects in the solar industry. The solar industry
9 employs 20,000 people now and is expected to employ
10 62,000 over the near term if we continue investments.
11 That is on installation of solar panels and not
12 necessarily construction of new homes, but installation
13 of solar equipment in buildings that are being built
14 anyway.

15 The Chairman. Dr. Orszag, will you now explain the
16 spending provisions, please?

17 Dr. Orszag. Sure. I will be brief. The
18 Chairman's mark provided two tiers of additional benefits
19 under the Unemployment Insurance program. First, all
20 States would get 13 additional weeks of benefits. In
21 addition, States with high unemployment rates would have
22 an additional 13 weeks, so 26 additional weeks in total.

23 The Chairman's mark changes or streamlines one of
24 the triggers for defining a high unemployment State, so
25 under the mark, if a State had an average total

1 unemployment rate over the previous 3 months of 6.5
2 percent or more, that State would qualify as having high
3 unemployment and, thus, qualify for the 13 additional
4 weeks.

5 We estimate that the Chairman's mark, as modified,
6 would result in a net budget cost of \$10.1 billion in
7 2008, \$4.4 billion in fiscal year 2009, and a net effect
8 of \$9.9 billion over the 2008-2018 time window. The
9 reason for that is there are interactions with the so-
10 called Reed Act in the later years that result in a
11 combination of lower spending and higher revenue compared
12 to our baseline.

13 The Chairman. All right. Any other questions?
14 Are there any questions from Senators of either Mr.
15 Kleinbard or Dr. Orszag? Any questions?

16 [No response].

17 The Chairman. There are no more questions.

18 I would now recognize Senators who wish to offer
19 amendments. Senator Kyl, do you have an amendment?

20 Senator Kyl. Mr. Chairman, thank you for calling
21 on me. I have two. The first one relates to the
22 temporary -- it's called the FUTA surcharge. I am sorry.

23 If there is a list of these by number, I did not
24 identify which one it is for my colleagues. Do I need to
25 do that here? Kyl Number 5.

1 FUTA. The Unemployment Tax Act has an 0.8 percent
2 payroll tax that applies to the first \$7,000 of a
3 worker's wages, and this money is deposited into the
4 Federal Unemployment Trust Fund. There is a 0.6 percent
5 permanent tax rate and a 0.2 percent temporary tax rate
6 that was originally passed in 1976 to replenish the UI
7 trust fund, but it has since been used for non-UI
8 purposes, the reason being, there has always been enough
9 surplus money in the trust fund.

10 As a result, we have spent that rather than having
11 that spent for the purposes for which it was collected.
12 The so-called temporary 0.2 percent will raise a little
13 over \$1 billion in 2008, or less than 3 percent of total
14 UI tax collections. Even without this surcharge, the UI
15 trust fund will run a \$3 billion surplus. So the point
16 of this amendment is to eliminate the 0.2 percent, or
17 temporary, surcharge on the first \$7,000 of an employee's
18 liability.

19 The CRS has said the effect of collecting more taxes
20 than are spent dampens demand in the economy during
21 periods of normal economic growth, and so the point here
22 is that if you believe that allowing people who pay taxes
23 to keep more of their money and that that could result in
24 a stimulative effect, this is small but I think it is
25 appropriate and would add to what you are trying to

1 accomplish, Mr. Chairman.

2 The Chairman. Is there any debate?

3 [No response].

4 The Chairman. Dr. Orszag, could you just comment
5 on the degree to which this would affect benefits to
6 those who are unemployed and the degree to which this
7 amendment would have a stimulative effect or not, please?

8 Dr. Orszag. The impact relative to your mark,
9 which might be the right point of comparison, would be,
10 over time, a reduction in revenue that would not trigger
11 any Reed Act differences, because under the mark the Reed
12 Act would not trigger on.

13 In terms of the stimulative impact, in general,
14 reductions in employer-side tax changes do not translate
15 as rapidly into increases in after-tax income as changes
16 that go directly to the worker's side of a paycheck. You
17 have to assume that such reductions will feed through
18 into higher take-home pay, which can involve some time
19 adjustment.

20 The Chairman. Any further discussion?

21 [No response].

22 The Chairman. Personally, I think this sends the
23 wrong signal to what we are trying to do here, that is,
24 stimulate spending. I would urge us not to support the
25 amendment.

1 Senator, do you want to speak to your amendment?

2 Senator Kyl. Well, it puts more money into
3 people's pockets, just like your proposal does. I do not
4 quite understand why this would not be stimulative but
5 your proposal would. It reduces the specific tax
6 liability under the unemployment rate.

7 The Chairman. Does the Senator want a recorded
8 vote?

9 Senator Kyl. Yes. If you would like to have a
10 voice vote and see what the --

11 The Chairman. That is at your request.

12 Senator Kyl. I would be happy to have a recorded
13 vote.

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

16 [Chorus of ayes]

17 The Chairman. Those opposed, no.

18 [Chorus of nays]

19 The Chairman. The nays have it and the amendment
20 is not agreed to.

21 Senator Kyl. I have one other amendment, unless
22 you would like to call on somebody else first.

23 The Chairman. It is up to you. If you have an
24 amendment, I will recognize you.

25 Senator Kyl. I appreciate your calling on me.

1 Thank you. Number 1, Mr. Chairman. This is the AMT
2 patch, and it's the same patch we have done. It is the
3 same patch we just got through doing. But instead of
4 waiting till December to do the patch, we need to do it
5 earlier. We need to let people know that they are going
6 to have more disposable income to spend, and hopefully
7 they will, therefore, spend it. So this is simply the
8 AMT patch as we have done it before. The cost for this
9 year is about \$64 billion. We know we are going to have
10 to do it, and I presume we are going to do it in the same
11 way we have done it in the past.

12 Interestingly, throughout all of 2007, taxpayers had
13 no certainty that they would not have a significantly
14 increased tax liability for that year because we did not
15 do anything about AMT, as everybody knows, until the very
16 end. So those who knew of their potential liability
17 either increased their withholding, which meant that they
18 spent less money, or they crossed their fingers and hoped
19 that Congress would patch the AMT. But in either event,
20 consumer spending could have been negatively impacted by
21 those taxpayers.

22 Interestingly also, many of these taxpayers are
23 likely the same people facing decreasing home values,
24 increased mortgage costs, and who are struggling with
25 high gas prices. Data which the Finance Committee staff

1 has given to me, for example, indicates that the two
2 income quintiles with the highest mortgage cost, highest
3 gas, home heating, and other fuel costs are taxpayers in
4 the top two income brackets, in other words, AMT payors.

5 So if you believe that increasing opportunities for
6 consumption will stimulate economic growth, obviously
7 patching the AMT now rather than at the end of the year
8 will free up resources for taxpayers who must make their
9 quarterly estimated payments.

10 I think we all understand how the AMT works. I am
11 happy to discuss it further if folks would like. But I
12 can conclude by also noting, in the event the question is
13 asked, since this is done exactly the way it was done
14 last year, it is not offset by any revenue. Obviously,
15 addressing AMT is properly characterized as preventing a
16 tax increase, and I do not think Congress should raise
17 taxes in order to prevent a tax increase.

18 The Chairman. Thank you.

19 Senator Grassley. Mr. Chairman?

20 The Chairman. Senator Grassley?

21 Senator Grassley. Could I ask Mr. Solomon a
22 question, if the administration would support this on
23 this bill? I know they support AMT reform generally.

24 Mr. Solomon. It is a very important issue. The
25 AMT needs to be patched. The issue is whether this is

1 the appropriate place. Looking at the House bill, the
2 House bill is a balance among competing priorities and it
3 is a compromise, but it was not included there. So the
4 question is whether or not it is appropriate to do it
5 here.

6 Senator Grassley. All right.

7 Mr. Chairman and Senator Kyl, Senator Kyl knows that
8 I fully support his goal, in fact, doing away with the
9 AMT completely and doing away with it without offset.
10 But the Chairman could tell you, Senator Kyl, that I had
11 a lot of discussion with him, that we could rationalize
12 on this bill, passing a stimulus package and using it as
13 a vehicle for a lot of tax things that need to be done
14 between now and sometime during this year, including all
15 the extenders that have not been done yet. But the
16 Chairman convinced me that it sure would load down
17 everything, and this was one of the things that needs to
18 be done. So, I am going to ask that this not be done.

19 Now, one of the reasons I think Senator Kyl has for
20 doing this is because some people with the AMT are hurt
21 very much under what the House bill does, and maybe the
22 caps not being on would make that a worse situation. But
23 the way we have it now with these caps at \$150,000 and
24 \$300,000, minimizes to some extent the negative impact --
25 not negative impact. I mean to say the extent to which

1 the people paying AMT are harmed is helped. So I think
2 that we are going to have to deal with this as a separate
3 piece of legislation and would urge my colleagues not to
4 add it to this bill.

5 The Chairman. Senator Bunning?

6 Senator Bunning. Thank you. I am going to ask Mr.
7 Solomon the same question that Senator Kyl did, and I
8 would like a "yes" or a "no" answer, not an explanation
9 of what the House did. So would you please give us a
10 yes, the administration is for this, or no they are not?

11 The Chairman. On this bill?

12 Senator Bunning. On this bill.

13 Mr. Solomon. Not in this bill.

14 Senator Bunning. Not? They are not for it?

15 Mr. Solomon. In this bill.

16 Senator Bunning. Thank you.

17 The Chairman. Thank you.

18 Senator, do you want to withdraw your amendment?

19 Senator Kyl. Oh, absolutely not. In fact, I would
20 like to make two other quick points in support of it.
21 [Laughter].

22 The Chairman. We are ready.

23 Senator Kyl. Most of the folks here have made the
24 point that we should not simply rubber stamp what the
25 House did, that we needed to put our own stamp on this.

1 Therefore, Mr. Solomon, with all due respect, I would say
2 the fact that the House did not include it is not an
3 argument for us not to do it. We should base it on good
4 policy or not. The fact that the President or the
5 administration, which made the deal with the House, did
6 not make the deal for the Senate, argues similarly for us
7 to make up our own mind as to what we should do on this.

8 Senator Grassley is obviously correct. To the
9 extent that there is no cap or that it is a higher cap, a
10 lot of folks who will pay the AMT will be less affected.

11 But the AMT liability will be significantly greater for
12 most of these folks than a \$500 rebate check would be.

13 I do not think that we could send a better signal to
14 people that we intend to keep their taxes low, and that
15 they can therefore go out and spend money with the
16 assurance that we are not going to take it from them,
17 than by acting on this at the beginning of this year in
18 which their liability is currently occurring. I mean,
19 with all due respect here, we should have, last year,
20 last calendar year, fixed the AMT for the year 2008, in
21 which taxpayers are currently accumulating liability so
22 they would know they did not have to pay it. I am sure
23 we would all agree with that.

24 Well, our schedule is such that we just do not do it
25 that way. If we really were good legislators, I think

1 that is the way we would do it. Well, we have an
2 opportunity to at least do it at the beginning of the
3 year so that folks do not have to worry about it through
4 the remainder of the year.

5 Finally, we are all about sending signals to folks,
6 both to our constituents, the taxpayers, to the markets,
7 and others. I think this would send a really strong
8 signal. We know we are going to have to do this. We are
9 going to do this. I am not changing anything in the way
10 that we have done it, so why not do it now? It seems a
11 heck of a strong signal. I think our constituents will
12 really appreciate it. Thank you, Mr. Chairman.

13 Senator Grassley. Mr. Chairman?

14 The Chairman. Senator Grassley?

15 Senator Grassley. Yes. Senator Kyl was not
16 attempting to embarrass me, but I am embarrassed because
17 he is saying the same thing I said in probably 15, 16
18 speeches last year. So I do not find fault with the
19 substance of what he says, but we are trying to get
20 something done here that is going to help the economy
21 hopefully avoid a recession and move us forward so that
22 we can have a strong economy. So, this is not the time
23 to do that.

24 The Chairman. If there is enough of debate and
25 questions on the Senator's amendment, all those in

1 favor --

2 Senator Kyl. Roll call.

3 The Chairman. The Senator requests a roll call
4 vote. The Clerk will call the roll.

5 The Clerk. Mr. Rockefeller?

6 The Chairman. No by proxy.

7 The Clerk. Mr. Conrad?

8 Senator Conrad. No.

9 The Clerk. Mr. Bingaman?

10 Senator Bingaman. No.

11 The Clerk. Mr. Kerry?

12 Senator Kerry. No.

13 The Clerk. Mrs. Lincoln?

14 Senator Lincoln. No.

15 The Clerk. Mr. Wyden?

16 Senator Wyden. No.

17 The Clerk. Mr. Schumer?

18 Senator Schumer. No.

19 The Clerk. Ms. Stabenow?

20 Senator Stabenow. No.

21 The Clerk. Ms. Cantwell?

22 Senator Cantwell. No.

23 The Clerk. Mr. Salazar?

24 Senator Salazar. No.

25 The Clerk. Mr. Grassley?

1 Senator Grassley. No.
2 The Clerk. Mr. Hatch?
3 Senator Grassley. Mr. Hatch is aye by proxy.
4 The Clerk. Ms. Snowe?
5 Senator Snowe. No.
6 The Clerk. Mr. Kyl?
7 Senator Kyl. Aye.
8 The Clerk. Mr. Smith?
9 Senator Smith. Aye.
10 The Clerk. Mr. Bunning?
11 Senator Bunning. Aye.
12 The Clerk. Mr. Crapo?
13 Senator Grassley. He is aye by proxy.
14 The Clerk. Mr. Roberts?
15 Senator Roberts. Aye.
16 The Clerk. Mr. Ensign?
17 Senator Ensign. Aye.
18 The Clerk. Mr. Sununu?
19 Senator Sununu. No.
20 The Clerk. Mr. Chairman?
21 The Chairman. No.
22 The Clerk. Mr. Chairman, the tally is 7 ayes, 14
23 nays.
24 The Chairman. The Senator has 14 nays. The
25 amendment fails.

1 Senator Ensign. Mr. Chairman, could we offer an
2 amendment?

3 The Chairman. I think we are going back and forth.
4 I think Senator Schumer wishes to be recognized at this
5 point.

6 Senator Schumer. Thank you, Mr. Chairman. I have
7 an amendment. It is my amendment number 2, committee
8 amendment number 20. I am not going to ask a vote on it,
9 but we did arrange to have a colloquy. It is about the
10 refund anticipation loans. The problem here is with
11 people getting these loans, people come to financial
12 institutions, small ones, and say, hey, I will give you
13 \$1,000 now if you will give me your \$1,500, or you give
14 me your refund check. This happens with tax refunds and
15 it could very well happen with these rebates. The
16 interest rates are exorbitant, often in three figures.
17 People are taken advantage of. They use this method to
18 advance the rebates that people are getting.

19 So it makes no sense for families to do this just to
20 get money a few days earlier. They are taking advantage
21 of this. So I just want the record to show that it is
22 not the intent, Mr. Chairman, of this committee, the tax
23 preparers or payday lenders, who sell RAL-type loans to
24 rebate check recipients. We may try to do something
25 specifically about this in the Banking Committee.

1 The Chairman. Thank you, Senator. I deeply share
2 your concerns. It is bad enough with respect to refunds
3 and loans taken out. We certainly do not want this
4 problem exacerbated with rebate checks sent out.

5 Senator Schumer. And we have asked the IRS to do
6 everything they can to stop it. I just want to make sure
7 on the record that you will.

8 The Chairman. Thank you.

9 Senator Schumer. All right. Thank you, Mr.
10 Chairman.

11 The Chairman. Senator Ensign?

12 Senator Ensign. I would call on Ensign amendment
13 number 1 on repatriation.

14 The Chairman. Ensign number 1. All right.

15 Senator Ensign. Just real briefly, we did this in
16 2004. It was called the Homeland Investment Act.
17 Seventy-five Senators voted for this. What it does, it
18 gives an effective tax rate of 5.25 percent for those
19 companies who have invested overseas, made profits
20 overseas, and when they bring their money back. We have
21 structured it in such a way where we give Treasury 30
22 days to write the regulations. They already wrote these
23 back in 2004. They should be able to do that. Then we
24 give another 90 days for the companies to bring the money
25 back.

1 Literally hundreds of billions of dollars have
2 accumulated in U.S. companies overseas and, flat out, the
3 reason they do not bring the money back is because the
4 tax rates are too high. I would love to not have to
5 offer this amendment. I would love to actually have a
6 lower corporate tax rate so we actually bring the money
7 back more easily. If you have a 25 percent corporate tax
8 rate, your companies tell me that they actually would
9 bring the money back on a regular basis.

10 Until we can get that, and I plan on working in the
11 future to try to lower the corporate tax rate to make us
12 more competitive in the world, because right now we have
13 the second highest corporate tax rate in the
14 industrialized world, but until that point, giving kind
15 of a tax break to those companies, what it will do is
16 bring the money back here literally by hundreds of
17 billions of dollars.

18 So instead of producing jobs overseas, buying
19 capital equipment overseas, it will actually do the same
20 thing here. I can go into all the specifics, Mr.
21 Chairman. I would like to have this letter put into the
22 record. I ask consent that this letter be put into the
23 record. It is all the companies that are supporting it.

24 The Chairman. Without objection, it will be
25 included.

1 [The letter appears in the appendix.]

2 Senator Ensign. Just real briefly, what this
3 letter says, based on all these companies, this proposal
4 would inject twice as much money or more into the U.S.
5 economy than the entire stimulus package will. So if we
6 want to stimulate the economy, we want to do it on a
7 short-term basis, we should include this measure.

8 One comment on the scoring of it by the Joint
9 Committee on Taxation, is that I found it kind of
10 interesting. They used somewhat a dynamic scoring on
11 this. They said it was going to cost more than it did a
12 couple of years ago because they said that if we do this,
13 the companies are going to think, this is the second time
14 we have done this, so now they are going to wait a few
15 years to bring the money back.

16 But the problem is, what I do not think Joint Tax
17 has taken into consideration is, they are not bringing
18 the money back, or they are bringing very little of it
19 back now because the corporate tax rate is too high in
20 this country. So the bottom line is, we need to
21 encourage the money to come back to the United States.

22 What Joint Tax did not do, is they did not score the
23 dynamic effect of the jobs that it creates. The studies
24 that were done on the last repatriation bill said that it
25 actually increased GDP by a full half a percent and

1 created about 600,000 jobs in the United States. Joint
2 Tax does not score the dynamic effect of the payroll
3 taxes there.

4 The other thing we did in this particular amendment,
5 is we actually allow them to pay dividends, if you would
6 like. Once again, if companies distribute their
7 dividends, that is a taxable event and it actually will
8 produce revenues that way. So, I disagree with the
9 scoring. I think Joint Tax scored it at \$15.9 billion
10 over 10 years. This is actually a revenue raiser, the
11 way it was in 2004.

12 So I thank the Chairman, I would urge its adoption,
13 and I would ask for a roll call vote when we take it.

14 The Chairman. Is there further discussion on this
15 amendment?

16 Senator Kerry. Mr. Chairman, can I just say
17 quickly?

18 The Chairman. Senator?

19 Senator Kerry. At first blush, there is a lot of
20 appeal. It sounds like this really works. We passed
21 over that intent originally. But I would urge the
22 committee, I hope next year or sometime soon we are going
23 to embrace the whole issue of tax reform. But two years
24 ago when the companies received a big tax break to bring
25 home their offshore profits, which we did give them, and

1 drug makers were the biggest beneficiaries of the amnesty
2 program, they repatriated about \$100 billion in foreign
3 profits. They paid minimal taxes. Not only did the
4 companies not create many jobs, they actually wound up
5 laying people off. They are all engaged in a massive
6 sort of offshore game right now that is very significant
7 to us. We need to look at this.

8 There is a big issue. The IRS has said recently
9 that it increased the number of examiners trying to find
10 hidden profits overseas. Last February, Merck agreed to
11 pay \$2.3 billion to us, the government, to settle a claim
12 it had hidden profits in a Bermuda partnership. This is
13 a big priority for the Service right now. There is a lot
14 of focus on this cross-border transaction. I have been
15 looking at this for years in a number of committees. So
16 I would say to my colleague, I would love to see us
17 repatriate and create the incentives to do it, but this
18 way I think would actually have a negative impact. It
19 ought to be done in the context of comprehensive tax
20 reform.

21 Senator Ensign. Well, Mr. Chairman, if I may
22 respond, in Ireland, Ireland has attracted a lot of
23 companies to invest over there. I was speaking with the
24 chairman of Oracle, Safra Katz, the other day. She said,
25 we did not go there because of the weather. The bottom

1 line is their tax rates. They have attracted a lot of
2 people based on, it is a family business climate. We
3 need to do the same thing. I agree with you. We need to
4 do the same thing comprehensively.

5 But in the meantime, we are not going to do that, we
6 know, in this election year. So in the meantime, let us
7 create jobs in the United States by bringing the capital
8 here because it will not come home without us doing this.

9 The money will stay in Europe and create jobs there, it
10 will stay in Asia and create jobs there. It will not
11 come home.

12 The Chairman. Dr. Orszag or Mr. Kleinbard, could
13 somebody tell us, what is the score of this?

14 Mr. Kleinbard. The score is \$15.9 billion over 10
15 years. If it is all right with the Chairman, maybe I
16 could address Senator Ensign's observations about the
17 dynamics and nature of the scoring.

18 The Chairman. Yes. We would appreciate that.

19 Mr. Kleinbard. Every score that the Joint
20 Committee on Taxation does is a dynamic score. Every
21 score takes into account taxpayer behavior, and every
22 score takes into account our best estimates of the
23 future, both as to the baseline on which we are comparing
24 and as to our estimates as to how people will behave. It
25 is absolutely correct, and Senator Ensign absolutely

1 correctly summarized, that our score here reflects an
2 assessment that this amendment would amount to a profound
3 behavioral change on the part of corporate taxpayers.

4 The proposal, in effect, from a tax policy point of
5 view would create a de facto hodgepodge combination of
6 current law and what tax experts call a territorial tax
7 system. By that I mean it would retain the foreign tax
8 credit system that we have today, so that foreign
9 corporations doing business in offshore locations with
10 high tax rates will get the benefits of the foreign tax
11 credit. Firms, on the other hand, will believe that they
12 will have the benefit of a pure territorial system, that
13 is, no additional tax in respect to low-tax investments.

14 Unlike most territorial tax proposals, there will
15 not be any kind of expense allocation rules under which
16 this exempt income coming back to the United States will
17 have allocated against it the domestic deductible
18 expenses incurred to earn that exempt income, and, most
19 fundamentally, it does not address the transfer pricing
20 issues that are at the heart of the international tax
21 problems that I believe Senator Kerry was identifying.

22 It is absolutely correct that Ireland, for example,
23 has attracted a great deal of investment, but it has not
24 attracted as many jobs as it has revenue. What it has
25 attracted are intangible assets, the intangible assets of

1 U.S. firms that have migrated to Ireland, where they
2 generate very large profits at very low tax rates. That
3 is not job creating. That is a transfer pricing issue.
4 If you look at the data, you see the revenues per
5 employee in Ireland versus anywhere else in Europe, what
6 you discover is that the Irish subsidiaries of U.S. firms
7 are earning exponentially more per employee in Ireland
8 than they do anywhere else in Europe.

9 It is not because the Irish workforce is that much
10 smarter or better educated than workforce anywhere else
11 in Europe. It is not explicable on the basis of the luck
12 of the Irish. It is explicable by virtue of the fact
13 that the very low tax environment has created a venue
14 that has encouraged U.S. firms to place intangible assets
15 there in ways that challenge our transfer pricing system.

16 All of that is reflected in our estimate.

17 Finally, let us look at the evidence going back to
18 the last time we did this in 2004. Obviously when we did
19 it then, we did not have evidence. It was the first time
20 in the 42-year history of our current international tax
21 system that this was tried. Those rules effectively
22 required a dividend reinvestment plan on the part of
23 corporations. The money could not be used for stock buy-
24 backs and the money had to effectively be reinvested in
25 U.S. businesses. The premise was that it would lead to

1 job creation.

2 Very quickly, from a *New York Times* article on July
3 24, 2007--I did not have time to do any independent
4 research--

5 The Chairman. Yes. Very briefly, Mr. Kleinbard,
6 please.

7 Mr. Kleinbard. The long and short of it is,
8 companies like Pfizer, which repatriated \$36 billion,
9 reduced its workforce by 18,000 people with the money.
10 This proposal, unlike the first, explicitly permits stock
11 buy-backs, so the net effect will be to prop up the stock
12 price of those companies that have stashed additional
13 funds in Ireland. But as a tax policy matter, it is
14 difficult to understand the argument. As a revenue
15 matter, we are very comfortable with our \$16 billion cost
16 for this amendment.

17 The Chairman. Thank you.

18 Senator Ensign. Mr. Chairman?

19 The Chairman. Yes, Senator Ensign?

20 Senator Ensign. Obviously speaking, I need to be
21 able to address a couple of points that he made. First
22 of all, to say that Ireland has not created any jobs. It
23 went from the worst economy in Europe to the best economy
24 in Europe, and they have incredible jobs. Anybody who
25 has visited Ireland, I think the evidence is pretty

1 clear. They do not change their tax policy back to what
2 it was because it was a bad thing to do for the economy.

3 It was a great thing to do. As a matter of fact, France
4 and every other European Union country is looking to copy
5 what Ireland did.

6 The bottom line is, you have lower taxes and it
7 attracts capital. Try to follow us here. In order to
8 have employees, you must first have employers. In order
9 to have employers, you must have capital. The more
10 capital you have, the more job creation there is
11 available. It is very simple. That is kind of how
12 capitalism works.

13 So the more money we bring back into the United
14 States, whether it is for dividends for redistribution
15 and that puts money into the economy, whatever way it is,
16 it is money coming back into the United States that can
17 be invested, and that is why this is a good amendment.

18 The Chairman. Dr. Orszag, would you please
19 describe the stimulative effects of this measure? The
20 companies back in 2005 who benefitted from all that argue
21 that that repatriation stimulated the economy. What is
22 CBO's analysis of that?

23 Dr. Orszag. And again, I want to leave apart the
24 underlying corporate tax structure questions that are
25 longer-term structural ones. But in terms of the very

1 short-term stimulative effect, the question becomes, how
2 many firms are making investment and employment decisions
3 based on their domestic cash flow, how much cash they
4 have on hand domestically?

5 There are some firms for which that is the case, but
6 those firms do not tend to have significant overseas
7 profits that they are interested in repatriating. In
8 other words, cash flow is not the primary constraint on
9 investment or employment today. For most of the firms
10 that would be repatriating the profits, we would not
11 expect any massive or significant effect on domestic
12 production.

13 The Chairman. Any further discussion?

14 [No response]

15 The Chairman. Frankly, it is my view that this
16 amendment should not be adopted here. It is \$15 billion.

17 I think the evidence that it stimulates the economy
18 immediately is questionable at best. And for lots of
19 other reasons I think it would be better, in order to get
20 this measure passed quickly, that is, the underlying bill
21 here passed through this committee and on the floor, that
22 this amendment not be on the bill.

23 Is there any further discussion?

24 [No response]

25 The Chairman. The question is on the Senator's

1 amendment. The Senator has requested a roll call vote.

2 The Clerk will call the roll.

3 The Clerk. Mr. Rockefeller?

4 Senator Rockefeller. No.

5 The Clerk. Mr. Conrad?

6 Senator Conrad. No.

7 The Clerk. Mr. Bingaman?

8 Senator Bingaman. No.

9 The Clerk. Mr. Kerry?

10 Senator Kerry. No.

11 The Clerk. Mrs. Lincoln?

12 Senator Lincoln. No.

13 The Clerk. Mr. Wyden?

14 Senator Wyden. No.

15 The Clerk. Mr. Schumer?

16 The Chairman. No by proxy.

17 The Clerk. Ms. Stabenow?

18 Senator Stabenow. No.

19 The Clerk. Ms. Cantwell?

20 Senator Cantwell. No.

21 The Clerk. Mr. Salazar?

22 Senator Salazar. No.

23 The Clerk. Mr. Grassley?

24 Senator Grassley. No.

25 The Clerk. Mr. Hatch?

1 Senator Grassley. No by proxy.
2 The Clerk. Ms. Snowe?
3 Senator Snowe. No.
4 The Clerk. Mr. Kyl?
5 Senator Kyl. Aye.
6 The Clerk. Mr. Smith?
7 Senator Smith. Aye.
8 The Clerk. Mr. Bunning?
9 Senator Bunning. No.
10 The Clerk. Mr. Crapo?
11 Senator Grassley. Aye by proxy.
12 The Clerk. Mr. Roberts?
13 Senator Roberts. Aye.
14 The Clerk. Mr. Ensign?
15 Senator Ensign. Aye.
16 The Clerk. Mr. Sununu?
17 Senator Sununu. No.
18 The Clerk. Mr. Chairman?
19 The Chairman. No.
20 The Clerk. Mr. Chairman, the tally is 5 ayes, 16
21 nays.
22 The Chairman. It is 5:16. The nays have it. The
23 amendment fails.
24 Mr. Kleinbard, I understand that you have worked out
25 details on a provision to prohibit illegals from

1 receiving the stimulus rebate, and that has been worked
2 out. I wonder if you could describe that, please, for
3 the benefit of the committee. I just want to thank you,
4 Senator Ensign, very much for helping work on this
5 provision.

6 Mr. Kleinbard. Yes. We worked with Senator
7 Ensign's staff, with your staff, sir. We obviously raced
8 to complete a description of the Chairman's modification
9 this afternoon that describes the modification as
10 requiring taxpayer identification numbers. We will work
11 with your staff to revise that language to make explicit
12 that it is a valid Social Security number that is
13 required for the taxpayer, for the taxpayer's spouse, and
14 for every qualifying child. They should all have valid
15 Social Security numbers in order to obtain the rebate.

16 The Chairman. Are you satisfied? Is Senator
17 Ensign satisfied? Is that sufficient?

18 Senator Bunning. Excuse me.

19 The Chairman. I might ask Senator Ensign.

20 Senator Bunning. Excuse me, Mr. Chairman.

21 The Chairman. Have you worked on this, too? Has
22 your staff --

23 Senator Ensign. Our staff has been working on
24 this. At this point it is a pretty tentative area of the
25 law, but we think that this probably covers to make sure

1 that people who are here illegally do not get the tax
2 benefits under this.

3 Senator Bunning. Mr. Chairman?

4 The Chairman. Senator Bunning?

5 Senator Bunning. Since when is the Social Security
6 Administration at liberty to disclose to anybody else the
7 exact same thing that you just spoke?

8 Mr. Kleinbard. Senator Bunning, I apologize. To
9 disclose what, sir?

10 Senator Bunning. The people that are paying in to
11 Social Security are doing it illegally.

12 Mr. Kleinbard. Oh. No, sir. The Social Security
13 Administration today has different systems. They have a
14 taxpayer identification system, called ITINS, for non-
15 resident aliens, effectively. They have Social Security
16 numbers which, since a few years ago, require,
17 effectively, vetting through Homeland Security. So we
18 are trying to build on that in order to limit the scope
19 of this proposal.

20 Senator Bunning. You are telling me in front of
21 these people and in front of this audience that we have
22 that you can identify illegal aliens by the use of the
23 Social Security number?

24 Mr. Kleinbard. No, sir, I cannot.

25 Senator Bunning. You are not telling me that?

1 Mr. Kleinbard. I cannot guarantee that there will
2 not be any fraud in the system. We know of no way to
3 promise you that there will be zero --

4 Senator Bunning. I heard that you cannot use
5 Social Security numbers to verify or to disclose whether
6 a person is here illegally or not legally.

7 Mr. Kleinbard. In order to obtain a Social
8 Security number today, you go through --

9 Senator Bunning. I understand how the process is.

10 Mr. Kleinbard. Right. That is the best we can
11 come up with. We have worked with Senator Ensign's
12 staff, and completely understand the concern. We are
13 limited by the same data that everybody else is in terms
14 of trying to craft a solution here to minimize fraud.

15 Senator Bunning. When did Social Security get
16 permission to share that information with the Homeland
17 Security Department, or IRS, or anyone else?

18 Mr. Kleinbard. In order to obtain Social Security
19 numbers now, you have to go through a process that in
20 fact invokes Homeland Security. That was not true in the
21 past.

22 Senator Bunning. I am asking you when.

23 Mr. Kleinbard. I do not remember the year, sir,
24 that that happened.

25 Senator Bunning. That was as recently as six

1 months ago.

2 Mr. Kleinbard. I do not remember. It is the best
3 we can come up with.

4 Senator Bunning. No, it is not the best we can
5 come up with. We can do a heck of a lot better.

6 Mr. Kleinbard. All right.

7 Senator Bunning. We can verify it in 10 days. If
8 Social Security finds a faulty Social Security number
9 used by 10 people, they can then say there is doubt that
10 the person using that Social Security number is here, an
11 illegal Social Security number. But I did not know that
12 there was permission to use that information with other
13 agencies of the Federal Government.

14 Mr. Kleinbard. Well, to the extent that there are
15 any issues there, obviously the staff of the Finance
16 Committee, our staff, and Senator Ensign's staff will all
17 work to --

18 Senator Bunning. Well, but how about the Social
19 Security Administration?

20 The Chairman. Senator, I think --

21 Senator Bunning. I think we ought to -- we say we
22 are verifying something.

23 The Chairman. I do not know that we have the
24 appropriate people here to answer the question, frankly.

25 Mr. Kleinbard. I can say, Mr. Chairman, that this

1 is effectively the system that you all developed to deal
2 to deal with the issue of fraud in the Earned Income Tax
3 Credit context. That is, you look to valid Social
4 Security numbers as the core way of limiting the
5 availability of the EITC, the Earned Income Tax Credit.

6 Senator Bunning. Well, I can only tell you that
7 there are employers up there that are being notified two
8 years, 15 months, 12 months after the fact that they
9 hired somebody with illegal documents, notifying them
10 that this person has an illegal Social Security number.

11 Mr. Kleinbard. Yes.

12 Senator Bunning. And therefore they should turn
13 that person in to Immigration & Naturalization. That is
14 15 months to two years.

15 The Chairman. Senator, we are going to have to
16 move on. We will have more discussion on this at a later
17 time. I do not know that we are going to resolve it
18 right here at this moment. We understand the issue. We
19 do believe that Joint Tax, working with Senator Ensign,
20 will tightened this up as far as can, and tighten it up
21 very well, and certainly consistent with the law.

22 Senator Bunning. It is not consistent with the
23 law.

24 The Chairman. Well, I believe that it is. Let us
25 schedule this discussion a little later at another time

1 with you. Maybe after this meeting we can figure out if
2 there is a way.

3 Senator Bunning. Any time.

4 Senator Bingaman. Mr. Chairman?

5 Senator Grassley. Mr. Chairman, it does make clear
6 that this is one of the shortcomings of the House bill
7 that we are trying to take care of here in the Senate so
8 that illegal aliens do not get the benefits.

9 The Chairman. Senator Bingaman?

10 Senator Bingaman. Thank you, Mr. Chairman. I
11 wanted to just raise and discuss with you an amendment.
12 It is item number, or amendment number 13 on your list.
13 This is an amendment that relates to health care. It is
14 an amendment that Senators Schumer, Stabenow, Wyden, and
15 Kerry have joined me in offering relating to Medicaid. I
16 am informed that you made a determination that health
17 care-related amendments would not be germane to this
18 package, and I will certainly honor that decision on your
19 part.

20 But there is a very damaging Medicaid regulation
21 that was finalized last year. We put in place a
22 moratorium on that that is scheduled to expire May 25.
23 This would result, if the regulation goes into effect May
24 25, there will be a substantial shift in the expense of
25 Medicaid to many of our States, including mine. I think

1 there are good reasons for us not to allow that to
2 happen.

3 I just wonder if you have any thoughts as to where,
4 in the next couple of months, we could address this issue
5 to further extend this moratorium on this Medicaid
6 amendment. I do think it would be a serious problem for
7 my State, and for many States, if the regulation were to
8 go into effect.

9 The Chairman. Well, Senator, I share the same
10 concern. We looked for an opportunities, with the so-
11 called SCHIP bill that we worked on last year, to deal
12 with this problem on the Medicare bill last year, which
13 unfortunately resulted in only a very short-term
14 extension of, say, physicians' reimbursement. It is a
15 big issue. I very much agree with you, it is a big
16 problem. We will address it at the nearest opportunity.

17 I very much agree with it.

18 Senator Bingaman. Well, I thank the Chairman very
19 much for that assurance.

20 Let me just point out one other thing. The Joint
21 Economic Committee did come out with a report this month
22 which makes some suggestions for actions that might help
23 with this stimulus situation, and one of the suggestions
24 was that we delay or cancel proposed regulations that
25 shift Medicaid costs to States, at least until possible

1 impacts of a slowing economy are better understood. That
2 is exactly what I am concerned we need to do before this
3 regulation takes effect in May. So thank you very much
4 for your assurance that we will bring this up at an early
5 date. Thank you.

6 The Chairman. You are welcome, Senator. I wish we
7 could address it here, but I feel it best not to load
8 this bill down. We need to get economic stimulus passed
9 right away and we just cannot address it at this moment.

10 Senator Roberts. Mr. Chairman?

11 The Chairman. Yes, Senator Roberts?

12 Senator Roberts. I would just like to agree with,
13 and support very strongly, the approach taken by the
14 Senator. I want to point out that 400 comment letters
15 were submitted to CMS on the proposed rule, none of which
16 expressed support for the rule. The overall majority
17 called for its withdrawal. I am concerned. I am not
18 going to go into my CMS rant, I will promise you that.

19 But under the banner of cost containment, we are
20 getting into health care rationing. So when you say this
21 is going to cost an estimated \$770 million over five
22 years and that you cannot fund the critical health care
23 programs for rural residents--and I speak as the co-chair
24 of the Rural Healthcare Caucus and the Sole Community
25 Hospital Program--you have to look at the law of

1 unintended events.

2 This is sorely needed. Sorely needed. And we
3 should not stop here. We should stop with a lot of the
4 CMS rules, not only Medicaid, but Medicare, home health
5 care, ambulance drivers, druggists, where people are not
6 reimbursed up to costs, yet a druggist in a hometown has
7 to be in charge of Medicare Part D.

8 Most of my time, and most of a lot of people's time
9 around here, is trying to figure out how to strengthen
10 and preserve the rural health care delivery system due to
11 CMS, who is trying to get cost containment, but again, in
12 the process, rationing health care. Then when we get
13 into bifurcating the health care system because specialty
14 hospitals and community hospitals, none of this is good.

15 None of this is reflected in regards to cost. So, I
16 applaud the Senator's effort.

17 The Chairman. Senator Stabenow?

18 Senator Stabenow. Thank you, Mr. Chairman. I
19 would just echo the CMS rant that my good friend -- at
20 some point when you would like to, I will join you. I
21 actually have just a thank-you, Mr. Chairman. I had
22 mentioned earlier that Senator Rockefeller and Senator
23 Hatch and I were working on some technical changes on
24 bonus depreciation so that all companies could benefit
25 from investments. I understand we have worked out that

1 language and I just want to thank you and your staff for
2 working with us.

3 Senator Smith. Mr. Chairman?

4 The Chairman. Yes, Senator Smith?

5 Senator Smith. Mr. Chairman, I believe you
6 understand I am going to talk very briefly about an
7 Oregon-specific issue and I am not, as is my
8 understanding with you, going to offer it. But I do want
9 to take a moment to talk about the plight of rural
10 counties in Oregon and many other States throughout the
11 country. Without the extension of the Secure Rural
12 Schools Act, also known as County Payments, Oregon faces
13 dramatic lay-offs of those who provide basic public
14 services: sheriffs, road crews, district attorneys,
15 teachers, and the like.

16 We have tried many times to pass a phased-out
17 extension. Last March, the Senate passed a five-year
18 extension funded with tax offsets that was reduced to one
19 year by the House. Last June, this committee passed an
20 energy tax package that included the same five-year
21 extension. The point is, there is plenty of will to get
22 County Payments extension done, there just does not seem
23 to be a way.

24 I sent a letter earlier this week to Senators Baucus
25 and Grassley, asking that a County Payments extension be

1 included in this stimulus package. I was prepared to
2 file an amendment today to that point. Yet, however
3 urgent this issue may be for my State, I recognize a
4 solution must be bipartisan for it to be expedited.

5 So, I sincerely ask my colleagues on the Finance
6 Committee, and I know my colleague Senator Wyden joins me
7 on every jot and tittle of this. This is a desperate
8 situation. The Federal Government has an obligation. I
9 wish we could put it on a stimulus package, but I
10 understand how problematic that is. It just simply has
11 to be done, though.

12 Senator Wyden. Mr. Chairman?

13 The Chairman. Senator Wyden?

14 Senator Wyden. Just to be very brief, I think the
15 frustration in rural America is that 74 Senators have
16 voted for this legislation. We are looking across the
17 west, across the south, the prospect of schools being
18 three days a week. I have a sheriff in one rural area
19 who is literally looking at calling out the National
20 Guard.

21 This was part of the trade-off made 100 years ago
22 when, in effect, the entire Nation would benefit from the
23 Federal forest system. They would benefit from the parks
24 and the wilderness areas. Of course, we gave up the
25 right of private property, which generally makes money

1 for communities to pay for schools and roads. So I know
2 you have been very helpful in this regard, as has the
3 Majority Leader. But after 74 Senators have voted for it
4 and we are faced with the prospect of bedlam across the
5 rural west, I hope that we can move on this and move on
6 it quickly.

7 Senator Ensign. Mr. Chairman?

8 The Chairman. Yes, Senator Ensign?

9 Senator Ensign. Is it all right to offer an
10 amendment?

11 The Chairman. No, no. Have you withdrawn your
12 amendment, Senator Smith?

13 Senator Smith. I do.

14 The Chairman. All right. The amendment is
15 withdrawn.

16 Senator Ensign?

17 Senator Ensign. I want to call up -- well, first
18 of all, let me say I was going to offer an amendment on
19 the Unemployment Insurance benefits, to strike that
20 portion. I realize I am looking around the table, going
21 to -- I strongly support not putting that program in
22 right now, but I obviously know where the votes are so I
23 am not going to offer that. But I would like to offer
24 and have a quick discussion, probably a voice vote, on
25 the sales tax.

1 The bottom line is, States that do not have an
2 income tax, that raise more of their revenues through
3 sales taxes, do not get to deduct their sales tax. We
4 had done it for year two, then it was not included in the
5 extension bill last year. It is unfair to States that
6 have high income taxes.

7 Those citizens get to deduct that from their Federal
8 income tax liability. States like mine that do not have
9 State income taxes, we raise more revenues through State
10 sales taxes. We do not get to deduct the same thing. My
11 citizens do not get to. This amendment basically would
12 extend what we had done before in the Senate, and that is
13 to make it fair to those States that do not have State
14 income taxes.

15 So it does not affect a lot of States. I think it
16 is a question of fairness. I realize people would not
17 want to put this in the stimulus package, but I would
18 raise it as an issue so that we can in the future make
19 sure this is part of whatever tax package that we are
20 going to do in the future. It is a question I know, for
21 the State of Washington and some other States, Florida,
22 Texas, and other States, it is a question of fairness and
23 I hope that this committee can address that, Mr.
24 Chairman.

25 The Chairman. Thank you, Senator.

1 Further discussion? Senator Lincoln?

2 Senator Lincoln. Mr. Chairman, first of all, I
3 just want to associate myself with my colleagues who
4 brought up the issues of the CMS rules. I do encourage
5 us to deal with that. I know it is not going to be
6 appropriate here, but I just want to make sure that we do
7 address that. It has been extremely devastating to our
8 State, and I hope that we will take it up.

9 I also wanted to say a personal thanks. Senator
10 Snowe and I had worked hard on including disabled
11 veterans in this bill, and you and your staff have worked
12 diligently with us to make that happen. I know it was
13 complicated. But with 2.8 million disabled veterans in
14 this country, many of which really do need the rebate,
15 making that happen, I think, was very important. It was
16 not in the House bill. I just want to say thank you to
17 you, and thank you to Senator Snowe for helping us make
18 that happen on behalf of disabled veterans.

19 The Chairman. Thank you for raising that point.
20 It is true, we are providing the rebate checks go to
21 disabled veterans, which is not the case in the House
22 bill.

23 Senator Lincoln. Right.

24 The Chairman. I think disabled veterans should be
25 able to get those checks.

1 Senator Lincoln. Thank you.

2 The Chairman. Senator Ensign, do you want to
3 follow up?

4 Senator Ensign. I am willing to withdraw the
5 amendment. Do you want to speak on it?

6 Senator Cantwell. I just want to say that I think
7 Senator Ensign brings up a good point, and look forward
8 to working with him on this. It is definitely something
9 that, after 18 years, we have got to reestablish that
10 gives tax equity to States who do not have an income tax.
11 I certainly do think it is worthwhile that we get it
12 done.

13 Senator Ensign. Thank you.

14 Thank you, Mr. Chairman. I withdraw that amendment.

15 The Chairman. Yes. You bet. This was part of the
16 extenders. I mean, it expired last year and we have got
17 to get these extenders passed at the appropriate time.

18 Senator Kerry?

19 Senator Kerry. Thank you, Mr. Chairman. I call up
20 amendment number 14, Kerry amendment 1, number 14 on your
21 list. I think everybody was here, so I am not going to
22 repeat all the arguments. Let me just say a couple of
23 things. Senator Grassley said that in this bill he wants
24 to help the economy and avoid recessions. That is the
25 goal. The economists who testified before us said the

1 focus of the package is to provide timely, temporary, and
2 targeted cash to jump-start the economy. Nowhere in my
3 judgment, and I think shared by a number of co-sponsors
4 here--Senator Hatch, Senator Smith, Senator Schumer--all
5 feel very strongly that this could be one of the most
6 important messages that we could send to the economy, and
7 direct impacts rapidly.

8 President Bush asked for this in the State of the
9 Union message in the last couple of weeks. Last year,
10 Mr. Chairman, State and local governments financed
11 120,000 new homes with the mortgage revenue bonds. We
12 could do, if we do an additional amount here, about
13 117,000 more homes, which is almost 10 percent of the
14 families that are facing foreclosure right now.

15 For every new one single mortgage revenue bond, each
16 home loan produces two full-time jobs, \$75,000 in
17 additional wages, \$41,000 in new Federal, State, and
18 local revenues, and each new home loan results in an
19 average of \$3,700 in new spending on appliances,
20 furnishings, and property alterations. So if you want to
21 talk about the leveraged effect, this is the way to get
22 it.

23 My hope is, as I said, we are looking at almost 2
24 million people who are staring at the face of
25 foreclosures, with \$367 billion worth of economy that is

1 going to balloon up with these adjustable rate mortgages.
2 This is a terrific way to send a message that would have
3 a direct and immediate impact, and I hope colleagues will
4 include it in here.

5 Senator Smith. Mr. Chairman, I would simply ask to
6 include my comments in the record. They simply mirror
7 Senator Kerry's. I think this is a glaring omission and
8 one that we can fix now.

9 The Chairman. I might ask, Senator, do you include
10 multi-family residences?

11 Senator Kerry. In discussions with Senator
12 Schumer, he very much thought that was an important
13 component of it, so there is a permissive ability to use
14 multi-family.

15 The Chairman. Good, because I know it is very
16 important to a lot of Senators.

17 Senator Kerry. Correct.

18 The Chairman. Second, I understand that your
19 version would reduce the score to less than \$200 million
20 in the first year, and \$1.7 billion overall.

21 Senator Kerry. Correct. You mean, with the
22 modification, if we re-modify it as you have suggested?

23 The Chairman. Exactly.

24 Senator Kerry. Correct. I am prepared to modify
25 it as suggested, which would be a \$10 billion leverage

1 instead of \$15 billion, and that would reduce the score.
2 That is correct.

3 The Chairman. To agree with the modification. All
4 right.

5 Any other discussion?

6 [No response]

7 The Chairman. Frankly, I think we should accept
8 the amendment. All those in favor say aye.

9 [Chorus of ayes]

10 Senator Kerry. Roll call vote.

11 The Chairman. All right. All those in favor of
12 the amendment will vote aye.

13 The Clerk will call the roll.

14 The Clerk. Mr. Rockefeller?

15 Senator Rockefeller. Aye.

16 The Clerk. Mr. Conrad?

17 The Chairman. Aye by proxy.

18 The Clerk. Mr. Bingaman?

19 Senator Bingaman. Aye.

20 The Clerk. Mr. Kerry?

21 Senator Kerry. Aye.

22 The Clerk. Mrs. Lincoln?

23 Senator Lincoln. Aye.

24 The Clerk. Mr. Wyden?

25 Senator Wyden. Aye.

1 The Clerk. Mr. Schumer?
2 The Chairman. Aye by proxy.
3 The Clerk. Ms. Stabenow?
4 Senator Stabenow. Aye.
5 The Clerk. Ms. Cantwell?
6 Senator Cantwell. Aye.
7 The Clerk. Mr. Salazar?
8 Senator Salazar. Aye.
9 The Clerk. Mr. Grassley?
10 Senator Grassley. Aye. But I want to explain,
11 because this has been modified. When I previously talked
12 to members of this committee I did not know about the
13 modification.
14 The Clerk. Mr. Hatch?
15 Senator Hatch. Aye.
16 The Clerk. Ms. Snowe?
17 Senator Snowe. Aye.
18 The Clerk. Mr. Kyl?
19 Senator Kyl. No.
20 The Clerk. Mr. Smith?
21 Senator Smith. Aye.
22 The Clerk. Mr. Bunning?
23 Senator Bunning. Aye.
24 The Clerk. Mr. Crapo?
25 Senator Grassley. Aye by proxy.

1 The Clerk. Mr. Roberts?

2 Senator Roberts. Aye.

3 The Clerk. Mr. Ensign?

4 Senator Grassley. Aye by proxy.

5 The Clerk. Mr. Sununu?

6 Senator Sununu. Aye.

7 The Clerk. Mr. Chairman?

8 The Chairman. Aye.

9 Senator Conrad. Mr. Chairman, might I be recorded
10 as a live "aye"?

11 The Chairman. Senator Conrad votes live "aye".

12 Senator Conrad. Live "aye". [Laughter].

13 Senator Hatch. That is stretching it a little bit,
14 is it not? [Laughter].

15 Senator Conrad. You be nice, now. [Laughter].

16 The Chairman. The Clerk will tally the vote.

17 The Clerk. Mr. Chairman, the tally is 20 ayes, 1
18 nay.

19 The Chairman. Twenty voting for it. The amendment
20 passes.

21 Any other amendments?

22 Senator Conrad. Mr. Chairman?

23 The Chairman. Senator Conrad?

24 Senator Conrad. Mr. Chairman, I want to offer
25 Conrad amendment 3, as modified, co-sponsored by Senator

1 Smith, Senator Stabenow, Senator Salazar, and Senator
2 Ensign.

3 This is to address an existing provision that is in
4 the package, but to modify it to deal with perhaps
5 unintended consequences. This would modify the NOL
6 proposal in the Chairman's mark to allow taxpayers to
7 elect the five-year carry-back with respect to losses
8 arising in taxable years beginning or ending in 2006,
9 2007--and here is the modification--and 2008. The reason
10 for this is simple and direct.

11 As I indicated in my opening statement, the home
12 building industry is not in a recession, they are in a
13 depression. Their loss years were not 2006 and 2007. If
14 they are not allowed to include 2008, they are losing
15 their tax attributes. They are having to write down
16 their financial statements. They are having their access
17 to capital reduced. That puts further pressure not only
18 on their operations, but on their ability to employ
19 people.

20 Unless we make this modification, and I had
21 introduced the amendment, those of us working on this,
22 for 2009 as well in an attempt to be responsive to the
23 concerns of others. We have reduced it to just adding
24 2008. It carries an estimated cost of \$2.9 billion over
25 10 years, but it really is targeted directly at the

1 industry that is most deeply affected, and some elements
2 of which are dangerously close to failure.

3 Let me just finally address very quickly one of the
4 concerns which has been raised, which is the notion that
5 people could stuff sales transactions into 2008 in order
6 to qualify. At least with respect to the home building
7 industry, the argument that has been made by economists
8 outside the industry, as well as those inside the
9 industry, if there is not an ability to access additional
10 capital and to get additional loans, the fire sale really
11 will occur. They will have to fire sale assets this year
12 at steep discounts in order to acquire cash to continue.

13 That is the reason for the amendment.

14 As I say, I want to thank Senator Smith, who has
15 been very helpful as the co-sponsor of this amendment,
16 and Senator Stabenow, deeply involved in the drafting of
17 this amendment, Senator Salazar, and Senator Ensign. We
18 would welcome other co-sponsors as well. I know that
19 there is a desire for a colloquy on the question of how
20 we might limit potential abuse.

21 The Chairman. I thank you, Senator.

22 Mr. Odintz, would you just comment how this might be
23 abused and what measures might be taken to prevent that
24 abuse? I will ask the same question of Treasury, of you,
25 Mr. Solomon.

1 Mr. Odintz. I think there is a concern that
2 taxpayers could plan into losses. Certainly one way of
3 addressing this is to have an anti-stuffing rule and we
4 would have to carve out some type of anti-stuffing rule
5 to ensure that only bona fide losses are accounted for in
6 the net operating loss.

7 The Chairman. So what would be some non-bona fide
8 losses? What would be something that might potentially
9 be stuffed that should not be stuffed? Maybe someone
10 else can address it.

11 Mr. Odintz. Maybe depreciated property that
12 someone else has that might be contributed to the entity.

13 For example, an unrelated party may have a loss that is
14 stuffed in, that has a loss built into it, and then the
15 company would sell it. That might be an example.

16 Senator Conrad. Mr. Chairman, if I just might, as
17 a former tax administrator, what they raise here is
18 legitimate. That is a legitimate concern. I think we
19 would certainly accept a modification to provide anti-
20 stuffing provisions as we move towards the floor, or
21 however the Chairman would like to proceed. I do think
22 this is a very important modification to the mark. The
23 NOL provisions are already in the mark. This is just a
24 modification to try to address the deep losses that are
25 occurring in this home building industry. As I say,

1 these people are not in a recession, they are in a
2 depression.

3 The Chairman. I was going to ask Mr. Solomon if
4 you could comment, please.

5 Mr. Solomon. It raises the same issues that Mr.
6 Odintz was raising. The question is whether someone
7 could put depreciable assets into a company and then sell
8 them to create the loss to carry them back. I think Mr.
9 Odintz answered the question.

10 The Chairman. Can anti-stuffing rules be written
11 that are effective?

12 Mr. Solomon. It may be possible. There are anti-
13 abuse provisions under current law that also may prevent
14 this. We would have to take a look at that.

15 The Chairman. All right.

16 Senator Smith. To Mr. Solomon, is there language
17 that we could include in the amendment that would be
18 helpful to you in the drafting of those rules? Because
19 clearly we are not trying to put forward something that
20 would allow anything but the help of legitimate
21 commercial transactions that right now are throwing off
22 horrendous losses and putting in jeopardy a vital
23 American industry.

24 Mr. Solomon. Yes. I do not have any specific
25 language now. This is the first opportunity I have had

1 to discuss this issue.

2 Senator Smith. Well, if you do, we would welcome
3 it.

4 The Chairman. I was going to suggest, Mr. Solomon,
5 Mr. Kleinbard, and others, if you could draft this
6 language in the next 10 minutes we could have it all
7 worked out. [Laughter].

8 Mr. Kleinbard. A thought has occurred to me as a
9 long-time former stuffer. [Laughter].

10 The Chairman. Legal stuffer.

11 Mr. Kleinbard. Legally, of course. From 30 years
12 of being on the other side of the ledger. What I would
13 like to propose to Mr. Odintz and Mr. Solomon, is that we
14 adopt rules that have anti-stuffing, anti-churning, and
15 extension by analogy of the wash sale rules. I realize
16 these are all buzz words, but I think that those would
17 capture and accomplish the objectives that Senator Conrad
18 is attempting to obtain.

19 Senator Conrad. Mr. Kleinbard, let me just say, as
20 a former tax administrator I am familiar with all those
21 approaches. I would welcome all of them to these
22 provisions. We want this to be clean as a hound's tooth,
23 but we do want to address the underlying reality.

24 If I might just ask Josh, if I could, Mr. Chairman,
25 you expressed to me--and I do not want to put words in

1 your mouth--that this is a legitimate concern with
2 respect to the home building industry, what is occurring
3 there. Does that fairly characterize your position?

4 Mr. Odintz. That is correct. The home building
5 companies would like to, for book purposes, take the
6 effect of the net operating losses, which would then
7 allow them to obtain additional financing. So, this does
8 have a book effect in the current year.

9 Senator Conrad. That is critically important
10 because they are already suffering massive losses in
11 terms of their valuations.

12 Senator Kyl. Mr. Chairman, a question for Senator
13 Conrad. Were you suggesting that, prior to the time this
14 would be considered on the floor, that the statutory
15 language of the committee--and perhaps it is through a
16 manager's amendment or a technical amendment, I am not
17 sure precisely the process--would contain these rules or
18 that we would add some language which does not currently
19 exist that would require the development of, and then we
20 spell out the specific areas of rules that would be
21 required by Treasury, or whomever?

22 Senator Conrad. I would say to my colleague, I am
23 completely open.

24 Senator Kyl. Whatever works.

25 Senator Conrad. I am as eager--and I know Senator

1 Smith is, we have had a conversation about this--as
2 anyone to prevent this from being abused. That is the
3 last thing we want. We want this to go to very
4 legitimate --

5 Senator Kyl. No, no. We are all in agreement.

6 Senator Conrad. All right.

7 Senator Kyl. I was just wondering, for instruction
8 to staff and so people will know what we are doing, what
9 would be the summary conclusion about --

10 The Chairman. Well, let us find out from the
11 staff. What is the most efficient way of addressing it?

12 Mr. Kleinbard?

13 Mr. Kleinbard. We would, I think, collectively
14 recommend--Mr. Solomon and I just had a sidebar--
15 regulatory authority to Treasury. These are very, very
16 technical issues. Regulatory authority to pick up the
17 three issues, the anti-stuffing, anti-churning, and wash
18 sale principles, and let Mr. Solomon and his staff then
19 figure out what the heck that means.

20 Senator Kyl. And Mr. Kleinbard, not to provide the
21 authority in Treasury, but to provide congressional
22 direction to develop.

23 Mr. Kleinbard. Direction to it. Yes, sir. Yes,
24 sir.

25 The Chairman. All right. I think that is

1 satisfactory to the committee.

2 Senator Grassley. We are ready to go to the bill.

3 The Chairman. We are. All right.

4 Senator Conrad. Could we move to adopt the
5 amendment, Mr. Chairman?

6 The Chairman. The amendment. Without objection,
7 the amendment is adopted.

8 [No response]

9 The Chairman. Any further amendments?

10 [No response]

11 The Chairman. All right. Now we have got to get
12 to the bill.

13 Senator Grassley. Can I move the bill? Mr.
14 Chairman, are we ready to move?

15 The Chairman. Unfortunately, we have one more
16 matter to tend to here. Senator Rockefeller has one. If
17 we could just suspend for one minute, unless someone else
18 has another.

19 We are going to move into so-called executive
20 session now. Who can state the rules change here? I
21 think the committee has been presented with the rules
22 change, and I will state it right here while we are
23 waiting for Senator Rockefeller.

24 It does not really describe them here, except we
25 have to confirm to committee rules, the requirements of

1 the Honest Leadership and Open Government Act of 2007.
2 Clearly we want to conform.

3 Does anyone move the adoption of the rule change?

4 Senator Conrad. So moved.

5 The Chairman. It has been moved, and I hear a
6 second. Without objection, the change is made.

7 [No response]

8 Senator Kyl. Mr. Chairman, I ask unanimous consent
9 that whatever procedures we have just waived to move from
10 one piece of agenda to temporarily take up another and
11 then remove back to the former be accomplished.

12 [Laughter].

13 The Chairman. Yes. You just accomplished it,
14 Senator. Good job.

15 [Pause]

16 The Chairman. Let us get back in session here.

17 Mr. Kleinbard, could you explain the Rockefeller-
18 Hatch amendment number 6? I think that is the one he is
19 going to call up, to save time here. Here he is.

20 Mr. Kleinbard. Yes, sir. This amendment has a
21 revenue estimate of about \$113 million over 10 years.
22 Essentially, there is an excise tax that is imposed on
23 coal.

24 Senator Rockefeller. Can I do this?

25 Mr. Kleinbard. Yes, sir. It would be my pleasure,

1 sir.

2 The Chairman. Of course you can do this.

3 Senator Rockefeller. It is a \$264 million matter.
4 It is coal. It is an unconstitutional fact, supported by
5 Senator Hatch and others, the refund to American coal
6 companies and unconstitutional excise tax which has
7 improperly been collected from coal exported to other
8 countries.

9 There are a variety of court cases supporting this.
10 They want to make investment in new equipment, and they
11 do that. This is new jobs. It is absolutely stimulus-
12 related. I would hope that my colleagues would accept
13 it. There is no down side to it, and the law is very
14 clear. They have been getting skimmed by the Federal
15 Government.

16 The Chairman. Is there any further discussion?

17 Senator Kyl. Mr. Chairman, I am a little bit in
18 doubt here. I had offered an amendment earlier that cut
19 two-tenths of a percent directly from the payroll taxes
20 paid by employers on the first \$7,000 of their payroll
21 tax liability, and we rejected that. I thought that that
22 would work, because we are talking about trying to help
23 people be able to afford to spend more money.

24 Now, I am not sure about this, but I gather this is
25 a tax break for coal companies.

1 Senator Rockefeller. No, it is not.

2 Senator Kyl. Great. Would you please explain
3 that? I am sorry.

4 Senator Rockefeller. Yes. It is coal companies
5 that have not been refunded, unconstitutionally, excise
6 taxes that have been improperly collected from coal
7 companies who are exporting to foreign countries.
8 Unconstitutional.

9 Senator Kyl. Did they take this to court and get a
10 determination that it is unconstitutional?

11 Senator Rockefeller. Yes. Yes.

12 Senator Hatch. It was found to be
13 unconstitutional, and this makes it easier for them to
14 get back the money.

15 Senator Kyl. Is there an explanation of why, if it
16 is unconstitutional, they have not received the money
17 back?

18 The Chairman. One at a time here. Senator Kyl,
19 you have got the floor. You asked a question.

20 Senator Rockefeller. They have won every step on
21 the way in the courts. I cannot answer your second
22 question.

23 Mr. Kleinbard. I can, probably, sir.

24 The Chairman. Mr. Kleinbard, why do you not
25 address it, if you can.

1 Mr. Kleinbard. All right. The coal companies
2 exported coal. Under the Constitution, you cannot impose
3 an excise tax on exports. The government, nonetheless,
4 collected the excise tax improperly. The courts
5 concluded that the tax was unconstitutional and ordered
6 refunds. Those refunds, I believe, have been paid. What
7 has not been paid is interest on the amounts of money
8 that the coal companies paid. They have gotten back
9 principal, but they have not gotten their interest back
10 from the government.

11 Senator Kyl. I see.

12 Senator Rockefeller. And the Supreme Court has
13 ruled on this.

14 Senator Kyl. I am really glad that the Supreme
15 Court ruled on it, and they apparently ruled the right
16 way and the money has been returned. It is too bad the
17 interest has not been returned. My question is, why is
18 that on this bill when the argument against the AMT
19 relief, for example, was, well, that is not appropriate
20 for this bill? Was there any testimony that the interest
21 payments to these companies are going to provide jobs for
22 folks?

23 Senator Rockefeller. It will. We cannot do
24 legislation here by saying, well, we did this and it did
25 not pass, and now we are doing this and maybe it will

1 pass. I am simply submitting to my colleagues what I
2 think is a very fair thing which has been worked out with
3 the leadership of this committee, both Majority and
4 Minority. I would hope that my colleagues would be
5 amenable to accepting it.

6 The Chairman. Any further discussion?

7 [No response]

8 The Chairman. If not, the question is on the
9 amendment. All those in favor say aye.

10 [Chorus of ayes]

11 The Chairman. Those opposed, no.

12 [No response]

13 The Chairman. The ayes have it. The amendment is
14 agreed to.

15 If there are no further amendments, I would
16 entertain a motion --

17 Senator Snowe. Several points to several of the
18 amendments that have been offered by Senator Lincoln. I
19 thank you for including it for disabled veterans because
20 I think that is certainly something that is a matter of
21 right, providing them compensation equity under this
22 legislation. Also, Senator Cantwell's initiative on
23 energy tax credits. I thank you again, Mr. Chairman,
24 because there is no question that energy prices are
25 curtailing the broader economy.

1 To that point, I know I drafted an amendment
2 regarding low-income fuel assistance. I realize it is
3 not within the jurisdiction of this committee. It is an
4 issue that is going to be considered on the floor, and
5 has the support of Senator Stabenow, Senator Cantwell,
6 and Senator Kerry on this effort to increase the funding
7 for low-income fuel assistance, and hopefully we can
8 achieve that.

9 Ultimately, when you are talking about low-income
10 fuel assistance recipients, their earnings are \$13,000.
11 That now represents more than 22 percent of their income
12 in order to pay for the rising prices in home heating oil
13 that has risen more than 50 to 70 percent over the last
14 year.

15 Thank you, Mr. Chairman.

16 Senator Grassley. Mr. Chairman, I move that we
17 move the Chairman's mark, as modified and as amended.

18 The Chairman. Is there a request for a recorded
19 vote?

20 Senator Kyl. Well, Mr. Chairman, I would like to
21 comment on it first, if I could, if that would be
22 appropriate.

23 The Chairman. Yes. All right. Senator Kyl?

24 Senator Kyl. Thank you. Mr. Chairman, I am not
25 defending the House product, but it was relatively

1 simple. The President made it clear that he did not want
2 to see a Christmas tree effect on that bill by adding a
3 lot of other provisions. I am not going to talk about
4 all of the provisions, but just to take what was
5 described in the staff document as the "add a small
6 energy tax package". I presume by "small energy", that
7 does not refer to the size of energy, but the size of the
8 package. It is \$5.57 billion.

9 Now, only a committee that is talking about doling
10 out \$150 billion could talk about \$5.5 billion being
11 small, but leave that go. What is the stimulative effect
12 of this, as I look at it? Now, this is new, so I confess
13 that I -- it was handed to us when we came in, so we have
14 not had any opportunity to get testimony, for example.
15 There is no testimony before the committee that any of
16 this will have a stimulus effect.

17 But just taking these eight provisions, provision
18 number eight, how do we explain this to our constituents,
19 that this is how we are going to help them and help the
20 economy? Number eight, we are going to allow people with
21 higher incomes to depreciation oil and gas wells. That
22 is what number eight is. We are going to suspend the
23 limit on the taxable income for purposes of depreciating
24 oil and gas wells. So that is the investors in oil and
25 gas wells. Well, that is good.

1 Number one, allowing their friendly utility to have
2 another entire year to get credit for certain generating
3 facilities. Now, we are supposed to be talking about an
4 immediate stimulus, something that will do good in the
5 next 30 to 90 days. But we are going to extend for
6 another year a break for our, like I say, friendly
7 utility companies.

8 Third, and this relates to item number four,
9 claiming to create a quick stimulus by extending for two
10 more years some tax credits for companies that make
11 certain kinds of new appliances. That certainly does not
12 relate to anything quick.

13 In fact, the first point relates to these Clean
14 Renewable Energy Bonds. Number three, Clean Renewable
15 Energy Bonds. My understanding is, these are five-year
16 bonds. In other words, it is highly unlikely they could
17 provide any short-term stimulus because the States issue
18 the bonds for projects, which take even a longer period
19 of time, but they have a five-year spending period. I
20 doubt that we are going to be in a recession five years
21 from now.

22 Also, by the way, the States bear none of the cost
23 of the borrowing. This is all Federal costs. Obviously
24 there is no testimony that that is going to provide a
25 short-term stimulus. I think the same is true for the

1 two-year extensions of the energy retrofits.

2 Then as I mentioned before, we are going to give
3 credits and deductions to build more houses and
4 commercial buildings, where we have a glut of both on the
5 market right now, which is one of the reasons the market
6 is depressed.

7 I think that we risk a lot of criticism, instead of
8 taking a relatively simple package of some small business
9 help and rebates to taxpayers by adding provisions such
10 as this, and then a perfectly appropriate responsibility
11 of the Federal Government apparently to send the interest
12 payments that it has not yet paid these coal companies
13 under that court decision.

14 But how do we explain to our constituents that that
15 is all being added to this package in the name of
16 stimulating the economy? I do not think we can make the
17 claim. I also do not think that we can make the claim
18 that we are preventing illegal immigrants from receiving
19 these benefits. I know we are going to do our best to
20 write language that will make it illegal for them to
21 accept them, but the reality is, neither the House nor
22 the Senate bill has a mechanism for preventing an illegal
23 immigrant from receiving a payment if there has been
24 fraud in the use of a Social Security number.

25 As I said before in my opening statement, there are

1 a lot of reasons to believe that a stimulus package is
2 not going to provide the benefits. It adds \$150 billion
3 to the deficit. I think what we have done today is to
4 add some provisions that are very hard to defend as
5 stimulative, and for that reason, Mr. Chairman, I will be
6 voting no.

7 The Chairman. Thank you, Senator.

8 I might just remind our colleagues that the heart of
9 this bill, first of all, there are very, very small
10 changes from the original mark, except the income caps.
11 The heart of this bill is very different from the House-
12 passed bill. One of those main differences, is this
13 modified mark provides benefits as rebate checks to 20
14 million senior citizens that otherwise would not receive
15 the rebates under the House bill. Twenty-one million
16 senior citizens will receive a rebate check under this
17 modified mark that would not receive benefits under the
18 House-passed bill.

19 In addition, about a quarter of a million disabled
20 veterans--a quarter of a million disabled veterans--are
21 going to receive a rebate check under this modified mark.

22 Those disabled veterans will not get rebate checks under
23 the House-passed bill.

24 I might also Unemployment Insurance benefits. Many
25 Americans who are unemployed, I think, in times of

1 recession, need unemployment benefits, and should have
2 unemployment benefits. It is the right thing to do. It
3 also stimulates the economy. All economic analyses say
4 that unemployment benefits have a very, very high,
5 immediate stimulative effect.

6 So it is important to keep all these things in
7 context. Some can mention one thing or another. It is
8 kind of small, and that kind of stuff. But that is
9 seeing the forest for the trees. If you look at the big
10 picture here, the big picture is what this bill does. It
11 provides very direct stimulus. It is rebate checks, \$500
12 for an individual, \$1,000 for a couple, to Americans. It
13 is almost all Americans. We do have a cap on here so it
14 does not go to the most wealthy Americans. It is very,
15 very targeted to people who will spend the money and I
16 think is a very good bill. We are doing a great service
17 to the American people to pass this legislation.

18 Senator Grassley. Mr. Chairman, we just heard
19 criticism about it, including some energy provisions in
20 this bill. The Senator who made those statements filed
21 those very same provisions in amendment number three,
22 that they ought to be included in this bill. Now, they
23 were not offered by him, but we took those provisions,
24 feeling that they were a good suggestion, not just
25 because Senator Kyl suggested them, but because several

1 members on this body suggested them.

2 Senator Kyl. Mr. Chairman, I am compelled to
3 respond to that. I would be happy if we could go back to
4 offer the amendment which included those items, which was
5 the entire set of extenders that we know we are going to
6 have to act on by the end of the year, and would ask
7 unanimous consent to be able to go back and vote on that
8 entire package, which does in fact include these items as
9 well, on the theory that, as with the AMT, we are going
10 to have to do that sooner or later.

11 To the extent that we provide the certainty and the
12 relief earlier in the year rather than at the end, there
13 theoretically could be some benefit to businesses that
14 would receive that. Therefore, I would ask unanimous
15 consent to reopen so that we could include the entire
16 list of extenders, of which this was only a little, teeny
17 part.

18 The Chairman. Is there objection? Objection is
19 heard. All right.

20 Senator Grassley. I made a motion.

21 Senator Conrad. Mr. Chairman, there is a motion
22 pending.

23 The Chairman. Yes, there is. All right.

24 A recorded vote has been requested on passing the
25 modified mark. The Clerk will call the roll.

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

1 Senator Snowe. Aye.

2 The Clerk. Mr. Kyl?

3 Senator Kyl. No.

4 The Clerk. Mr. Smith?

5 Senator Smith. Aye.

6 The Clerk. Mr. Bunning?

7 Senator Bunning. No.

8 The Clerk. Mr. Crapo?

9 Senator Grassley. No by proxy.

10 The Clerk. Mr. Roberts?

11 Senator Roberts. No.

12 The Clerk. Mr. Ensign?

13 Senator Grassley. That was no by proxy as well.

14 The Clerk. Mr. Sununu?

15 Senator Sununu. No.

16 The Clerk. Mr. Chairman?

17 The Chairman. Aye.

18 The Clerk will announce the results of the vote.

19 The Clerk. Mr. Chairman, the tally of members
20 present is 13 ayes, 6 nays. The final tally including
21 proxies is 14 ayes, 7 nays.

22 The Chairman. The ayes have it. The bill is
23 ordered reported.

24 I ask consent that the staff have authority to make
25 changes to the matters before us for technical,

1 conforming, and budgetary reasons. Without objection, so
2 ordered.

3 I thank all Senators for their indulgence. This has
4 been a very cooperative, fruitful, productive mark-up and
5 I appreciate the Senators' participation. I also thank
6 the staff. Thank you.

7 [Whereupon, at 5:23 p.m. the meeting was concluded.]

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