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No. 39

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, our loving Heavenly Father, the center of our joy, thank You for Your gracious care for each of us. Help our lawmakers live today with a sense of accountability to You, striving to please You more than others. Awaken them to the fact that You see all they do and hear all they say. May they walk from weakness to strength, growing in ethical fitness day by day in order to fulfill Your purposes for their lives. Lord, give them a special measure of inner peace so that they may be peacemakers during times of tension and conflict.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 17, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator

from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the House message to H.R. 2847, the HIRE Act. There will be 10 minutes for debate, equally divided and controlled between Senators GREGG and SCHUMER or their designees. We expect Senator GREGG to make a budget point of order with respect to the bill.

At approximately 9:45, the Senate will proceed to a series of two rollcall votes: the motion to waive the Gregg budget point of order and the motion to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to H.R. 2847.

Upon disposition of the HIRE Act, the Senate will resume consideration of FAA reauthorization. The Senate will recess from 12:30 until 2 p.m. for a special Democratic caucus.

When the Senate reconvenes at 2 p.m., there will be a live quorum. Senators are requested to come to the floor at that time. When a quorum is present, the Senate will receive the House managers for the purpose of presenting and exhibiting articles of impeachment against G. Thomas Porteous, judge of the U.S. Eastern District of Louisiana. Once the House managers are received, Senators will be sworn. Then Senators will be re-

quired to sign the Secretary's oath book.

In addition, rollcall votes in relation to FAA are expected throughout the day.

RESERVATION OF LEADER TIME

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

COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 2847, which the clerk will report.

The assistant legislative clerk read as follows:

House message to accompany H.R. 2847, an act making appropriations for the Departments of Commerce, and Justice and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes, with amendments.

Pending:

Durbin motion to concur in the amendments of the House to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill.

Durbin amendment No. 3498 (to the motion to concur in the amendments of the House to the amendment of the Senate to the amendment of the House to the amendment of the Senate), of a perfecting nature.

Durbin amendment No. 3499 (to amendment No. 3498), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, all postcloture time is considered expired and the motion to concur with an amendment is withdrawn.

There will be 10 minutes of debate, equally divided between the Senator from New Hampshire, Mr. GREGG, and the Senator from New York, Mr. SCHUMER, or their designees.

Who yields time?

The Senator from New York.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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Mr. SCHUMER. Mr. President, I rise in support of the legislation before us and the motion to waive the point of order.

This is a good day for American workers, for Congress is focusing on what they have asked us to focus on. Congress is focusing on what the American people want us to focus on, which is jobs, jobs, jobs, and Congress will act in a bipartisan way. So this is a break, in several ways, from the past. One, we are focusing on jobs and the economy. That is what we should be doing. Second, we are doing it in a bipartisan way.

The bill before us focuses on private sector jobs. It has four pieces. Each is lean. Each is directed at private sector jobs. Each will give the economy a certain lift. Last quarter, we had growth of 5.9 percent. That sounds great, but that 5.9 percent growth resulted in no new jobs being created. In fact, it resulted in a continued loss of jobs, admittedly less of a loss than in the past.

Our job is to take that growth and translate it into jobs for the American people, plain and simple, and that is what we are doing with this HIRE Act. At the center of it is a bipartisan piece of legislation: a payroll tax holiday for 1 year for any new worker hired who has been unemployed for 60 days, authored by the Senator from Utah, Mr. HATCH, and myself. It is the bipartisan glue which hopefully will stick with us as we move forward on our jobs agenda because this is just the first—certainly not the last—piece of legislation we will put forward in relation to jobs. If we don't create jobs, the economy will not move forward. If we don't create jobs, the American people, American business, and American labor could lose the optimism that has been part of this country since its founding. When you lose that optimism, you lose dollars and cents economically because businesses don't spend, workers don't prepare for the future, people get disconsolate.

So this legislation is admittedly modest and focused and will go far beyond what the specific legislation does because it will show the American people, it will show American business, large and small, it will show American workers Congress is focused on what they want us to focus on and that we will continue to work on our jobs agenda until jobs start growing, until people are being paid decent wages, until the economy roars back on a long and stable trajectory, which can only be done if employment goes up and underemployment goes down.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this isn't so much a jobs bill as it is a debt bill. It has debt, debt, and debt.

I voted against the budget which passed the House of Representatives. I voted against it because it had \$1 trillion worth of deficit every year for as

far as the eye can see. It basically put our country on a path of unsustainability, where the national debt will double in 5 years and triple in 10 years; where every one of these young men and women sitting before us who are pages, by the time they graduate from college, will have \$133,000 in Federal debt on their heads they will have to pay off as they go to work. I voted against it because it was profligate, because it wasn't disciplined, and because it was excessive.

However, it appears it wasn't excessive enough for my colleagues on the other side of the aisle. This will be the third week in a row the leadership of the Democratic Party in this body has brought a bill to this floor that violates their own budget and spends more than their own budget called for. A budget which this year will run \$1.6 trillion of deficit isn't running a big enough deficit, according to the other side of the aisle. They have to run up the deficit with this bill by another \$3 billion of authorized money, above their own budget. That is on top of last week, when they spent \$30 billion this year and \$100 billion over 5 years in excess of their own budget.

When is it going to stop? When is it going to stop? When are we going to stop spending money around here as if there is no tomorrow? Because pretty soon there will be no tomorrow for our children as we add this debt to their backs and make it impossible for them to have the standard of living we have had.

Yesterday, Moody's said that although today the AAA rating of this country is not at risk, it may be down the road if we continue to spend money we don't have at the rate we are spending it. That is not a sign of optimism for the future; that is a sign our Nation is in trouble, and it is in trouble because of us.

There is a lot of talk around here about what is the systemic risk to this economy. The systemic risk is this Congress, which continues to spend money it doesn't have, send the bill on to our kids at a rate they can't afford to pay off. As a result, their lifestyle will actually have to be reduced, their quality of life, their standard of living will go down because they will be paying for all this debt we are putting on their backs today.

What is even worse is this Congress isn't even willing to live by the PROF-LIGATE—and I hope capital letters will be put in the RECORD on that because it should be all spelled out in capital letters—by the PROFLIGATE budget which passed the House, which projected trillions of dollars of deficits for as far as the eye could see and doubled the debt in 5 years and tripled it in 10 years. That wasn't enough. No. We have to come to the floor again this week, after last week, after the week before, with another bill that breaks their own budget.

So all I am asking for is that the other side of the aisle be willing to at

least live by its own budget. Last week I asked that they be willing to live by their own pay-go rules. That didn't pass, and \$100 billion was spent that wasn't paid for. So this week I am making a point of order that simply says: Live by your own budget. You passed a budget; at least live by that. Can't you live within a \$1.6 trillion deficit? Do you have to add another \$3 trillion of authorized dollars to this deficit this year? Gosh, I hope not. So I am making a point of order and asking that we live by the budget that was passed by the Democratic Congress.

The pending amendment would cause the aggregate levels of the budget authority and the outlays for the fiscal year 2010, as set out in the most recently agreed to concurrent resolution on the budget, S. Con. Res. 13, to be exceeded—the Democratic budget, by the way. Therefore, I raise a point of order under section 311(a)2 of the Congressional Budget Act of 1974.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from New York.

Mr. SCHUMER. Mr. President, I will support the motion to waive the point of order. I believe I have 1 minute left.

The world is topsy-turvy. My Republican colleagues are opposing a tax cut to businesses, large and small, that hire people. This is exactly what we should do. We don't want to be saying to workers we can't help them find a job. There are shades of Herbert Hoover in what my colleague is saying, and I don't think many of my colleagues on either side of the aisle would support that.

Let me say this about the budget point of order. The Joint Tax Committee, which we all respect, says these provisions are budget neutral.

We have found a way to hire workers, help businesses with tax cuts to hire them, and keep it budget neutral. Yet there is still opposition. When will it end? When will the bipartisan kind of feeling in this body return? This is a bipartisan measure that lives by many of the tenets the party on the other side has stood for, for decades.

Mr. President, is there any time remaining?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SCHUMER. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, the waiver provisions of applicable budget resolutions, and section (4)(g)(3) of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of the pending amendment, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Parliamentary inquiry. I have made a motion that says the

budget point of order stands under section 311, which point of order specifically lies because of the fact that the bill before us spends more in authority and outlay than the Budget Act passed by this Congress allows. Is that not correct? Is that motion not well taken?

The ACTING PRESIDENT pro tempore. The Chair understands that the point of order would be well taken.

Mr. GREGG. Which means that, Mr. President, more money is being spent than is allowed to be spent under our budget rules; is that not correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. GREGG. I thank the Chair.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion. The yeas and nays have been ordered.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Republican leader is recognized.

HEALTH CARE

Mr. MCCONNELL. Mr. President, I have been in the Senate for quite a while. I have seen a lot, but I have never seen anything like the plan House Democrats hatched this week to jam their health care bill through Congress and over the objections of the American people.

Americans woke up yesterday thinking they had seen everything in this debate already. Then they heard the latest. They heard that Democrats want to approve the Senate version of the health care bill without actually standing up and taking a vote on it. Let me say that again. They heard that Democrats over in the House want to approve the Senate bill without actually voting on it. These Democrats want to approve a bill that rewrites one-sixth of the economy, forces taxpayers to pay for abortions, raises taxes in the middle of a recession, and slashes Medicare for seniors, without leaving their fingerprints on it. In other words, they want to get around the very purpose of a rollcall vote. They want to hide what they are doing from the American people whom they seem to view as an obstacle. They want to hide what they are doing from the American people whom they see as an obstacle to what they are trying to do.

Well, it won't work. They realized that yesterday when they saw the public reaction to their plan. Americans are more outraged than ever. Americans are shocked at these tactics. They are fed up, and they have had enough. The longer Democratic leaders ignore this outrage and ignore these questions, the worse it is going to get.

Democrats have lost their perspective in this debate. They have lost

their way. They do not even seem to care what the public thinks. Speaker PELOSI said yesterday that they will do "whatever it takes" to ensure this bill becomes law. While she is at it, she is throwing other legislation into the bill that does not have anything to do with health care—major legislation that would enable the government to take over the student loan industry without any debate whatsoever. That has been their strategy all along. Anytime one of their proposals meets resistance, they look for a way to get around it. But the schemes they have used end up making their proposals even more repellent than they originally were. And this latest scheme is the most outrageous one yet.

What has happened is they are trapped in a vicious cycle that someone over there needs to bring to a halt. This is now a fight between Democrats and their own constituents, and the only way to stop this madness is for a few courageous Democrats to step forward and put a stop to it.

Historians will remember this as a new low in this debate: the week America was introduced to the scheme-and-deem approach to legislating—the scheme-and-deem approach to legislating. They will remember this as the week Congress tried to pull the wool over the eyes of the public in order to get around their will. And they will remember the men and women who stand up and put an end to it.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT) and the Senator from Idaho (Mr. CRAPO).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 63, nays 34, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—63

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

NAYS—34

| | | |
|-----------|-----------|-------------|
| Alexander | Enzi | McConnell |
| Barraso | Graham | Murkowski |
| Brownback | Grassley | Nelson (NE) |
| Bunning | Gregg | Risch |
| Burr | Hatch | Roberts |
| Chambliss | Hutchison | Sessions |
| Coburn | Isakson | Shelby |
| Cochran | Johanns | Thune |
| Corker | Kyl | Vitter |
| Cornyn | LeMieux | Wicker |
| DeMint | Lugar | |
| Ensign | McCain | |

NOT VOTING—3

| | | |
|---------|------|-------|
| Bennett | Byrd | Crapo |
|---------|------|-------|

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 63, the nays are 34. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, the Senate has an opportunity today to take another step toward restoring job growth and opportunity for American workers. Others have discussed the importance of this bill's provisions to help put Americans back to work, and I agree: This bill marks important progress in lowering unacceptable levels of unemployment.

But sending the Hiring Incentives to Restore Employment Act to the President's desk would also mark a significant victory for law-abiding U.S. taxpayers. Right now, thousands of U.S. tax dodgers conceal billions of dollars in assets within secrecy-shrouded foreign banks, dodging taxes and penalizing those of us who pay the taxes we owe. The Permanent Subcommittee on Investigations, which I chair, has estimated that these tax-dodging schemes cost the Federal Treasury \$100 billion a year.

But under this legislation, for the first time, foreign banks will be required to disclose their U.S. account holders to the U.S. Government or face significant penalties. This provision will make it far more difficult for tax dodgers to conceal assets and income in foreign banks. As more banks set up systems to disclose U.S. account holders, bank secrecy will become increasingly difficult to maintain. With increased transparency will come less tax evasion, less money laundering, and less crime.

Certainly this legislation will not end tax avoidance or money laundering. Its provisions do not take effect for several years, and its impact will depend in large part on the willingness of regulators at the Treasury Department and elsewhere to write strict regulations and enforce them vigorously. It also will not affect banks willing to continue to conceal their U.S. account holders despite the penalties that carries a significant loophole for tax dodgers and the foreign banks that assist them. So this legislation is not a silver bullet. In fact, I believe our tax enforcement regime could be strengthened by provisions of the Stop Tax

Haven Abuse Act, S. 506, which I introduced with Senators McCASKILL, NELSON, WHITEHOUSE, SHAHEEN, and SANDERS. For example, Treasury should have authority to prohibit U.S. banks from participating in wire transfers with or honoring credit cards from overseas banks that impede U.S. tax enforcement.

I will continue to press for enactment of S. 506 and to build the growing momentum against overseas tax abuses. Make no mistake, today marks an important milestone. For the first time in years, we are poised to approve legislation with a real chance to pull back the curtain of bank secrecy, expose offshore accounts, and ensure that those who owe taxes pay them. Amid the growing concern over our budget deficit and American families' concerns about making ends meet, we can no longer afford to allow tax dodgers to hide behind this curtain, avoiding their obligations and leaving their rightful tax burden for honest taxpayers to carry. I urge my colleagues to approve the HIRE Act, in the interest of America's workers and America's honest taxpayers.

Mr. HATCH. Mr. President, I wish to discuss the jobs legislation, known as the HIRE Act, on which the Senate will be voting tomorrow morning, and to express my deep concerns with the direction this bill has taken over the past few weeks.

Ever since the collapse of the financial markets in late 2008, helping our economy should have been a priority for this deliberative body. However, it has taken more than a year for us to seriously address legislation that would promote permanent job growth.

Several of my Finance Committee colleagues on both sides of the aisle put a lot of time and effort into the creation of a compromise jobs bill that Chairman BAUCUS and Senator GRASSLEY were trying to move forward. I had high hopes that we might help thaw the partisan freeze that has had this Chamber gridlocked for so long. But then, just as it looked like we might see some light at the end of this bitter tunnel, the rug was pulled out from underneath us by the majority leader's inexplicable decision to hijack our work and alter it with a piece of legislation that he knew would replace cooperation with acrimony.

But if that weren't enough, the majority leader added another slap in the face of the minority; he once again filled the amendment tree, thus shutting off the minority's ability to attempt to improve the bill. To those unfamiliar with the Senate process, when the majority leader fills the amendment tree, he prevents anyone else from being able to offer any amendments to the underlying legislation. Thus, he prevents compromise.

I have served in this body for a long time, and I cannot remember an incident that exhibited as much raw political gamesmanship as this one did. The fact that the majority leader chose to

choke off the first genuine attempt at cooperation on a major issue of such importance does not bode well for the remainder of this Congress. How are those of us in the minority supposed to have faith that we will not be excluded from future debates? It is easy to label Republicans as the party of no when they are completely excluded from the legislative process. When this happens, "no" is the only option that remains.

But what puzzles me the most is what, even if they succeed, will the majority gain from this maneuver? The Senate operates on a level of trust that agreements will be honored, but now even that has come into question.

Less than 2 months ago, I sat in the House Chamber while the President gave his State of the Union Address where he raised the importance of bipartisan cooperation, especially in the area of job creation. The fact that the President hit a nerve with this plea is evident by the effort to build such a bipartisan bill in the Finance Committee in the weeks following. However, it is obvious that many on the other side cannot stand the thought of working with our side when there might be political points to be gained by trying to embarrass us.

Here are a few of the things the President said about the need for bipartisanship in the State of the Union Address:

"And what the American people hope—what they deserve—is for all of us, Democrats and Republicans, to work through our differences;"

"[Americans] are tired of the partisanship and the shouting and the pettiness."

"These aren't Republican values or Democratic values that they're living by; business values or labor values. They're American values."

In the same breath, President Obama went on to address the need to promote job growth by saying:

"Now, the true engine of job creation in this country will always be America's businesses."

"We should start where most new jobs do—in small businesses, companies that begin when an entrepreneur takes a chance on a dream, or a worker decides it's time she became her own boss."

And finally:

"[We should] Provide a tax incentive for all large businesses and all small businesses to invest in new plants and equipment."

I certainly believed—as did most Republicans—that the President was being sincere. But soon after President Obama addressed the Nation, Senate Democratic and Republican members of the Finance Committee went to work on a bipartisan solution to creating a jobs growth bill. I worked with Senator SCHUMER to come up with a payroll tax holiday for those companies that hired unemployed workers. Under this incentive, the sooner a company hired someone, the greater the tax incentives the company would re-

ceive. This initiative is a perfect example of the kind of bipartisan President Obama was talking about during the State of the Union.

Senators BAUCUS and GRASSLEY joined in this effort by including several other provisions aimed at job growth and remedies to address the symptoms of a failing economy. This was a compromise that included an extension of unemployment insurance, Build America Bonds, and the extension of the expired tax provisions.

Let me be clear, there is no doubt in my mind and in the mind of many of my colleagues that passing a jobs bill is crucial. We have seen our unemployment rate remain stagnant at around 10 percent since last September. The American people sent us here to do a job, and it is way past time we did it.

This is why it was so shocking, then, that on Thursday, February 11, the Senate majority leader suddenly announced that he was scrapping the compromised proposal only hours after it was unveiled, proceeding instead with a scaled-down bill. In minutes, the majority leader pulled the rug out from not only Republicans but also those Democrats who had been working for weeks on a bipartisan solution. Regrettably, because of the majority leader's decision, it looks as though President Obama's hope for a bipartisan solution to job creation only lasted 2 weeks. What a shame.

To illustrate the abruptness and surprise in Senator REID's unexpected action, just look at the headlines the following day:

"Key Dem: Reid scrapped jobs bill because he did not trust Republicans" the Hill.

"Reid kills Baucus-Grassley jobs bill"—the Politico.

"Senate leader slashes jobs bill; Despite new support"—LA Times.

But it does not end there. The majority leader sent a pretty strong message when he said that he—and I quote—dared Republicans to vote against his bill.

His Democratic colleagues were quick to stand behind this reversal. Some Democratic Senators went so far as to say Republicans are not interested in a bipartisan deal because we were more inclined to play rope-a-dope again. They went on to characterize the tax extenders as only going to people who are making money. They even went so far as to say that what the Democratic caucus is taking to the floor is something that is more focused on job creation than on tax breaks.

Now I know the Senate recently passed the expiring tax extenders package as a part of a broader bill. But what continues to astound me is how quickly so many Democratic Senators were to abandon these tax extenders. In fact, most of them support—and even voted to extend—these tax provisions. The Democratic leadership even erroneously labeled the tax extenders as a solely Republican-supported initiative. And many Democrats, including the majority leader, are cosponsors

of legislation that would extend many of the expiring tax provisions. Look at the bills to extend the research tax credit or the alternative fuels vehicle credit or even the new markets tax credit. These are by no means solely Republican initiatives. The exclusion of these tax extenders caused one Democrat to criticize the majority leader's action by saying "this bill was carefully crafted to achieve significant bipartisan support and contains several important measures to spur business growth and encourage new hires." So to label support for extending these expiring tax provisions as part of a solely Republican agenda is misleading, unfair, and unwarranted. These statements were made only to support a desperate, hasty, and ill-considered decision. The icing on the cake was when the Senate ended up passing these very tax extenders last week by a vote of 70 to 28. In fact, only one Democrat Senator voted against these tax extenders.

Some have questioned how extending these expired tax provisions relate to job creation. It is a fair question but one with easy answers.

The extension of these expired tax provisions only supports proven growth of companies that are slowly beginning to see the light at the end of the tunnel. Government funding would only provide a false sense of job growth because once the government funding is gone so will the jobs.

If we need proof that government spending is not as effective as tax relief, we only have to look to what the Congressional Budget Office said last year about the effects of the year-old economic stimulus package.

The legislation would increase employment by 0.8 million to 2.3 million by the fourth quarter of 2009, by 1.2 million to 3.6 million by the fourth quarter of 2010, by 0.6 million to 1.9 million by the fourth quarter of 2011, and by declining numbers in later years.

The reason why employment created from the stimulus bill would decline in later years is because government spending does not create permanent lasting jobs. The private sector, however, can create permanent, self-sustaining jobs. The tax incentives give the private sector a much needed boost. If we had included more tax incentives for businesses in last year's economic stimulus bill we would have created jobs that would have lasted well beyond the 2 or 3 years government spending would have created.

Originally projected to provide \$787 billion in stimulus, the Congressional Budget Office, CBO, now puts the 10-year costs of the stimulus bill at \$862 billion. This does not include interest owed, which would put the total cost at over \$1 trillion.

Of the \$862 billion stimulus package, only a third has been spent. Another third is expected to be spent in 2010, and the remaining third will be spent after 2010. What ever happened to spending money on projects deemed to be shovel ready?

The administration has claimed the stimulus bill is responsible for creating

or saving 1 million jobs. If we take a closer look, we see this claim is very misleading. For example, it was reported that a construction company in Nevada reported creating 20 jobs on a project that has yet to receive money. A school district reported saving 665 jobs, even though it only employs about 600 people. A town in Oregon reported creating eight jobs on a contract for rattlesnake stewardship. In January of 2009, President Obama's economic advisers predicted in a report that with an \$800 billion stimulus, the unemployment rate would never go above 8 percent. Without the stimulus, they said, the rate would be at 9 percent. The unemployment rate has been near 10 percent since last September.

The stimulus package was sold to the American people as an immediate fix. I think the exact words were that it would be a "jolt" to the economy. Some of the quotes by the administration were "you'll see the effects immediately," from Larry Summers. "We'll start adding jobs rather than losing them," from Christina Romer, the President's Chair of Economic Advisers. "This will begin creating jobs immediately," from House majority leader STENY HOYER.

Back when he was pitching the stimulus bill, then-President-elect Obama said "90 percent of these jobs will be created in the private sector—the remaining 10 percent are mainly public sector jobs." However, in an article dated February 17, the Wall Street Journal reported that government data indicate that most of the jobs supported by stimulus spending belonged to public employees at the State and local level.

In fact, only 2 percent of the entire stimulus bill was dedicated toward tax relief for businesses. The public sector does not create permanent jobs; the private sector does. We need to provide a foundation to allow the private sector to flourish and create better paying jobs.

That is why many supported including these tax extenders in the HIRE Act. For instance, it is estimated that approximately 70 percent or more of the research tax credit benefits are attributable to salaries of performing U.S.-based research. How can some Senators disregard the effectiveness of some of these tax extenders on job growth? And keep in mind that the research credit has traditionally received more Democratic support in this body than it has Republican support. In fact, there is a bill to extend the expiring research tax credit. Of the 18 cosponsors of this bill, 11 are Democrats. Furthermore, this bill was introduced by the Democratic chairman of the Senate Finance Committee.

The President set the tone at the beginning of the year by calling on Congress to put forth a bipartisan solution to creating jobs in this country. In response, both Democrats and Republicans brought innovative ideas to the table. Then, in a sudden change of

events, many Republican ideas have been excluded from the jobs bill the majority leader has brought to the floor.

Again, the majority leader has maneuvered this legislation to prevent any amendments from being offered by our side. In fact, the majority leader continues to exclude Republicans from debate. Just look at this chart that shows how many times the majority leader has filled the amendment tree in relation to past majority leaders—25 times. If this is not an arrogance of power, then I do not know what is. I only hope the majority leader heeds to President Obama's plea for a bipartisan solution.

I think one Democrat, learning of the majority leader's action, said it best:

Most Americans don't honestly believe that a single political party has all the good ideas. I hope the Majority Leader will reconsider.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to H.R. 2847.

Mrs. MURRAY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT) and the Senator from Idaho (Mr. CRAPO).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 29, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—68

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

NAYS—29

| | | |
|-----------|----------|-----------|
| Barrasso | Cornyn | Gregg |
| Brownback | DeMint | Hatch |
| Bunning | Ensign | Hutchison |
| Chambliss | Enzi | Isakson |
| Coburn | Graham | Johanns |
| Corker | Grassley | Kyl |

| | | |
|-------------|----------|--------|
| Lugar | Risch | Thune |
| McCain | Roberts | Vitter |
| McConnell | Sessions | Wicker |
| Nelson (NE) | Shelby | |

NOT VOTING—3

| | | |
|---------|------|-------|
| Bennett | Byrd | Crapo |
|---------|------|-------|

The motion was agreed to.

Mr. ROCKEFELLER. Mr. President, I move to reconsider the vote and to lay that motion upon the table.

The motion to lay upon the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

ORDER OF PROCEDURE

Mr. JOHANNIS. I ask unanimous consent to speak as in morning business, and I would also like to lock in, if you will, that Senator LANDRIEU will follow me.

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

USDA ANIMAL IDENTIFICATION SYSTEM

Mr. JOHANNIS. I rise today to discuss the U.S. Department of Agriculture's Animal Identification System. Over the past several years, USDA has administered a system called the National Animal Identification System, NAIS.

The ultimate goal of the system was to keep track of animal movements so that we could trace back animals in the event of a disease outbreak. The first step under animal ID was to register farms where animals are housed, also known as premises, and that registration was to occur in a database.

After registering a premise, a producer could identify individual animals or groups of animals that moved to or from a premise, each given an individual ID number. This system worked for those who wanted to use it. But no one was forced to participate. In other words, it was a voluntary system.

If producers wanted to participate in the program so they could keep track of an animal's movements or because a trading partner might be more inclined to buy their product, or for any reason that worked well with their operation, then it was there for them. It was at their disposal.

But as long as NAIS was in existence, it was a voluntary program. Now, recently, on February 5, 2010, USDA announced it was doing away with that and developing a new framework for animal disease traceability in the United States.

It caught my attention as a former Secretary of Agriculture. The Obama administration completed a series of listening sessions held by USDA's Animal and Plant Health Inspection Service—we refer to them as APHIS—and those were done just last year.

Having held farm bill forums across the country as the Secretary of Agriculture, I applaud any effort to hear directly from farmers and ranchers. I ap-

plaud USDA for seeking input on NAIS. I was very appreciative that, at my request, one of those animal ID listening sessions was, in fact, held in my own home State of Nebraska.

But I must admit, after the listening sessions I was very surprised at the new framework that the USDA has developed. USDA says the new program is not a mandatory program except for animals that travel to a different State from where they were born.

Think about that. With that little caveat, that basically means the program is a mandatory program for a whole lot of livestock in the United States. You see, anybody who has any farm background or agricultural experience will tell you that the vast majority of animals in this country move to a different State in their lifetime.

It is just simply a fact. Additionally, the program is mandatory not only for premise registration but for the actual tracking of the animal. Here is the real kicker. State governments will be tasked with keeping track of the livestock under the new system.

It is almost like this administration realized how much opposition there was to a mandatory system—and, believe me, there is—and decided to hand the hot potato to the States. But in doing that, they said, thou shalt do it but keep the headache off our desks.

States are genuinely and rightfully concerned about this new program potentially being dumped on them. I am already hearing from officials and producers in my home State, and they are enormously concerned by this proposal. Some groups are even urging the Nebraska Department of Agriculture, which would be tasked with administering the program, to refuse to participate. And, believe me, this is not the last State that will weigh in on this very controversial proposal.

Later this week, there is a meeting of State departments of agriculture, State veterinarians, and other interested parties to further examine this issue. That is why I am on the Senate floor. I am going to be very anxious to hear their input and to hear the outcome of that meeting because there is great concern in farm country for this proposal. My hope is that conference participants can get some answers to some basic questions.

Consider this: Let's say a Nebraska farmer buys a Nebraska calf with no tracking number and puts it out in a Nebraska pasture. So that is in state. That is pretty clear. No need to comply.

Sometime later, after that calf has gained some weight, it is then taken to the auction barn, the sale barn. At this point, in the sale barn, there are multiple buyers from all over the country typically. There could be buyers from Nebraska and Kansas, Iowa, and other States. They are all in the arena to bid on their calves.

But apparently only buyers from Nebraska could make bids even though other buyers from other States might

offer more money. Let's say by chance a Nebraska feedlot is the highest bidder and buys the calf, still in state, can feed that calf out—still no need to comply with the animal ID program. But now, some months later, the steer is ready to go to the packing plant, but the plant is on the other side of the river in another State, and they will pay more than a plant in state for that animal. Wait a second. Can the feedlot owner sell to the Iowa meat processor? Apparently not because the two owners prior to him chose to not participate in the program.

The bottom line: Many livestock auctions attract bidders from in state and States all over the country. So one can assume all animals sold through an auction barn will be required to have animal ID. For those who have been to these sales, can you imagine literally the auctioneer stopping the sale and saying: These animals are not registered; only Nebraska purchasers can buy the animals. If they were not ID'd, auctioneers would literally have to stop the bidding and announce where the potential seller resides for each animal without a tracking number. Then many of the buyers must sit on the sidelines, visit the bathroom, go to the vending machine, anything but bid on their calf. Can you imagine. It just doesn't make any sense. What will be the viability of the cattle operations in this country for that sale barn? What about the rancher who sells some of his cattle in state and some of it goes to facilities in other States? Will that person be required to tag some of the animals in the feedlot but not others? He or she is going to spend more time trying to figure out how to comply with the USDA program than he or she will spend ranching. Producers are basically going to be forced to fully participate in the program. I think the USDA knows it. If a potential buyer is from another State, there can be no deal unless the animal has the tracking number.

This looks like a backdoor mandate that is being packaged as something else. Worse yet, the package is being delivered and dropped on the doorstep of our States. Let's face facts. This so-called new animal ID plan is a mandatory system, when it was promoted as a voluntary one. In my judgment, to be blunt, this is a wolf in sheep's clothing, but America's farmers and ranchers are not going to be fooled. They know better than anyone that the vast majority of agricultural commerce occurs across State lines and even country to country. They deserve better.

Let me be clear. I did not come here to be critical of the fact that USDA is considering new approaches. In fact, I acknowledge that when I was the Secretary, I called a timeout to fully understand the complexities of the animal ID and to hear from producers. I openly said: I am considering making this a mandatory program. I thought a mandatory approach might be necessary, and we listened and studied it very closely.