this body as to how many amendments they choose to offer.

In any event, the majority leader has stated that we will stay on the bill until we complete it this week. I encourage Senators to stay close to the Chamber once the voting sequence begins because, as we all recall, there is not much time between those votes.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

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

DEFICIT REDUCTION

Mr. REID. Madam President, through the Chair to the distinguished Senator from Kentucky, and to anyone within the sound of my voice, if there were ever a grating of nerves, it is the nerves of the American people by what this piece of legislation does to them. This legislation was named by the majority in conjunction with the President. It is called the Deficit Reduction Act of 2005. If there were ever Orwellian doublespeak, it is that.

Using the numbers the majority placed in this bill, the budget Deficit Reduction Act of 2005—we are in 2006, but it was named and completed in 2005—it increases the deficit by $50 billion. The Deficit Reduction Act of 2005 increases the deficit by $50 billion using their numbers. So let's not talk about grating the nerves. If there were ever a grating of nerves, it should be the American people who are so concerned about what has happened to the economy of this country.

In just a few days we are going to be asked to increase the debt ceiling from $8.2 trillion to whatever figure they pick, $9 trillion; ''they'' meaning the majority. Talk about grating the nerves. We, the minority, need not be lectured on common courtesies as expressed by the distinguished Senator from Kentucky. There is no one in the Senate who is more bipartisan than the distinguished senior Senator from Montana who is the floor manager of this legislation. We are doing nothing but following procedure.

Frankly, what happened yesterday didn't extend common courtesy. We were not allowed to offer a single amendment. If this is how we want to start the year, by pointing fingers, we can point fingers just as well as the majority. We chose not to do that yesterday. There wasn't a speech given yesterday about how we had been prevented from offering amendments, but the Senator from Kentucky comes out here this morning and lectures us on common courtesy and grating nerves. Any time that debate needs to take place, we will be involved.

The ACTING PRESIDENT pro tempore. The majority whip.

Mr. MCCONNELL. Madam President, I certainly don't intend to engage in a prolonged debate this morning. Let me repeat that we passed this bill about 5 weeks ago. A number of Democrats voted for it on final passage. The reason they voted for it is they know it is the only way to prevent a tax increase on many middle-class people who are counting on the tax relief that was passed several years back and hope that it will continue. My only point is, I say to my good friend from Nevada—and he is my good friend—we have been there and done that on this bill. To simply redo the same measure is arguably a waste of the Senate's time. Nevertheless, that is where we are. At some point this week we will complete, once again, the passage of this Tax Increase Prevention Act which will be to the substantial benefit of the American people.

I yield the floor.

TAX RELIEF EXTENSION RECONCILIATION ACT OF 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 4297, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4297) to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, we have a few hours left on this side. I believe the Senator from California, Mrs. BOXER, is on her way to the Chamber and will be here momentarily. Until that moment arrives, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Madam President, I ask unanimous consent that I may yield to the distinguished Senator from Michigan such time as she may require and that I may be recognized at the close of her remarks.

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

The Senator from Michigan.

Ms. STABENOW. Madam President, I thank the distinguished Senator from West Virginia for his kindness this morning.

I rise in support of Senator BAUCUS's amendment. At a time when middle-class families are struggling to pay their bills, the House tax bill would actually increase taxes by more than $30 billion on those families—$30 billion.

This is a very difficult time for Michigan families. Every day we hear news about another plant closing or a company entering into bankruptcy. Michigan has lost 111,000 manufacturing jobs, and that doesn't include the recent announcement by Ford to cut another 30,000 jobs.

Michigan families are worried about their jobs. They are also worried about losing the pension that they have worked hard for and paid into for the 30 years that they have worked. They see their health care premiums continue to skyrocket, and they are struggling to fill gas tanks and pay home heating bills. The average price of gasoline in Michigan last month was $2.35 a gallon. Now middle-class families are facing home heating bills that are as much as 35 percent more expensive than last year. And their salaries and their pay stubs don't show a 35-percent increase. If anything, they are going down in terms of income.

What does the House bill propose to do to help middle-class families? Raise their taxes. This was quite stunning to me when I reviewed the bill that came over from the House of Representatives. We are talking about a bill that actually raises taxes on middle-income families. That is not acceptable. We can do better than that. Our middle-class way of life is in danger. I believe very strongly that in Michigan and places all across this country we are fighting for a way of life. Will we have the standard of living that we have had? Will we have the ability to send our kids to college and be able to buy a home and be able to dream the American dream and be successful? At every turn, we are seeing action taken here that takes our way of life and our opportunities away. Before Christmas, it was a bill that is part of this whole package, cutting over $12 billion in opportunities for people to go to college, by cutting student loans.

So this is another one of those cases where people are working hard, expecting us to do the right thing and, in fact, the House bill would raise taxes on middle-income people, while lowering taxes for those who are already very blessed, earning millions of dollars a year. We need to be passing legislation that lowers health care costs, which is hurting American manufacturers. We need legislation that will protect people's pensions. This ought to be a basic premise and principle that we abide by in this country. When you work hard all your life and you pay into a pension, you should know that that will be there for you and your family.

We must also enforce our trade laws and insist that countries such as China and Japan play by the rules and stop manipulating their currency and that we don't see counterfeit products coming into this country illegally, or other countries stealing our ideas and patents.

That is the debate we should be having. These are actions we should be taking. I was deeply concerned the other night to hear the President talk about those of us who want to enforce trade laws, essentially saying we are

protectionists if we don't stand back and say that in a global economy, whatever happens happens, that those of us who care about the rules and want trade to be fair are somehow protectionists. I profoundly disagree with that.

It is our job to fight for American businesses and American workers. That is what I do every day, and I know that many colleagues feel the same way. The debate we need to be having on the floor of the Senate is how to save our middle class, save our way of life. But at a minimum, we should not be passing a tax increase on middle-class families.

Michigan is the heart and soul of the middle class. There are 52,000 families in jeopardy of facing a tax increase if we do not address the alternative minimum tax. The alternative minimum tax ceiling needs to be raised, as we know. Fundamentally, while there has been agreement in this Chamber to do that, if that does not come out of conference committee between the House and the Senate, we will see 19 million families getting a tax increase as a result of actions of the Congress.

For instance, a family with five children would be hit with this ceiling if their income exceeds $54,000. They would, under the current system, pay more taxes. But without children, their income could exceed $76,000 before they pay more taxes. Think about that. Why is that fair? If you have five children, five mouths to feed, five children to buy clothes for, five children whom you are worried about going to college, you are going to pay higher taxes than somebody without children. That makes no sense. That is a $20,000 difference, a $20,000 penalty for having children. That makes absolutely no sense. What is American about that?

Sadly, under the current system on taxes with the AMT, the larger your family, the larger taxes you pay. To add insult to injury, the House bill extends the capital gains and dividend tax rates to provide $50 billion in tax breaks to our wealthiest Americans—$50 billion in tax breaks to our wealthy Americans—while a family with five children, earning $54,000 a year, will pay more taxes.

The majority of Americans are looking at this and asking, what is going on here? Where are our priorities, our values? This is backward. Even more egregious is the fact that these tax breaks that are given under the House bill are not set to expire until 2008. So the current tax cuts being given to the wealthiest Americans don't even expire until 2008, but the current problem for middle-income families happens right away; the current tax increase happens right away.

This bill is money to ensure that the wealthiest 3 percent of Americans are given tax breaks way out until 2010. Meanwhile, right now, middle- and low-income families are facing lower wages, mounting health care costs, trying to pay the gas bill, trying to pay the home heating bill, trying to send the kids to college, while we cut student loans. I did not support that. And now we are going to say, potentially, if the House bill were to become reality, by the way, you are going to pay more in taxes. This makes absolutely no sense.

I commend my colleague, Senator BAUCUS, and I commend the chairman of the Finance Committee, as well, for working together to fix this, getting the Senate to work together to fix this. We need to fix this—and not only in the Senate because we have agreed that is not right—this needs to be fixed when the bill ends up going to the President's desk. That is when we will know whether 19 million American families will have a tax increase. My vote is ''no'' on that one, and it is ''yes'' on making sure we fight for that which will keep our way of life in this country.

Madam President, I yield the floor, and I thank the Senator from West Virginia again for allowing me to use this time.

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

Mr. BAUCUS. Madam President, several on our side wish to make statements before we get to offer amendments and vote. It is my understanding that it will begin at about 2:15. There will be a series of amendments then offered which, obviously, we will vote on. There are a good number on this side and a few on the other side of the aisle. I encourage Senators to quickly firm up those amendments so we can line things up as expeditiously as we possibly can.

In the meantime, I remind the Senate where we are. We are on the House deficit reduction bill. Later today, I expect that the majority leader will offer a substitute amendment. That will be the Senate amendment; that is a Senate-passed bill to the House bill. The Senate-passed bill will include a perfecting amendment. The perfecting amendment will modify the Senate-passed bill that previously passed in the Senate by extending the so-called tax extenders, R&D tax credit, the WOTC tax credit, tuition reduction, and savers' credit, for an additional year. Those provisions expired at the end of 2005. The Senate bill extended all those provisions, so-called extenders, for 1 more year, until the end of 2006.

The perfecting amendment that will be offered will then add another year to all those, so that those provisions, if that amendment passes, will not expire; they will have 2 more years of life. That is the major change that will be in the perfecting amendment to the Senate substitute, which the majority leader, I assume fairly quickly, will offer.

To remind Senators, the main difference between the House and Senate bill is this: The House bill includes the extension of the lower taxes—the dividend tax and capital gains taxes—for 2 more years. Currently, taxation on dividends and income taxation on capital gains enjoys a lower rate that was put into effect several years ago. That provision or lower rate is in current law and will extend under current law for 2 more years, until the end of 2008, December 31. The House-passed bill extends that provision 2 more years, so it would be in effect for not only 2006, 2007, and 2008, but the House bill would be 2009 and 2010, the full calendar years.

The House-passed bill doesn't, however, include any relief for alternative minimum taxes, which about 17 million Americans will have to pay this year, 2006. Actually, it is about 20 million because 3 million taxpayers had to pay for 2005, and 17 million more taxpayers will have to pay an additional tax under the so-called stealth tax, the alternative minimum tax in 2006. So the House bill extends provisions that need not be extended because the law doesn't change, but it does not reduce taxes for people who are going to pay more for taxes in 2006. Contrast that with the Senate-passed bill, which would be the substitute for the House bill. If it passes, it will send that back over to the House. They, presumably, will disagree with the Senate and ask for a conference. We will appoint conferees and begin a conference on the two separate bills. That will happen next week probably.

Again, the Senate bill doesn't extend dividend reduction, capital gains taxation reduction, for 2 more years. It maintains current law, which provides the current low rate in existence for not only this year but also next year and also the following year, through December 31, 2008. We did, however, in the Senate bill, say, OK, those 17 million people—Americans who are going to have to pay AMT—that is additional tax for 2006—should not have to pay that additional tax. We, in the Senate bill, said we are going to extend the provisions, the so-called AMT patch, so those Americans will not have to pay additional tax under the alternative minimum tax.

That is a major difference between the House and Senate bill. I hope that we in Senate can do what I think most Americans want. Most Americans would say, OK, 17 million Americans—let's not raise their taxes; let's make sure those taxes are not raised. And then we will worry about 2009 and 2010, when we may or may not want to extend more favorable tax treatment on capital gains income and on dividend income. We can cross that bridge when we get there. Because the budget resolution says we cannot lower taxes by more than $7 billion over 5 years, we just can't do it all. We have to make choices. If you add up all the provisions that people want—the tax extenders and other extensions of tax breaks—it is forcing us in the Congress to begin to make a choice as to what is more important: prevent the additional

taxes people have to pay next year under the AMT, or is it more important that they should pay those taxes but, more for the sake of principle than anything else, extend that dividend and capital gains preferential treatment for years 2009 and 2010.

Again, the House bill only addresses 2009 and 2010. Why? Because under current law, capital gains income and dividend income enjoy favorable tax treatment.

That is the basic posture we are in here. It should not take too long. After various amendments are brought up and Senators vote on them, we will send the bill over to the House. The House will probably disagree and request a conference. We will have a conference when we come back next week and finally work out passage of this bill.

I see the Senator from West Virginia is on the floor. I turn to the Senator from West Virginia and yield to him whatever time he desires.

Mr. BYRD. Madam President, I thank my distinguished friend. He can go ahead with whatever remarks he has. I would love to wait 2 or 3 more minutes.

Mr. BAUCUS. Madam President, if I may ask the Senator from California, how much time does she desire?

Mrs. BOXER. If I can have 20 minutes following Senator BYRD, which we think will be used by other Senators on the same topic.

Mr. BAUCUS. I will do this. Why don't I yield to the Senator from Michigan 5 minutes and then the Senator from West Virginia. Is that all right with the Senator from California?

Mrs. BOXER. If I can be in that line.

Mr. BAUCUS. Yes. I think the Senator from West Virginia would like to defer to the Senator from Michigan at this point.

Mr. BYRD. I thank the Senator.

Mr. BAUCUS. I appreciate the Senator speaking on short notice. Madam President, I yield 5 minutes to the Senator from Michigan.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

DETROIT AND SUPER BOWL XL

Ms. STABENOW. Madam President, after speaking in support of the Boxer amendment, which I think is extremely important, I wanted to take a moment in the middle of this very important debate, a very important bill, and rise to speak to another important event that is occurring this weekend.

I rise today to cheer not for the Pittsburgh Steelers or the Seattle Seahawks but for the city of Detroit and the State of Michigan, which is the host of the Super Bowl XL this weekend. We are very excited about this important event. It is a spotlight shining on Detroit, MI, and I am confident the city and my home State are ready for their closeup this weekend.

The State of Michigan and the city of Detroit are honored to play host to the most watched sporting event in our country. I am sure Detroit will shine, as it has before when it has hosted the Stanley Cup finals, the World Series, and the Major League Baseball All-Star Game, which was just held this last summer.

Ford Field is a beautiful stadium which will be an ideal setting for the Seahawks and Steelers, and Cobo Hall will play host to the NFL Experience, a football ''theme park'' where children and their parents can enjoy over 50 interactive football theme games and displays.

We are expecting over 100,000 visitors to downtown Detroit. I was there last week and saw that a lot of people have gotten there early to enjoy what our city offers. We are so pleased to welcome them. Not only will visitors have a chance to experience Detroit's restaurants and nightlife, but they can go to the Henry Ford Museum and see the bus on which Rosa Parks made her historic stand and visit the African-American Museum. This weekend's visitors will see all the wonderful things Detroit and the State of Michigan have to offer.

I must say that we have over 10,000 volunteers who are ready and are working to make sure everyone enjoys every minute of their stay, and I thank those volunteers for their hard work in being a part of helping Detroit shine.

Detroit is the home of Motown, and I am thrilled that Stevie Wonder will perform before the game and that Aretha Franklin will sing the National Anthem. On Saturday, Motown's music heritage will be on display when the Four Tops, the Miracles, the Contours, the Dramatics, the former ladies of the Supremes, Freda Payne, Brenda Holloway, Martha Reeves and the Vandellas, the Velvelettes, and Paul Hill play at the Masonic Temple. That will be an amazing event to participate in and listen to.

On Friday and Saturday night, Kid Rock plays at the Joe Lewis Arena before a sold-out house, proving that Detroit is the Rock City.

This weekend, Detroit will welcome home two of its native sons—Jerome Bettis and Larry Foote, both members of the Pittsburgh Steelers. Larry Foote, a graduate of Pershing High, is at the beginning of a promising NFL career, while Jerome Bettis is near the end of a Hall of Fame career where he has displayed the character and toughness of a Detroit native. Bettis graduated from MacKenzie High in the late eighties, entered the NFL in 1993, and has since been mowing down defenses on his way to ranking fifth on the NFL's alltime rushing list.

The Super Bowl will give Detroit and the State of Michigan and the region an economic boost, but it will also provide a more important opportunity for the people I represent to shine, as I know they will. I am proud of Michigan's history and excited about our future. I am sure that on Sunday night, those who have visited Detroit, those who have watched the game will be excited as well. We say welcome to all of them.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. I thank the very distinguished occupant of the chair, who presides over this august Chamber with a dignity that is so rare as a day in June and a loveliness that permeates the Chamber. I thank the Chair.

MINE SAFETY

Madam President, yesterday, two more coal miners died in West Virginia—two more, two more coal miners died yesterday in West Virginia—one at Long Branch Energy's No. 18 tunnel mine in Boone County and the other at the Black Castle Surface Mine, which is also in Boone County, WV. That is a total of 16 coal miner deaths this year, and the year is only 33 days old. This situation is deplorable—ghastly deplorable.

The Governor of West Virginia, the Honorable Joseph Manchin, announced last night that he has asked the coal operators of West Virginia to cease production immediately and to go into a mine safety standdown. He has asked that miners be removed from mines in order to review safety procedures and asked that each new shift also review safety procedures before entering the mine.

The Governor has called for expedited inspections of the State's mines, and he has asked that the U.S. Labor Department send additional Federal inspectors and personnel to the State.

The Mine Safety and Health Administration of the U.S. Department of Labor announced last night that it would expand the mine safety standdown to mines across the Nation on Monday, February 6.

This is a very noble action on the part of our Governor, Joe Manchin. I have talked with Governor Manchin, and I compliment him.

I have to say that shutting down the mines for 1 hour is not a serious solution. It may be a timeout for safety, but it is not time enough for meaningful safety. Mine safety officials are displaying increasing concern about this rash of mining fatalities.

Those who consider the tragedies at the Sago and Alma mines to be random occurrences are now taking a second look. They are asking this morning: When will these mine tragedies stop? When? The answer to that question is unsettling, isn't it? It is possible that these accidents are not going to stop. God only knows. Life and death are in God's hands.

It is possible that mine safety protections have eroded so much in recent years that these actions are going to continue. Who would have thought that these mine deaths would occur as they have and in one State? It is possible that these accidents are going to continue to happen again and again unless new action—dramatic action—is taken by the Federal Government to curb these mining hazards.

The danger to our coal miners is real—very real. Yes, very, very real.

The dangers to our miners is very real. There are too many needs, from emergency communications and breathing equipment to a rapid notification and response system to penalizing the reckless disregard of Federal safety standards. Real. Too many needs, I say, are not being addressed by the Labor Department and the Mine Safety and Health Administration and require swift action by the Congress.

The longer we wait to act in Congress, the more likely another fatality and then another fatality and then another may occur. The longer we wait to act, the greater the threat to our energy infrastructure. If these tragedies continue, mines could be closed and coal and energy production could falter. The consequences could ripple throughout the national economy. We cannot delay. We cannot delay in responding.

I spoke with the distinguished majority leader yesterday. Of course, I have already spoken with our distinguished minority leader, who has joined in supporting the need for action on the bill that I have introduced, along with Senator ROCKEFELLER and along with the delegation in the House, a bipartisan delegation. I spoke with the majority leader yesterday, and I have asked mine safety legislation be considered quickly, and I publicly renew that request.

I have come to the Senate floor hoping to see the majority leader again this morning, but he is needed elsewhere, and for good reason, at the moment. But I publicly renew that request, and upon his arrival I shall discuss this matter with him. I have discussed it already with the assistant leader, Mr. MCCONNELL. I urge that this legislation be scheduled as soon as possible, that there be scheduled time as soon as possible on mine safety legislation.

The bill the West Virginia delegation introduced yesterday will help to protect the lives of our miners. It will help to keep West Virginia mines open. It will help to keep the coal coming. It will help to keep the coal fueling the energy demands of our national economy. But we must act quickly. We must ensure the safety of our coal miners.

Hear me. Listen. We must ensure the safety of our coal miners in order to ensure the security of the Nation. The security of the Nation depends on the safety of our coal miners. We have delayed too long already, and every additional day we wait puts another miner's life at risk.

O Death, where is thy sting?
O grave, where is thy victory?

Senators, listen: For whom does the bell toll? Who knows who will be next?

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, I yield 20 minutes to the Senator from California.

Mrs. BOXER. I ask my colleague to make sure Senator LAUTENBERG knows my colleagues are willing to yield him 10 minutes upon my completion; is that correct?

Mr. BAUCUS. I will then subsequently yield to the Senator from New Jersey.

Mr. BYRD. Madam President, will the distinguished Senator from California yield?

Mrs. BOXER. Yes.

Mr. BYRD. I ask so that I might thank her again for delaying her speech until I could make these few remarks. I thank her from the bottom of my heart. She is so considerate always, so courteous: ''And what is so rare as a day in June?'' The beauty of the Senator from California.

Mrs. BOXER. Oh, that is so nice.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. I thank my friend and colleague, and really, in so many ways, our leader in the Senate, and say to him before he leaves the floor how much we stand with him on these mine safety questions.

We Americans are just facing so many tragedies. My colleague reports on yet more deaths in the mines, deaths that are preventable if we do the right thing by our workers. We are mourning together today five more American soldiers killed in Iraq. We had an incident, a workplace killing in Santa Barbara where five or six people lay dead. It is tough times. But I want my good friend to know that we will stand with him on this mine safety question.

Mr. BYRD. Madam President, if I might just take 1 minute, I deeply thank—as they say in the other body—the gentlelady from California, for her noble comments and for her support. The West Virginia delegation in the House and the Senate is pleased at her expressions of support. We are glad to have that support. West Virginia is proud of the California delegation, the delegation that stands with us in this hour of sorrow.

I thank the Senator from California for yielding and for her support.

Mrs. BOXER. Madam President, I rise now to discuss an amendment on behalf of myself and Senators KERRY and LAUTENBERG, which expresses the sense of the Senate that the White House should provide the public with a thorough account of the meetings that the President, his staff, and senior executive branch officials held with Jack Abramoff. The public's confidence in the Government has been rocked, rocked by the widespread reports of public corruption involving Jack Abramoff.

On January 3, Mr. Abramoff pleaded guilty to conspiracy, fraud, tax evasion charges, charges that carry up to a 30-year sentence. He agreed to cooperate with prosecutors in their investigation of a number of public officials, and we don't know where all this will lead. I urge the Justice Department to continue its investigation into any bribery and corruption.

The damage to the public trust from the Abramoff scandal, combined with the recent prosecution of Congressman Randy Cunningham, and the indictment of Congressman TOM DELAY is massive. The investigation by the Department of Justice has really just begun. But right now, sadly, there is a very low opinion of politicians, and trust must be restored with the American people. We cannot govern effectively without the support and confidence of the people. We are supposed to be their representatives. We owe them everything, and we must start with honesty, with ethics, so we can regain their trust.

If the people have lost confidence, we have to win it back. Every Senator I know has searched his or her records for contributions from Jack Abramoff, from his associates and the tribes he represented. Each of us has responded in our own way. But to my knowledge, we have all made our actions public. We have told our constituents what the situation is and whether we plan to do something about it.

In the State of the Union Address the President said:

> Each of us has made a pledge to be worthy of public responsibility—and that is a pledge we must never forget, never dismiss, and never betray.

Those are noble sentiments, very noble sentiments, and I challenge the President to live up to them. Where there is an appearance of impropriety, it is the responsibility of public officials to be open with the public and to clear up any questions that might exist. I know in my long career in elected life, and it is now more than 30 years of elected life, I have had to return contributions from time to time. I have tried to avoid the appearance of a conflict of interest. I have even recused myself on three occasions because I believed that was the right thing to do. But no matter what each of us does there will still be those who doubt us. It is the system. It is a system that is based on private financing, so it is very difficult, with that system, to gain the trust of the people.

But it starts with openness. It starts with transparency. We should each try to be as open as we can and make sure that, whatever we decide to do, the public is informed. It doesn't help to be secretive. It doesn't help to say: I don't have to do this; it is my right not to tell the public anything. It may be your right, but it does not make it right.

According to the press secretary of the President, Scott McClellan, the President does not know and doesn't remember ever meeting Jack Abramoff, and despite repeated requests the White House has failed to provide details of meetings between Jack Abramoff and the President and his staff. The problem is, more and more details keep coming out about the relationship between Mr. Abramoff and the President.

Starting in 1997, Mr. Abramoff claimed credit for procuring a letter

from then-Governor Bush that praised the then-Northern Marianas Island Education Plan. In 2000, Jack Abramoff joined the Bush-Cheney transition team. Several colleagues of Mr. Abramoff ended up being appointed to key positions in the Department of Interior, the agency that regulates Indian gaming issues, central to Mr. Abramoff's lobbying business.

According to the Associated Press, Jack Abramoff and his lobbying team had nearly 200 contacts with the Bush administration in the first 10 months they were in office—200 contacts in less than a year, and nobody remembers anything? I mean it doesn't pass the smell test, to be crude about it.

By 2001, Mr. Abramoff appears to have been selling his clients access to the President. On May 9, 2001, the White House arranged an event on behalf of the group Americans for Tax Reform. That group is a very strong ally of President Bush. The event was attended by the President and a number of legislators. There is a trail of documents that shows that Mr. Abramoff asked some of his clients for $25,000 to go to that event, with the funds going to this Americans for Tax Reform.

I want to show you some e-mails because I think that tells the story better than anything. So here is what Mr. Abramoff asked in an e-mail to a representative of one of his tribal clients. These are Mr. Abramoff's words from an e-mail.

Americans for Tax Reform is bringing together the speakers of all Republican-led legislatures for a meeting with Bush and the congressional leadership. They have requested sponsorship ($25 K) from only four groups. Two of them will be major corporations and one will be Choctaw. Chief Martin will be coming to the event I expect. I told them that I would ask you guys to participate. The exposure would be incredible and would be very helpful. One of the things we need to do is get the leaders of the tribe (ideally the chief) in front of the President as much as possible. Please let me know as soon as you can. Thanks.

That is Mr. Abramoff to the representative of one of the tribes.

Let us see what that particular individual wrote to her tribe after she received Mr. Abramoff's e-mail. She wrote:

Attached is an e-mail from Jack Abramoff with the firm of Greenberg & Traurig. The chairman has agreed for the tribe to be one of the four sponsors of and participate in a White House event on behalf of the Americans for Tax Reform which is being held on May, 9, 2001 in D.C. Please immediately prepare a check made payable to Americans for Tax Reform in the amount of $25,000 and forward it to my office by Federal Express. Then Fed/Ex the check to Mr. Abramoff.

Just to finish this story, here we have a copy of the check Mr. Abramoff received from the Coushatta Tribe of Louisiana in the amount of $25,000—selling the President of the United States and using Federal property.

The meeting was held in the Old Executive Office Building. In all, it appears that four or more of Abramoff's clients attended the event, and at least two claimed they paid the $25,000 requested. They paid that to get close to the President on Federal property. Jack Abramoff, as I said, delivered the President of the United States in exchange for his clients' contribution to the President's supporters. How many more Abramoff clients attended is not clear, and who paid money to attend the White House event is not clear. The White House claims it has no record of Mr. Abramoff attending, but Time magazine claims there is a photo of the President standing with Abramoff and one of Abramoff's clients.

This event alone warrants the President providing full disclosure of meetings with White House officials and Jack Abramoff.

But this was not a one-time event. The following year, Mr. Abramoff solicited money from his clients for another White House event in behalf of Americans for Tax Reform.

The public has more and more questions about the relationship between Jack Abramoff, the President, and his staff, but no answers are forthcoming. The President's refusal to provide additional information about these meetings has increased the public's distrust in the administration and our Government at large.

The President said some very noble words at the State of the Union Address. He said it was important for us to bring trust back. Yet we see no movement for transparency and openness.

The public has a right to know whom Mr. Abramoff met with, what they discussed, and whether improprieties existed. According to a Washington Post/ABC News poll, 76 percent said Bush should disclose his contacts with his aides and Mr. Abramoff. Two of three Republicans favored disclosure. Let me say that again. In the poll, two of three Republicans favored disclosure.

In fact, members of the President's own party in the Senate and in the House have urged the President to provide information to the public about this administration's dealings with Mr. Abramoff. I agree with them. All Government officials who serve the public must take all steps necessary to maintain their trust and confidence.

I hope my colleagues will support this important amendment which I plan to offer on behalf of Senator KERRY and Senator LAUTENBERG. It simply calls on the White House to immediately and publicly disclose each visit and meeting between Jack Abramoff and the President, White House staff, or senior executive branch officials.

Much is made about how Senators get an opportunity to fight for funds for their State. Senator MCCAIN has derided this action. Senator MCCAIN said earmarks right on their face are wrong. If you look at the number of earmarks Members of the Senate are involved in for our States—I know my colleague and I sit on the Public Works Committee. I don't need any lobbyist to tell me that I need a road in my urban area when one is broken down. I don't need a lobbyist to tell me that I need an HOV lane or a new water system or a new sewer system or a new school or a new senior center. It is my job to know that. Senator MCCAIN thinks that is all terrible. But the bottom line is the number of earmarks pales in comparison with the amount of funds that are distributed by this administration and any subsequent or prior administration. They distribute most of the funds.

It is very important, as we all look at our campaign contributions, to sort out in any of them which are in any way tainted by Mr. Abramoff and that the White House comes to the table and is as open as we have been. I believe it is very important. This isn't a partisan issue. Republicans have been calling for the White House to come clean on this, and Democrats are doing the same.

If we are going to restore confidence in our Government, it starts with simple openness, not saying: Oh, this is privileged, this is secret. I will tell you right now, we all learned it from our moms and dads. When somebody says, this is secret, watch out. Our Government is supposed to be open, not secret.

I hope there will be strong support for this particular amendment. I believe its timing is crucial. We can't let any more time elapse.

There are calls for—and I am joining them—a special prosecutor in this particular case. But even before that debate begins, let us have everyone come clean on these meetings, contributions, and the like.

I thank my colleague from Montana, the ranking member of the Finance Committee, for his generosity of spirit in allowing me to discuss this issue. Technically, of course, it isn't a matter of the Finance Committee jurisdiction, but I believe the timing is so important that we should have a vote on this.

Thank you very much. I yield back whatever time remains.

Mr. BAUCUS. Madam President, I very much thank the Senator from California for her terrific service to her State and to the Nation.

I yield 10 minutes to the Senator from New Jersey.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Madam President, I thank my colleague from Montana. I also congratulate our colleague, the Senator from California, for her diligence in pursuing this issue. Senator BOXER has an interest in fairness and equity at all times, and open government. I am so pleased that we can rely on her and her staff to research this matter and to bring it to the public's attention.

Everyone knows there is a cloud over Washington these days. It is a cloud of corruption that challenges the fundamental concept of democracy in our

great country, one that says the President, under the guise of an act of patriotism, can spy on people, innocent people, invade their privacy totally, and yet withhold records that are vital to the public's confidence in government, withhold data that is required in this scandal we are now witnessing which hangs over Washington.

This deep-seated corruption was exposed as part of an investigation into the activities of the lobbyist Jack Abramoff. We now know that he committed despicable acts against his own clients and that he conspired at the same time with certain Members of Congress. His contacts with the White House and his friends are still very much a mystery. Imagine that—contacts with the President of the United States hidden from the public. It is incomprehensible. President Bush refuses to disclose his contacts with Mr. Abramoff for reasons that are unclear. If there is no wrongdoing, there should be nothing to hide.

I wish to quote President Bush from a statement he made when running for President in 2000. He said, and I quote him:

Americans are tired of investigations, scandals, and the best way to get rid of them is to elect a new President—

We are talking about 2000.

—who will bring a new administration, who will restore honor and dignity to the White House.

What an empty statement that has proven to be. President Bush pledged to run an ethical White House. Now, as we see, those words seem almost hypocritical. At the very least, in order to keep this pledge, President Bush must release information on contacts between him, his staff, and Mr. Abramoff. What is he ashamed of? Whether he is ashamed of it or not, he ought to release it to clear the air. The public wants these contacts disclosed. The President needs to help the truth come out, the whole truth, and nothing but the truth. And he should be assisting us in this investigation.

White House Press Secretary Scott McClellan says President Bush does not know Mr. Abramoff. But there is stark evidence to the contrary. According to Washingtonian magazine, Abramoff said that not only did he know the President but that the President knew the names of Abramoff's children and asked about them during their meeting.

There appears to be a long trail of contacts between Mr. Abramoff and the Bush White House. For starters, President Bush put Mr. Abramoff on his 2000 Presidential transition team—a pretty important job. Mr. Abramoff was then able to get his allies appointed to key positions at the Department of the Interior. Why the Department of the Interior? Because it regulates Indian gaming issues that were central to Mr. Abramoff's lobbying business.

He was also one of President Bush's top campaign fundraisers, a so-called Pioneer. He raised over $100,000 for President Bush's 2004 reelection campaign. That was the definition of ''Pioneer''—big-time money.

According to Time and Newsweek magazines, Mr. Abramoff also sold access to the White House through payments sent to Grover Norquist's front organization, Americans for Tax Reform. Senator BOXER displayed a check which was made out to Indian tribes which paid upwards of $25,000 to Norquist for access to President Bush and his top adviser, Karl Rove. Mr. Abramoff bragged to one his clients, Tyco, that he talked to Karl Rove about their issues. And David Safavian, a White House official now under indictment, funneled confidential information to Abramoff to help Tyco.

Mr. Abramoff's own billing records show that his office had almost 200 contacts with the Bush administration in only its first 10 months. The officials listed as contacts included the then-Attorney General John Ashcroft and Vice President CHENEY's top advisers.

As far back as 1997, there is evidence of contacts between then-Governor Bush and Mr. Abramoff. Abramoff charged his client at the time, the Northern Mariana Islands, to get Governor George W. Bush to write a letter praising the island's education plan. Governor Bush did write such a letter to the island government on July 18, 1997, with a ''cc'' to one of Mr. Abramoff's deputies.

The bottom line is that this amendment—once again, I salute my colleague from California for bringing this up, and I intend to support it vigorously—the bottom line is that this amendment urges the President to clear the air. The American people want to know whether the Bush White House was complicit with Mr. Abramoff's schemes. Maybe Mr. Abramoff was exaggerating his contacts with the White House. That is possible. But there is only one way to find out—release the records. We are seeing withholding of information by the White House. I sit on the Committee on Government Accountability. The Republican chairman, SUSAN COLLINS, has asked the White House for information related to the Federal Government's response to Hurricane Katrina. We cannot get that. There has been a public display of the requests for that information.

Does this suggest this White House is committed to keeping the information—information that belongs to the public—private, within their confines so they can do anything they want and not be challenged with their conduct related to this issue? It looks like a constant pattern.

I urge my colleagues to support honest and open government and to vote for the Boxer amendment.

I yield the floor and 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. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAUCUS. Mr. President, I am pleased that later today we will be offering a modification to the Senate amendment to provide a 2-year extension and enhancement to the research and development tax credit. Of course, I have filed legislation with my friend, Senator HATCH, to make a permanent commitment to research-intensive businesses in the United States.

This legislation is bipartisan and bicameral. But 2-years is certainly much better than the usual yearly extender. I am already starting to hear from business taxpayers how important a commitment to longer term research projects are, and I agree with them.

I am hopeful that we can prevail upon our House conferees to retain this 2-year incentive.

You know, just the other night, the President spoke of the importance of the R&D credit to maintaining America's competitive edge. He is right, and that is why I have been a strong supporter of legislation to make the credit permanent for the last few Congresses.

Every morning we hear news of some new product or discovery that promises to make our jobs easier or our lives better. Many of these innovations started with a business decision to hire needed researchers and finance the expensive and long process of research and experimentation.

Since 1981, when the R&D tax credit was first enacted, the Federal Government was a partner in that business endeavor because of the potential spillover benefits to society overall from additional research spending.

But the credit has been hobbled over the years because of its temporary nature. As stated in an analysis last year by the Joint Committee on Taxation, ''Perhaps the greatest criticism of the R&D credit among taxpayers regards its temporary nature.''

Joint Tax went on to say, ''A credit of longer duration may more successfully induce additional research than would a temporary credit, even if the temporary credit is periodically renewed.''

I think we should heed the advice of the experts at Joint Tax and renew this credit for as long as we can. That is why I will support a modified Senate proposal later today for a 2-year extension.

Research has shown that a tax credit is a cost-effective way to promote R&D. The General Accounting Office, the Bureau of Labor Statistics, the National Bureau of Economic Research, and others have all found significant evidence that a tax credit stimulates additional domestic R&D spending by U.S. companies.

A report by the Congressional Research Service, CRS, indicates that

economists generally agree that, without Government support, firm investment in R&D would fall short of the socially optimal amount, and thus CRS advocates Government policies to boost private sector R&D.

R&D is linked to broader economic and labor benefits. R&D lays the foundation for technological innovation, which, in turn, is an important driving force in long-term economic growth—mainly through its impact on the productivity of capital and labor. We have many times heard testimony from economists, including Federal Reserve Board Chairman Alan Greenspan, that the reason our economy grew at such breakneck speed during the 1990s stemmed from the productivity growth we realized thanks to technological innovations.

There has been a belief that companies would continue to increase their research spending and that the benefits of these investments on the economy and labor markets would continue without end. Unfortunately, that is not the case.

According to Battelle's 2005 funding forecast, industrial R&D spending will increase only 1.9 percent above last year, to an estimated $191 billion, which is less than the expected rate of inflation of 2.5 percent. For the fifth year in a row, industrial R&D spending growth has been essentially flat.

It is also important to recognize that many of our foreign competitors are offering permanent and generous incentives to firms that attract research dollars to those countries.

A 2001 study by the Organization of Economic Cooperation and Development, OECD, ranked the United States ninth behind other nations in terms of its incentives for business R&D spending. Countries that provide more generous R&D incentives include Spain, Canada, Portugal, Austria, Australia, Netherlands, France, and Korea.

The United Kingdom was added to this list in 2002 when it further expanded its existing R&D incentives program. The continued absence of a long-term U.S. Government R&D policy that encourages U.S.-based R&D will undermine the ability of American companies to remain competitive in U.S. and foreign markets. This disparity could limit U.S. competitiveness relative to its trading partners in the long run.

Also, U.S. workers who are engaged in R&D activities currently benefit from some of the most intellectually stimulating, high-paying, high-skilled jobs in the economy.

My own State of Montana is an excellent example of this economic activity. During the 1990s, about 400 establishments provided high-technology services, at an average wage of about $35,000 per year. These jobs paid nearly 80 percent more than the average private sector wage of less than $20,000 per year during the same year.

Many of these jobs would never have been created without the assistance of the R&D credit.

While there may not be an immediate rush to move all projects and jobs offshore, there has been movement at the margins on those projects that are most cost-sensitive. Once those projects and jobs are gone, it will be many years before companies will have any incentive to bring them back to the United States.

We continue to grapple with the need to stimulate economic growth and advance policies that represent solid long-term investments that will reap benefits for many years to come. I repeatedly have pointed to the R&D tax credit as a measure that gives us a good ''bang for our buck.'' I hope my colleagues will join me in supporting a 2-year extension. It is good for American businesses and workers, and we need it to maintain our global competitive edge.

Mr. President, I take a few moments to talk about the schedule for the rest of the day. The majority leader will be coming to the floor momentarily. Obviously, he will give a better idea of the schedule.

I expect sometime before 11 o'clock this morning the majority leader will come to the floor to offer the Senate substitute in a Grassley-Baucus perfecting amendment. I understand the majority then will fill the amendment tree—that is, offer amendments to fill up the tree—preventing the offering of amendments this morning. However, Senators on this side of the aisle will be able to offer their amendments. It is just a question of when they can offer amendments.

Later in the day Members can offer amendments. It is the managers' expectation Senators will have used or yielded all time back on the bill at 2:15 and we will begin a series of votes that regularly follow debate time on the reconciliation bill; that is, the so-called vote-arama. Roughly at 2:15 we begin the vote-arama. As Senators offer the amendments, at that point we will vote on the amendments. I am hopeful we will have a couple minutes' time for an explanation as to what the amendments actually are. That is the procedure.

I discussed the order of amendments to be offered with the Democrat leader, and I have discussed the order with the chairman of the Committee on Finance. Shortly, I will announce the plans for the first 10 amendments the Democrat Senators will offer.

Those first 10 amendments in this order are as follows: an amendment by Senator BINGAMAN on prescription drug implementation; next is an amendment by Senator MENENDEZ, AMT dividends and capital gains, which is germane; third, a Rockefeller amendment on mine safety; fourth, an amendment by Senator CONRAD, he will offer the substitute amendment which is fully offset; fifth, an amendment by Senator KENNEDY which essentially is the R&D extension for 3 years, and that will be germane; sixth, an amendment by Senator OBAMA with respect to Katrina child tax credit; next, seventh, an amendment by Senator CANTWELL dealing with energy taxes; and No. 8, an amendment by Senator SCHUMER which is a sense of the Senate on AMT; ninth, an amendment by Senator HARKIN with respect to so-called PEP and Pease provisions and dependent care credit; and tenth is an amendment by Senator LANDRIEU for expansion of the low-income housing tax credit. She wants to expand the tax credit.

There will be other amendments later. I am hopeful the additional Democrat amendments can be 10, 12, 14, but I am not sure. I don't want to prejudge that. These are the first 10. We will indicate what the others will be.

This is our intention of how to proceed. My expectation is the other side of the aisle will offer amendments. We will work with the chairman of the committee and go back and forth at the appropriate time.

That is the general procedure we have in mind. It is not locked in, but that is the general procedure in consultation with the chairman of the committee that we would like to work out. Senators from the other side of the aisle will want to offer their amendments. It will be the managers' intention to alternate between both sides of the aisle. We will seek to obtain copies of amendments and announce information on them as soon as possible.

Obviously, if Senators get information on the amendments to us quickly, the more likely we get the amendments up earlier rather than later.

With those caveats, those are the first 10 amendments we expect to be offered. Pending that, the majority leader is in the Senate. I am sure he wants to make a statement.

I yield the floor.

The PRESIDING OFFICER. The Senate majority leader is recognized.

Mr. FRIST. Mr. President, I have been talking to the ranking member before coming to the floor. I think he explained generally what will take place. I will comment on it after completion of procedural requests.

AMENDMENT NO. 2707

(Purpose: To provide a substitute amendment)

Mr. President, I send a substitute amendment to the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. GRASSLEY and Mr. BAUCUS, proposes an amendment numbered 2707.

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

Mr. FRIST. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FRIST. I now ask that notwithstanding the Budget Act, it be in order

for me to send additional amendments and motions to the desk with all the statutory debate time on each amendment or motion still reserved.

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

AMENDMENT NO. 2708 TO AMENDMENT NO. 2707

(Purpose: To provide a substitute amendment)

Mr. FRIST. I send a first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. GRASSLEY and Mr. BAUCUS, proposes an amendment numbered 2708 to amendment No. 2707.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2709 TO AMENDMENT NO. 2708

Mr. FRIST. I now send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 2709 to amendment No. 2708.

The amendment is as follows:

At the end of the amendment add the following:

''This section shall become effective 1 day after enactment.''

MOTION TO COMMIT

Mr. FRIST. I move to commit the pending bill, and I send the motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] moves to commit the pending bill to the Committee on Finance, with instructions to report back forthwith, with an amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2710

(Purpose: To provide a substitute amendment)

Mr. FRIST. I send an amendment to the instructions to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. GRASSLEY and Mr. BAUCUS, proposes an amendment numbered 2710 to the instructions on the motion to commit.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2711 TO AMENDMENT NO. 2710

Mr. FRIST. Mr. President, I send a second-degree amendment to the desk for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. TALENT, proposes an amendment numbered 2711 to amendment No. 2710.

The amendment is as follows:

(Purpose: To repeal the sunset of the provisions in EGTRRA relating to the child tax credit)

At the end of the amendment add the following:

SEC. _____. PERMANENT EXTENSION OF EGTRRA PROVISIONS RELATING TO CHILD TAX CREDIT.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset provisions) shall not apply to the amendments made by section 201 of such Act.

Mr. FRIST. Mr. President, as a continuation of the explanation, it has not been my preference to file these amendments, but we have tried over the last couple of days to bring a semblance of order so we can complete the activity that is in the Senate. It was November when we first passed this bill. The House passed a bill. Under the usual circumstances, with unanimous consent, we marry the two bills and it goes to conference.

We are spending these 20 hours, and we have had good debate over the course of yesterday and this morning. But we have been unable to get unanimous consent to have a list of these amendments with language which would allow our chairman and ranking member to begin voting on those amendments. Thus, what will happen today is, as the ranking member explained, time will expire sometime around 2:15 today. I don't know the exact time. After that, there will be a series of rollcall votes. The rollcall votes begin with the Talent amendment, which is the pending amendment. After that, others will have the opportunity to offer amendments, and they would be voted on accordingly.

I do encourage all of our colleagues to work with the chairman and ranking member, the managers of the bill, so we can have an orderly process and we can stick with amendments that are pertinent and relative to the underlying bill. It means if we work aggressively but work collaboratively over the course of the day we will start voting early this afternoon. We will be voting until we finish this particular bill.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. Mr. President, I am sorry to have been late. Are we going to finish these votes today, tonight?

Mr. FRIST. Mr. President, through the Chair, in response, I certainly hope so. I believe we are in a position to do so, but it depends on how many amendments we have. Once we start voting, we will keep the amendments very tight. Both the Democrat leader and I said we hoped it would not come to this point to have a vote-arama, but that is what it will be. I believe we can finish it tonight. The only hesitation is how much cooperation we get from our side of the aisle and your side of the aisle. If we do not finish tonight, we will continue tomorrow until we complete the legislation.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, if it is helpful to all Senators, especially the Senator from Tennessee and the Senator from Nevada, we have a total of about 20 amendments on this side. I don't know how many are on the other side, but I guess maybe we could finish by around 7 o'clock or 8 o'clock tonight. That is a rough estimate. Maybe earlier.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, I appreciate the positive tone of voice of my distinguished friend from Montana, but if we have 20 votes—and that is on our side—and there are second-degree amendments to those, and amendments offered on the other side, we are talking about a long night. The best we can do, no matter how hard we try, is three, three and a half amendments an hour. So we are talking about, if we start at 2 o'clock, a lot of hours.

I appreciate everyone being confident we will do this. And we will certainly cooperate any way we can. And, as happens, there may be Members who decide not to offer their amendments. That is always a possibility. We will do the best we can. It may be necessary to alert Senators that there may be work tomorrow. The distinguished majority leader is in the Senate, but it is very likely we may not be able to finish all these votes—well, maybe not ''very likely''—but it is certainly possible we may not be able to finish the votes tonight.

Mr. FRIST. Mr. President, I have made it clear from the outset we need to finish this legislation this week. Friday is a working day, as we all know. If we have to be here, we will do that. On the other hand, once people understand where we are and that we do not actually have to be doing this, people will step back and be reasonable in terms of the number of amendments, making sure they are amendments relative to the underlying bill.

The managers will do this later, but Members need to be clear these are 10-minute votes, as well.

I yield the floor.

Mr. BAUCUS. Mr. President, I don't see any Member wishing to speak at this moment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I rise to make an opposite point of view and critical comments on a statement that was made yesterday by the Senator from North Dakota, Mr. DORGAN. Once again, he made a very impassioned case, and everybody who hears him knows he presents his case very well. He made an impassioned case for American workers whose jobs have been lost when plants move overseas.

We have all witnessed this heart-wrenching event. I know even in my home State of Iowa we have had plant closings for that reason. Some of those operations have been moved out of the United States. But as far as Iowans are concerned, let me remind you this has been a phenomenon of plants moving from Iowa to other places for a long time, before we ever heard the word ''outsourcing.''

I remind my colleagues I was a member of the International Association of Machinists at a sheet metal factory, the Waterloo Register in the town of Cedar Falls, IA. We made furnace registers. I started working there in 1961, when I was a young member of the Iowa Legislature, to supplement the income of a citizen legislator, and also to supplement the income of a young farmer getting started at that time because I was only farming 80 acres at that time. Even in 1961, you could not make a living farming 80 areas. You could not make a living getting $3,000 every other year being an Iowa legislator. So I became a factory worker.

At about 1971, the people who owned our company decided people in Texas would work for less money than people in Waterloo, IA, so they moved the plant to Texas. Our job was shut down. Our job was lost. The outsourcing was not to China, it was to Texas. I presume that 25 years later there were jobs that moved from Iowa to Texas that eventually moved to Mexico, and then it was not long Mexico was losing jobs from Mexico to China. Now we hear about jobs moving from China to someplace else, where somebody is going to work someplace else for a lower wage. I guess when you have a planet of 6.5 billion people, and people want to eat, they want jobs, somebody is going to seek that work and do it. So I believe I have been a victim of outsourcing not to China but to Texas. But it is still a problem today, and it is one for which we have to have sympathy.

Senator DORGAN, obviously, presents a great case for those people. But I want people to know I have lived through that and know what it is like when I am commenting because I do not want people to think I am unsympathetic to outsourcing. But I think we have to recognize the economic facts of life, whether it is my job at the Waterloo Register in Cedar Falls, IA, or whether it was 250 years ago when manufacturing jobs left Great Britain to come to the Colonies in the United States of America.

Now, I want to say, unfortunately, Senator DORGAN's amendment—if it is the same one we saw in 2004. And you can tell from the debate that we just had that we do not have the language on these amendments, and we are begging for them. Anybody who believes in transparency of Government ought to get these amendments out here. There is no reason to be secretive about the people's business because everybody is watching us right here on television. We are not trying to hide anything. So we need to see those amendments.

But the point is, if it is like the amendment in 2004, that amendment will not do one thing to bring jobs back to America. In fact, it could very well cost even more U.S. jobs. I would like to explain, then, why I come to this conclusion.

This amendment, if it is similar, repeals deferral for property imported into the United States by a foreign subsidiary of a U.S. company, without regard to whether that property was ever previously produced, manufactured, or grown in the United States.

This means the amendment by Senator DORGAN fails to focus on their primary complaint that U.S. companies are shutting their plants, moving production offshore, and selling back into the United States. The bill does not focus on this scenario. Instead, it overshoots the mark by hitting all goods sold into America by U.S. companies, even if it is impossible for those goods to be produced in America.

For example, if a produce company sets up a banana farm in Costa Rica to import bananas into the United States and around the world, the income from sales to the United States is not eligible for deferral. I may be mistaken on this point, but I am not aware of too many banana farms in Texas or Florida, so I do not see how allowing a banana farm in Costa Rica is going to cost U.S. jobs.

Similarly, if a U.S. company wanted to start a mining operation in some faraway land to extract a new and exotic mineral that is not found at home, they could see that anywhere in the world, but they cannot import that back into the United States without triggering the impact of this amendment.

Or let's look at coffee. We have a lot of coffee shops on our streets these days. If they set up their own coffee plantation in Brazil, they would be hit by the Dorgan amendment. I think we only raise coffee in one State in the United States, and maybe they do not do that in Hawaii anymore. But there is not much coffee raised in the United States. We sure do not raise it in my State of Iowa.

Our friends from New York and New Jersey ought to consider the effects of this amendment on Puerto Rican residents who work in plants owned by subsidiaries of U.S. companies. Many of the U.S. multinationals have manufacturing subsidiaries in Puerto Rico that import products into the U.S. market. Since our Tax Code treats Puerto Rican corporations like foreign corporations, this amendment would hit those companies very hard. But it would not hit their foreign-owned competitors who sell into the United States.

It seems Senator DORGAN's amendment would allow a U.S. company to sell a foreign-produced good to anyone in the world except Americans, but it would allow a foreign-based company to sell those same goods to Americans. When you stop to think about looking out for the benefit of Americans, this does not make any sense.

I have described how the bill would operate, but I do not think this is the intent of the legislation. What I believe is intended is that deferral should be denied if a company closes a U.S. plant, produces the goods offshore, and then imports the goods back into the United States.

This does not actually happen very often. We have had this debate before. The last time I spoke on this issue was when we were debating the JOBS bill back in 2004. I do not think much has changed since then.

At that time, the latest Department of Commerce data on U.S. multinationals showed that only 7 percent of foreign subsidiary sales were into the United States—only 7 percent.

Nevertheless, this amendment insists that the rule of ''deferral'' in our tax law is somehow a ''tax benefit'' that moves jobs offshore and allows you to not pay taxes on foreign income. This is not true, of course. Deferral has nothing to do with moving jobs, and it never forgives taxes that are owed on foreign profits of U.S. companies.

Many U.S. companies, however, choose to reinvest their foreign earnings in foreign markets, and so the U.S. tax on those earnings is, then, indefinitely deferred.

As Senator DORGAN noted, the JOBS bill, that we call the American Jobs Creation Act of 2004, did contain a provision that provided U.S. multinationals a temporary ability to receive dividends from their foreign subsidiaries at a reduced tax rate. Now, it is important to note that companies could only avail themselves of this reduced rate on an amount of earnings they identified in SEC filings as ''permanently reinvested.'' That is a legal term, which means they had no intention of bringing that money back to the United States.

Senator DORGAN's characterization of that provision is misleading, and I would say in two ways. First, Senator DORGAN calls the repatriation provision a tax cut of over $100 billion. To arrive at that huge number, the Senator's calculation must assume these companies would have brought close to $340 billion of their foreign earnings home in the absence of the repatriation provision of the JOBS bill.

Now, the fact is—and I get this from scoring by the nonpartisan Joint Committee on Taxation—this provision has a cost to the Treasury of not $100 billion but $1.9 billion over 5 years and $3.3 billion over 10 years; and it actually scored as a revenue raiser in the first year of $2.8 billion.

Now, I plan on looking at the actual results of this repatriation provision when all the facts are in, after the fact. You are kind of guessing before you pass a bill. But after it has operated for a couple years, then you get a chance to get a real look at it. So we are going to look at this repatriation provision. But the Joint Committee on Taxation must have scored this provision as a raiser in year 1, and a relatively small cost over 5 and 10 years, because 5.25 percent of a large amount that was repatriated is a lot more than 35 percent of a much smaller amount that would have been repatriated otherwise.

In other words, it is not as much money coming back into this country, and if it does not come back here, it is not taxed.

I am not here to defend the repatriation provision or those companies that laid off workers or took advantage of the repatriation provision. I am just as troubled by those announcements as Senator DORGAN. I am simply pointing out that Senator DORGAN's characterization of that provision as a $100 billion tax cut is extremely misleading.

Second, Senator DORGAN talks as if the repatriation provision was the cornerstone of the American Jobs Creation Act, and it was kind of an appendage. In fact, the repatriation provision was a very small part of the bill. One of the key pieces of the JOBS bill was the manufacturing deduction which does actually give a tax break for companies that manufacture, leaving jobs here or creating jobs here. The Joint Committee on Taxation scored this provision as a cost to the Treasury of $76 billion over a 10-year period. That is, in fact, a tax cut, and it is a tax cut that will maintain jobs in America and will create jobs because one of the problems for American corporations compared to international competition is the high tax rate that we have on corporations compared to a lot of other countries. Those other countries are waking up. Just look at Ireland, look at Europe, what we are talking about doing now—sometimes through the European Union, sometimes through individual countries. They are seeing great advantage by reducing the corporate tax rate in their respective countries.

Two years ago, we thought we had moved ahead of them. Now they are following suit. We may have to go back and look at our corporate tax to find out if we are going to continue to be noncompetitive.

I would like to go back to the deferral issue. The rule of deferral exists to keep U.S. companies competitive in the global marketplace. Deferral is not something new. It has been in our tax laws since 1918. We have debated the rule of deferral on several occasions, and we will no doubt continue to do so when we debate tax reform proposals.

Opponents of deferral too often make wild accusations about how this rule, which has been in place since 1918, spells doom for the American worker. Of course, none of this is true. In fact, just the opposite is true because we must always be vigilant about enhancing international competitiveness for our U.S. companies. Hence, deferral ensures an ever-growing base of opportunity for U.S. companies and, more importantly, their employees at home and abroad.

U.S. multinationals are a critical component of our economy. These companies operate in virtually every industry and, the last time I checked, have investments of more than $13 trillion in facilities located within the United States. As employers, they provided 23.5 million jobs for Americans in the year 2001. That was nearly 18 percent of the payroll jobs in the United States. They had a payroll of $1.1 trillion. When you go back to this debate we had in the year 2004, I noted at that time that the U.S. multinationals created more than 53 percent of the manufacturing jobs in America and employed more than two U.S. employees for every foreign worker. Those were the latest years for which I had figures, but I have no reason to believe it is different today.

During the 10 years from 1991 to 2001, U.S. multinationals increased domestic employment at a faster rate than the overall economy. A recent study confirms that U.S. multinationals are significant job creators, and those jobs are not created through ''exporting'' jobs to foreign nations with low-labor and low-tax costs, as Senator DORGAN contends. The Department of Commerce data shows that the bulk of the U.S. investment abroad occurs in high-income, high-wage countries.

Again, referring to the year 2001, 79 percent of foreign assets and 67 percent of foreign employment of U.S. multinationals were located in high-income, developed nations such as Australia, Canada, Hong Kong, Japan, New Zealand, Singapore, South Africa, and the countries of the European Union. We have to remember a very simple maxim for why companies go into foreign markets: 4 percent of the people in the world live in the United States. If you want to create jobs in America and you just want to sell to that 4 percent, you are going to have a very limited market. Whether you are in agriculture, like I and my son and grandson are, selling corn and soybeans overseas, or whether you are manufacturing John Deere tractors, whatever you are manufacturing, if you want prosperity, you go where the market is. That is the 96 percent of the people who don't live in the United States.

Again, referring to that debate on the JOBS bill in 2004, fully 95 percent of the world's population and 80 percent of its purchasing power—so the only new thing I am giving is not that 96 percent of the people live outside of the United States, but 80 percent of its purchasing power—is located outside the United States. Foreign sales growth has outstripped domestic sales growth. So our companies are taking advantage of selling to the rest of the world. This increased growth requires increased employment wherever you can find it. The good news is that foreign growth also results in U.S. job growth.

A recent study confirmed that during the 10 years from 1991 through 2001, for every one job that U.S. multinationals created abroad, they created nearly two U.S. jobs in their parent corporations. That is why it is critical to our economy that U.S. companies remain competitive in the international marketplace.

I would like to review a more rational explanation of deferral and how it works to keep our U.S. companies competitive. The United States taxes all of the worldwide income of its citizens and corporations. The U.S. income tax applies to all domestic and foreign earnings of U.S. companies. The United States fully taxes income earned overseas by foreign subsidiaries of U.S. companies. However, many foreign countries tax their companies on a territorial basis, meaning that they only tax income earned within their country's borders and don't impose tax on the earnings of foreign subsidiaries. Major countries using this territorial system of corporate taxation are Australia, Belgium, Canada, Denmark, Finland, France, Germany, Italy, Luxembourg, Netherlands, Sweden, and Switzerland. A company from one of these countries that uses the territorial tax system has great advantage over U.S. companies.

For example, a U.S. company with a Singapore subsidiary will pay U.S. tax and Singapore tax on the subsidiary's income. A French company with a Singapore subsidiary will pay Singapore tax but no French tax. This means that a U.S. company in Singapore has a higher tax burden than a French company in Singapore. Two basic tax rules answer this problem and seek to put U.S. companies on a level playing field with foreign competitors from territorial countries. The first rule says that when foreign income is brought home, the U.S. allows a reduction against U.S. tax for any foreign taxes paid on that income. The foreign tax credit prevents the U.S. from double-taxing foreign earnings which would make our companies noncompetitive in the international marketplace. And like deferral, this has been in the tax law since 1918.

The foreign tax credit, however, is limited. It may only offset the U.S. tax on that income which is currently imposed at a 35-percent rate. If the foreign tax rate is higher, the credit stops at 35 percent. If the credit is lower, say 10 percent, then additional U.S. taxes

will be owed up to the full 35 percent. In this example, an additional 25 percent of the taxes would be owed to the United States, which is the difference between the 10 percent and 35 percent of the U.S. rate.

The second basic tax rule is that U.S. companies are allowed to defer U.S. tax on income from the active business operation of a foreign subsidiary until that income is brought back into this country, usually in the form of dividends paid to the U.S. parent. This is referred to as the rule of deferral, meaning that the U.S. tax is deferred until the earnings are brought back. This is the rule the Dorgan amendment attacks.

It is important to note that deferral is not the forgiveness of tax. It simply means that we impose the full U.S. tax when foreign earnings are repatriated to the United States instead of doing it the very day of earning. The reason that we defer tax on active business operations is so that U.S. companies can remain competitive with foreign companies that have a different system of taxation than what we have. I am referring to what I called the territorial tax. We don't defer tax on passive activities like setting up an offshore bank account or other passive investments. We tax passive activities yearly. But active operations are subject to competitive disadvantage.

For example, if we impose U.S. tax today on the profits of a Singapore subsidiary, then the U.S. company will pay a 35-percent tax in the United States, net of any Singapore taxes, but that French competitor located right next door in Singapore will pay only the Singapore tax. If the Singapore tax rate is less than 35 percent, which is the U.S. tax rate, then the French competitor will have a tax advantage. Who wants to give any advantage to a French competitor? This is because the United States allows a foreign tax credit to offset the U.S. income tax imposed on those foreign earnings but only up to the 35 percent U.S. corporate rate.

If the foreign rate is less than the U.S. 35 percent rate, then residual U.S. taxes are owed on the difference between the U.S. tax rate and the foreign rate. For example, if a Singapore tax is 15 percent and the U.S. tax is 35 percent, then the United States will impose an additional 20 percent on those Singapore earnings. The French company, however, would only pay the 15 percent Singapore tax. If we did not allow deferral on that additional 20 percent of tax, then the U.S. company today would have a 20-percent tax disadvantage compared to the French company.

The question on repealing deferral is whether we want to hand over the world market to companies from France and Germany and other countries that have a different system of taxation than we have, called the territorial system. Repealing deferral means that we export our high U.S. tax rates to U.S. corporations around the globe. The United States has one of the highest corporate tax rates in the world. There are few countries with rates higher than the United States. This means that without deferral, U.S. companies will be at a continual worldwide disadvantage compared to their foreign competitors.

That is why we defer U.S. tax on active business operations, so that U.S. companies can be competitive in the global marketplace.

Some Senators have proposed repealing deferral or cutting back on it, as Senator DORGAN's amendment would do. These proposals would export the high U.S. tax rate to U.S. operations around the world. That would be fine if all companies around the world were paying the high U.S. tax rate, but, as I have said so many times, they are not. We have one of the highest corporate tax rates in the world. Companies of foreign countries are not subject to our tax laws and are usually taxed at lower rates. This all brings us back to the implications of Senator DORGAN's proposal. It would enhance the competitive advantage of foreign-owned multinationals over U.S. multinationals.

Our focus in considering this amendment must be on the ability of American companies to compete within the United States as well as in foreign markets if we want to maintain and create jobs in America. The issue is not whether we tax foreign earnings currently but whether we cede the U.S. market to foreign competition.

The Dorgan amendment will increase taxes on U.S. companies, but their foreign competitors in the U.S. will not face a similar tax increase. This can lead to a loss of domestic market share, or even if market share is maintained, losses may be incurred on domestic sales because of pricing pressures and uncompetitive margins created by the additional tax burden.

No one is happy when companies move abroad to a tax haven to avoid U.S. tax. But let me tell you another side effect of the proposal to eliminate and cut back on deferrals. In the American Jobs Creation Act of 2004—that bill I always referred to as the JOBS bill—we enacted a provision that prevents corporate inversion, where a company would pretend to move its corporate headquarters to Bermuda, to a simple post office box there, and do it not because they are going to do anything productive there but for the sole purpose of avoiding U.S. taxes. Many U.S. multinationals complained that inversions were necessitated by an inability to compete with foreign-owned multinationals that aren't subject to the higher U.S. tax rate.

We should be proud, then, that we shut down those inversions, those shell corporations, those postal box corporations which do nothing over there except go there to avoid tax and then make the situation even worse for honest corporate taxpayers in America that are paying the tax into the Federal Treasury. But in the process of doing that, we didn't do it at the expense of repealing deferral. Now that we have shut down inversions, if we repeal deferrals, or significantly cut back on them, the only other alternative that would be available to U.S. multinationals would be to sell themselves to foreign companies or to be taken over by a foreign company in a possible hostile takeover. If we prevent U.S. companies from deferring their foreign profits, we will see more and more U.S. multinationals being bought out by foreign-owned multinationals. Tax changes have consequences.

Increasing taxes on U.S. multinationals will not bring jobs back to America. You only pay taxes if the company is profitable, and you only stay profitable as long as you remain competitive. But in the United States, taxes are 35 percent cost-to-profit, and that is where a competitiveness disadvantage can occur when a U.S. company is competing against foreign companies that will not incur this tax increase.

Senator BAUCUS and I held hearings a couple years ago regarding the effects of the international competition within the United States, so we as leaders of the Finance Committee are very familiar with the effects of these kinds of rate differentials.

I think a quote by Joseph Guttentag, international tax counsel of the Clinton administration, during testimony before the Finance Committee in July of 1995 is a very good place to end this debate. So I end with this quote:

> Current U.S. tax policy generally strikes a reasonable balance between deferral and current taxation in order to ensure that our tax laws do not interfere with the ability of our companies to be competitive with their foreign-based counterparts.

Now, if that position just expressed by Joseph Guttentag, international tax counsel in the Clinton administration, the last Democratic administration, testifying before a Republican Congress, isn't good enough evidence that the route Senator DORGAN wants to go is the wrong route and a route contrary to previous leaders of his own party, then I don't know what will be evidence that this position is going to make American companies uncompetitive, not go to the marketplace of the other 96 percent of the consumers around the world outside the United States, and consequently creating jobs in the United States, and I don't know what it takes to convince him that position is a wrong position for the United States and is so different than what we have traditionally had for the Tax Code since 1918. When I say 1918, that goes back almost to the beginning of the income tax in the United States.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, it is sort of with mixed emotions that I am

here on the floor to talk about this tax bill. In one sense, I am very happy we are moving forward with the Tax Increase Protection Act. At the same time, I am at somewhat of a loss as to why we are spending 2, 3, and maybe more days of the Senate's time for something that is traditionally done when there is comity and cooperativeness in the Senate by unanimous consent, putting in a substitute Senate-passed bill for the House bill and go to conference. That is something we do routinely here, almost daily. We have disagreements with the House, and we simply go through the procedure of moving to conference and having those differences worked out.

Unfortunately, we are at a time here where even routine things become weeklong labors to accomplish them. That does not reflect well on the Senate. I don't believe it accomplishes anything other than to delay other matters that are to come before the Senate.

We have a very important bill dealing with an issue that is of vital importance to my State—many manufacturing jobs in my State—and that is the asbestos debacle going on throughout the courts in this country where over half of the money paid out by corporations in asbestos claims has gone to lawyers. There are many people in the Commonwealth of Pennsylvania who are literally getting pennies—people who are sick and some are dying and some have died, and they have received literally pennies for their exposure to asbestos and their subsequent disease because of the horrific environment of litigation on asbestos, where lawyers are profiting and patients—those who are sick or are survivors of those who have gotten ill and died—get virtually nothing. This is something we have to address.

Instead of addressing that, which is what we should be doing right now, we are holding up the Senate on a procedural matter. It is truly sad that we can no longer just cooperate on the normal business. Everything is obstruction and slowdown and political potshots and making points. I think that is unfortunate for this body. It sets a very dangerous precedent that we are going to conduct business like this in the future. Whether it is in the next election or elections in the future, at some point in time, the tables will turn. I believe what we are establishing today is not something that will be beneficial for the long term in our ability to get things done in the Senate.

While the chairman is still on the Senate floor, I thank him again. I am repeating this because we are doing the same bill. I thank him for all the hard work he has put into this bill. The fact that he was able to get a bipartisan bill through the Senate is a testament to him, and I know it is very difficult and trying, negotiating within our own conference as well as negotiating with Members on the other side of the aisle. He was able to, as he has done on many occasions, cut through all of the difficulty and partisanship and the angst some Members have about various provisions and find a good middle ground, and well over 60 Members of the Senate supported the Senate bill that passed in November. I thank him for his good work and for the work he has done with me, in particular, on the issue of helping the nonprofit sector in our society meet the needs of those.

We were at the prayer breakfast this morning, and Senator GRASSLEY was there. We heard Bono and the President talk about taking care of the least of our brothers and sisters. The President says it so well. I have been advocating so long that nobody really does it better than our faith-based communities and our community nonprofits. They are the ones on the front line. We talked about it at the prayer breakfast—whether it is responding to a natural disaster or, more often and less prominently, responding to a person in need in our communities across America, rich as well as poor, people in need who are suffering.

It is important that we recognize that portion of this bill has to be a net plus for our charitable community. There are provisions in there that I have expressed concerns about which would do damage to those nonprofits' ability to be able to provide the needed services and to do the good works in our communities that make America stronger.

We have some good charitable-giving incentives, which are a big plus, but we also have charitable reforms on which I worked with the chairman. I think that maybe we are 90 percent of the way there, making sure we weed out some bad practices and making sure there isn't abuse within the charitable field, but at the same time not saddling our charities with a Sarbanes-Oxley type of oversight and regulations that would drive a lot of our small volunteer-oriented nonprofits out of existence and leave a big hole in our communities across America.

I am hopeful that when we get to the House and into conference, Chairman THOMAS will work with us and we will be able to get a bill that will be not only a net plus but a big plus for the armies of compassion, the foot soldiers across America who are helping men and women in need and children in need in our society.

A big part of this bill, obviously, is the tax relief. It is not exactly what I had hoped for. It is one of those compromises we had to make along the way. I thought the House bill actually had some better provisions when it comes to some of the tax provisions. It continues on a policy that has resulted in a lot of positive economic news over the past several years since 2003. We have seen that by these changes in the Tax Code and reducing marginal rates and capital gains taxes and dividends, it has incentivized the entrepreneurial spirit and incentivized business investment; it has created an explosion of growth in this country, which has also resulted in millions of people getting jobs—net new jobs across America.

I have a chart that shows, since the Jobs and Growth Act of May of 2003, and looking at the real GDP growth in America, there is a dramatic tilting upward since these provisions were passed. That has resulted in a dramatic increase, as we have seen on some other charts, in Federal revenues.

There is a constant complaint, a drumbeat on the other side of the aisle, and from a few on this side of the aisle, that somehow we cannot afford these tax reductions.

It is interesting; if you think of tax reductions, that leaves the question, What is a tax reduction? What is a tax reduction? Is a tax reduction a reduction in the taxes paid; or is it a reduction in the rate of the tax paid? What is a tax reduction?

Depending on how you view a tax reduction—and the answer is different based on what we did—if you look at, Did we reduce taxes, the answer is, with respect to rates, yes, we reduced taxes; we reduced the capital gains dividend rates, the marginal tax rates. We reduced the rates on the taxation of married couples and in several other areas. So, yes, we reduced the rate of tax.

The question is, Did we reduce the collection of taxes? What should Congress be more concerned about? Should we be more concerned about the rates of taxes or should we be more concerned about the collection of tax revenues?

I would think most people, when we have cut taxes, would say we reduced the collection of taxes in America. That is not what happened. When we reduced the rate of taxes, when we cut taxes, we actually didn't cut taxes. We actually increased the flow of revenue to the Federal Government.

So if we are looking at it from the standpoint of the budgeteers, the folks who are responsible for managing the receipts and distributions of Government, then the actions taken by the Congress in 2001 and 2003 resulted in increased taxes paid to the Federal Government through a policy that believes in the innovation and the energy of the people, that if you unshackle them from higher tax rates, they will produce more, they will create more jobs—and job growth has been terrific, over 2 million jobs, and the unemployment rate has been under 5 percent—and we end up with a better quality of life, more revenue to the Federal Government, and higher growth rates overall in our economy.

That is a pretty good picture. So why the complaints? Why are people so upset that we actually put a program in place that has resulted in more revenues coming to the Federal Government? Why the complaints? Why the gnashing of teeth that somehow this is a policy that is harmful to the budget deficit? Revenues were up 14 percent last year. How is that harmful to the budget deficit?

They say: That would have happened; in fact, we would have gotten more money had we not reduced taxes. Is that true? Let's look at the capital gains issue.

The Congressional Budget Office estimated in 2003 that we would collect roughly $125 billion in the year 2004 and 2005 in capital gains taxes. We went ahead and reduced the capital gains tax rate. Many of us stood on the floor and said, by reducing that rate, we will actually get more revenues. The Congressional Budget Office said ''no,'' everybody on the other side said ''no,'' and, in fact, everybody on the other side still said ''no'' and still says we shouldn't keep those rates low, we have to increase those rates because we need the money.

How did it work out? What happened when we reduced those rates? Did we get, as the Congressional Budget Office suggested, $26 billion less money? And that is what they projected. They projected in 2004 and 2005 that the amount of money coming into the Treasury in capital gains taxes paid would go down by $26 billion. What happened? Now we know. The amount of revenue collected in capital gains taxes went up $27 billion.

I was talking to a reporter the other day. I said: Lo and behold, I voted for a tax increase and didn't even know it. I voted for a provision that actually increased taxes to the Federal Government, and the folks who paid those taxes were very happy to pay them, by the way, because they were investing in America and America's values were increasing. Stock in America, real estate in America, the things that made wealth in America were increasing because of a growing economy because of what we did on the floor of the Senate, and they were very happy to have paid those taxes. And we got more Federal revenues.

What does the other side want to do? They want to have that rate go back up. One might suggest that if the rate goes back up, revenues could do down. What could be their motivation? What is the motivation of trying to increase a tax to get less revenue? Think about it. What could be the possible motivation of coming to the floor of the Senate and saying we need to increase taxes, even though by doing so we are going to get less money. Why would you do that? From a public policy perspective, why would you want to do that?

I can tell you that the argument is given that we need it to balance the budget. Wait a minute. We are going to get less money, so why would you do it? Could it be something of the whole politics of envy, the politics of pointing the finger at those who are successful, get a paycheck, and invest in America and say we need to tax them more; that is the fairness issue? We hear that a lot on the floor of the Senate: It is about fairness. That is what it is about? Stick it to those who succeeded, invested, purchased real estate, purchased stocks and bonds; we are going to take a bigger chunk of their money because that is fair. We may get less revenue, we may get slower economic growth, fewer jobs will be created, but we will feel better.

That is not sound public policy. That is not in the best interest of the American people. We did not get in the Senate bill a reduction of capital gains tax rate extension for 2 more years, but I will tell you that we will work very hard in the conference to make sure that happens. It is important for the economic growth of our country, for the job creation in our country, and for Federal revenues that we get that extension in law.

There are a lot of games being played on the floor of the Senate when it comes to tax policy and the politics of envy. What we should be focused on is how does this Senate, how does this Government create the best environment for growth opportunity and job creation and how do we do it in a way that is fiscally responsible. Those are the two things on which we should be focusing.

I would make the argument that the bill before us, which prevents an increase in taxes—these are tax policies that are in place right now; there is no new policy or, I should say, very minor, little new policy changes, such as the charitable giving incentives, but very small policy changes, a very small percentage of the money. The overall bill deals with provisions such as the alternative minimum tax, which is vitally important and the small saver's credit, which is important. About a quarter of a million people in my State strongly support that provision, in fact, would strongly support increased incentives for low-income individuals to save and, in fact, put forth a bill with former Senator Corzine to do that. So I am looking for another new cosponsor if anybody wants to join. It is called a kid's account to give every child in America a nest egg to begin to save at their birth.

I am big on giving people the opportunity to save, invest, build wealth, and feel connected to the economy of this country. We need to do more of that. But we have a little piece of that here, which is important to the people in my State. Mr. President, 150,000 families and students in my State will lose their deduction for college tuition if we don't extend that provision. With regard to the teacher tax credit provision Senator COLLINS championed, 142,000 teachers in Pennsylvania will not be able to deduct that. We can go on and on.

These are preventions of tax increases, a tax reduction that caused the kind of economic growth we have seen. It is important for us to have these provisions stay in law.

Finally, I want to talk about an issue that has been brought up—and it is an important issue—and that is the issue of mine safety. I know Senator ROCKEFELLER has put forth an idea that I think deserves some consideration because it has merit. It provides mining companies with incentives to make available newer technology that will enhance safety.

We have seen over the last month in West Virginia and we saw, I guess, 3 years ago in Pennsylvania, mine disasters occur where human life was lost, in the cases of West Virginia, and certainly a major disaster was diverted in Quecreek in Pennsylvania.

This is a serious issue, one I care deeply about. My grandfather was a coal miner in a deep mine for 30 years, so this is very close to home for me. This is one issue we need to do something about, to improve the safety for those who literally risk their lives every day to provide for their families, to build strong communities, and to provide energy for all of us so these lights will work in the Chamber. We need to do all we can to improve enforcement as well as to create incentives for the mining community to improve safety at the workplace.

There is another provision in the Rockefeller bill that has to do with training for rescue teams. Because of the way it is written, I have some concerns about it. I heard from a lot of our small mining operations, family-run operations, that this provision would not benefit them at all.

As we know, a large percentage—at least in my State—a large percentage of the mine operations in my State are not big corporate mining operations. They are small, in some cases small corporations, family-run operations. So while I certainly strongly support the first provision and support the concept behind the second provision, I have serious concerns about the way that provision will tilt to the benefit of the larger mining operations.

While I support it and will support this amendment, I hope it is included and that we can work on something in conference to include improvement of mine safety, I am putting my marker down here that we will do so not to discriminate against small mines versus larger mining operations. If anything—if anything—we should be concerned about, as we do on a lot of issues in the Senate, helping the little guy, as opposed to helping the big guy because the big guys already have the resources to spend to provide for a safer workplace.

What we should be doing is focusing on how we can make smaller mining operations safer. That is not what this amendment that Senator ROCKEFELLER puts forward does. As a result of that, while I support it and will support the provision to be included in the conference, I put the marker down that we are going to work diligently to make sure it uniformly impacts across the industry and, if anything, it benefits the smaller mine operator as opposed to the bigger one. That is not the way it is currently drafted.

I completely understand. I don't think Senator ROCKEFELLER—at least I

hope he didn't go in there with the idea that we are going to favor one segment of the mining industry over the other. I hope that is not his intention. Whether it is his intention, I will certainly work with him to make sure it is a much more balanced provision when it comes out of conference.

With that, Mr. President, I thank the chairman for yielding the time to speak on this important bill. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. My friend from Iowa came to the floor to speak a bit this morning on a couple of subjects I spoke about yesterday. Let me again say I have very high regard for Senator GRASSLEY. We worked together on a good number of issues. I enjoy working with him. But there are times when you have disagreements on policy, and we certainly have that on an issue I am going to talk about. It is an issue he talked about this morning as well. Actually, there are a couple of tax issues.

Before I do, however, I want to just make a slight correction to the remarks that were made by the Senator from Pennsylvania a few minutes ago. I heard him say the Democrats were holding up this bill on, I guess—I think he said a technicality. I think he said it was a technicality. I think that was the impression he intended to leave, obstruct or holding this up on a technicality.

I guess the technicality is our interest in offering amendments. I know to some that is not a pleasant thing around here, to have people offer amendments and actually debate them and vote on them, but that is the way the system works. The reason there are not amendments offered—and I would try to offer one right now, but I would be unable to offer one—is because the majority party has done something that is called filling the tree. It is a parliamentary procedure to make sure every branch of this legislative tree is filled so that no one is allowed to offer an amendment.

For example, while this bill is on the floor, under the rules of the Senate, I should be able to offer an amendment. The majority party decided to fill the tree, as it is called, so no one on this side may offer an amendment. So when my colleague from Pennsylvania said the Democratic side of the aisle is using a technicality—whatever, I forget his term exactly—to hold this up, I am sorry that is not what is happening at all.

He made a point that I share. I think it would be great to work together. I think there ought to be less rancid partisanship and we ought to find ways to work together to do the Nation's business. We, after all, represent the same interests. We represent the interests of this country. I hope we represent the interests of the American people. I would like to find areas where we can work together.

In this case, however, let me just say there is no obstruction going on here. The only obstruction is we are obstructed from being able to offer an amendment which in ordinary circumstances the rules of the Senate would permit. I regret that. I wish the majority party would have allowed me. I would have offered the amendment yesterday, in fact, and I would offer it right now. I have an amendment to offer. I guess we will vote on it later because you will have to have a circumstance where we can offer the amendment. I suppose the purpose is to allow amendments to be offered when all time is expired so there is no debate that is allowed. I guess that is probably the purpose. But I did want to disabuse anyone of the notion left by my colleague from Pennsylvania that somehow it is this side that is hanging all of this up.

It may be inconvenient to have people offer amendments in the Senate, but there are a couple of hundred years of tradition of this inconvenience. The inconvenience is to be able to offer ideas, debate the ideas in the form of an amendment, and then have a vote, and the vote determines whether the idea that is offered represents public policy that the full Senate will accept.

Let me just respond to a couple of things my distinguished colleague from Iowa has said. Yesterday, I gave a presentation talking about something called deferral. I know most of these things sound like foreign language around here. Deferral of income tax obligations is what it is. If a company does business overseas, an American company does business overseas and earns income overseas, at some point when it brings those profits, that income back to our country, they will be required to pay an income tax to our country for the income they have earned. They will get a credit, actually, against taxes they paid to a foreign country so they will not be double-taxed. But when they repatriate that income, as it is called, they have to pay a tax.

My colleagues in the Congress, a sufficient number of colleagues who represent the majority, decided that they wanted to have a kind of little sweetheart deal for companies that would repatriate their earnings because many companies park their earnings for a long while overseas and don't bring them back. When they bring them back they have to pay the full tax rate. My colleagues said: Let's create new jobs in America by allowing these companies to bring their income back, and we will give them a special superdeal.

You have heard of blue light specials; this is the blue light special of all specials. It says you bring that money back from overseas, you get to pay not 35 percent, not 30 percent, not 25 percent, not 15 percent or 10 percent—which is the lowest income tax rate that is paid by the lowest income earner who has to pay income taxes—you get to pay a 5.25-income-tax rate. Who is the ''you''? The biggest companies in our country: Ford Motor, for one thing. I mention that because when they announced they are going to lay off 30,000, they also said: By the way, we picked up a quarter of a billion dollars of tax refunds under the Jobs Creation Act. Isn't that interesting? Ford Motor said in the same press release: We are going to lay off 30,000 workers in this country and, by the way, we were able to get a quarter of a billion dollars, a $250 million benefit from the jobs creation tax rate special benefit of 5.25 percent.

The whole purpose was to create jobs in our country and, at least in the most recent job announcement of 30,000 jobs lost, the very company that announces 30,000 jobs gone points out they got a quarter of billion dollars under this provision.

My colleagues seem to suggest the provision really does work, it is helpful. No, it doesn't work. It didn't work. By my calculation, the income that was parked overseas and at some point would have had to have been repatriated to this country, that income would have borne a tax that is about $104 billion more than what was paid under the 5.25 percent.

Is anybody going to have to answer to that? I don't know. Maybe not. Maybe nobody cares—$104 billion. You could reduce the Federal debt, reduce the annual budget deficit. You could probably provide some health care to people who do not have it, perhaps help some kids who are hungry, perhaps provide health care for kids who are sick, improve some classrooms in schools that need improvement—maybe there is a lot of things you could do. But $104 billion, that is a tax break given to the biggest corporations in this country who brought income back to our country and would have had to pay normal income tax rates but were told by this Congress that we are going to give you a superspecial deal that no other American taxpayer has: 5.25 income tax rate.

Wouldn't every American love to pay a 5.25 income tax rate? But they can't. That deal is just reserved by the Congress for some bigger interests.

I didn't vote for that. I didn't support it. I strongly opposed it. My colleague who sat in this chair right here, Senator Fritz Hollings, who is now retired, offered the amendment to strip that out, but we were not successful. So this blue light special, 5.25 percent special income tax rate for big interests who were bringing money back from overseas—it got done and $104 billion, as I calculate it, was saved by those who otherwise would have had to pay regular income tax rates.

I wanted to respond to that because I still think that was one of the goofiest ideas in the world for this Congress to embrace, saying let's provide a 5.25 tax rate because we think it will create jobs. The evidence is all around us. It didn't create jobs. In fact, I have charts saying the largest companies that got some of the biggest benefits—one company got a $14.5 million benefit and laid off 14,500 people—almost complete

and perfect symmetry, wasn't it? Except they were supposed to have hired people if they got this kind of special tax rate. They just forgot and laid them off, I guess.

Let me go to the other point which is what persuaded my colleague to come to the floor and engage on this issue, and that was the point I made yesterday. We have a provision in our Tax Code that says to someone in Iowa or North Dakota or Colorado or Pennsylvania, if you have a manufacturing plant and you are across the street from your competitor and your competitor has a manufacturing plant and you produce exactly the same products but you do something different, you move your jobs to China and manufacture your widgets in China, your competitor across the street stays home and manufactures them here in this country—one thing has happened as a result of that move. We have embedded in this Tax Code a perverse incentive that says: By the way, we will give you a break. You move those jobs to China, close your plant door, get rid of your workers, produce in China, and we will give you a tax break. You are not going to pay as much in income taxes as your competitor across the street who stayed in this country.

I think that is wrong. Going all the way back to 1961 with John F. Kennedy, proposals have existed to change it. Going back to 1987, the House actually passed legislation to change it. But we can't change it any longer because now, of course, the big economic interests that benefit a lot from that—and we have a lot of companies getting rid of American workers, padlocking their doors and shipping the jobs to China. I have spoken about many of them on the floor of the Senate. We have a lot of companies that like this tax break. Why? They like to hire people for 33 cents an hour, produce the product in China, sell it in Cincinnati or Toledo or Pittsburgh, and then run their income through the Grand Cayman Islands, through the Ugland House on Church Street on the island of Grand Cayman, that houses 12,748. It is just an address, of course, but the purpose is to reduce the tax burden.

My point is on four occasions when I offered amendments on the floor of the Senate so we ought to at least decide as a country that we will not provide financial incentives in the Tax Code for those who decide to move their jobs overseas—that ought to be the least we ought to do. That ought to be the baby step in the right direction—but four times we have voted and on four occasions those big interests that really like this and have benefits from it have been able to persuade a majority of the Senate to oppose closing that loophole.

I indicated yesterday I would once again offer that legislation. I would offer it right this moment except I am prevented because the majority has done what is called filled the tree and prevented anybody from offering any amendments. My colleague from Iowa came down this morning and offered what I believe is called the Banana defense. That is what he called it the last time he offered it. It had to do something with bananas.

I don't know, maybe we could debate apricots or tailpipes or bananas. It doesn't matter to me what the product is. We could have a long debate about it. I will just call this the banana debate then. But whatever the product or circumstances, the question remains: Do you believe that our Tax Code ought to provide financial benefits and rewards to companies that have decided to move their jobs overseas? Should Huffy bicycle have gotten a reward for firing all their workers and producing Huffy bicycles in China? Should Radio Flyer little red wagon have gotten a benefit from moving all their jobs overseas? Fruit of the Loom, should they have gotten the benefit?

I could go on at some length. Fig Newton cookies, when they went to Monterrey, Mexico, should they get a benefit? If you think yes, then good for you, and I suppose the benefit will continue to exist in our Tax Code, but we are going to continue to vote on it. I am not deterred. As far as I am concerned we can vote 10 times on it. At some point there will be enough people filling the seats in this Chamber to understand that at a time that we have a crisis, and it is a crisis with substantial numbers of jobs moving outside of this country in search of lower labor costs to produce products to ship back into this country, at a time when we have that kind of crisis and the American people are facing downward pressure on wages, they are facing the stripping away of their pensions, the loss of their health care—at a time when we have that kind of crisis, the question is: Will there be enough people filling the seats in this Chamber to stand up and say let's take the first baby step in addressing it?

The first baby step is to say: Let's not provide incentives in the Tax Code for companies to move those jobs overseas. If we can't do that, we can't solve this problem. But we will have plenty of chances. We will have one more chance now. We had four chances previously.

I respect everybody's ability and interest to vote however they choose in this Chamber. I don't demean their reputation nor diminish their capability. I only say that I feel very strongly that if they support this provision, they are wrong. They are wrong for this country. The right public policy position is at least to have some basic neutrality on the question of whether we want to export jobs and whether we want to have the financial incentives for exporting jobs in our Tax Code.

I regret that we don't have a back and forth. I would love to have a real debate about this because I know there are those who benefit handsomely from this who want to continue it and want it to remain in the Tax Code. But I feel strongly that this provision that is known as deferral—and, incidentally, my repeal of deferral does not go to the John F. Kennedy proposal on repealing deferral. My repeal on deferral is rather narrow. It is those companies that leave this country and ship back into this country.

I think it is a perfectly appropriate thing, especially now given the crisis we face with jobs and opportunities in this country, for us to do that.

I have a right, under the procedures of the Senate, to offer this amendment. I should have the right to offer it at the moment but I am not because there is—I guess the word ''obstruction'' is to be used—obstruction at the moment is the tree is filled so that no one can offer an amendment. So we are going into some process that is a vote-arama, and I will offer the amendment, and we will have a vote.

Let me finally say it again.

There is not one Member of the Senate that puts on a dark suit every morning and comes to work here that has ever been threatened to have their job outsourced—not one. There is not a person here that is ever going to have their job outsourced. Maybe they do not think much about it. I don't know. We have all of these people in blue suits who come here every day and we talk and we talk, and mostly we talk. We are good at talking.

But the question for most Americans who worry about their jobs and who see their neighbors' jobs moved overseas is, Will their jobs be moved? The question for them is, Will Congress do something about it?

I mentioned a few moments ago the Ugland House in the Grand Cayman Islands, which is a slightly different approach than the Tax Code I have been describing.

I wanted to mention that there is a man from Bloomberg News named David Evans who has done some reporting on this Ugland House. The Ugland House is a house on Church Street in the Cayman Islands. It was, according to news reports, dug out by David Evans, who has done the research. This is a five-story white building that houses 12,748 companies. It doesn't really house 12,748 companies—it is an address. This is a five-story white house address on Church Street in the Cayman Islands. Why would 12,000 companies congregate to have an address in this five-story building? There is only one reason. And, by the way, every one of them are represented by the same law firm. Why? So they don't have to pay taxes, that is why.

They want to access cheap labor in Asia, sell in America, and run it through the Cayman Islands so they don't pay taxes.

That is what this is all about.

Because we have a tax bill on the floor of the Senate, I have another amendment that I will not be offering now for those companies that want to congregate at an address in a tax-haven country, the Cayman Islands. But if you are creating an address to

have a tax haven and avoid taxes, you shall be treated for tax purposes as if you have never left our country. You don't get to claim that you now have an address in the Ugland House, and, therefore, you are running your income through that house. My legislation would say you are going to be treated as if you never left for business purposes.

We can shut that down like that, if Members of Congress have the interest and the will.

Does anybody believe this is anything other than a huge scam, by having a little five-story house with 12,000 businesses congregate there under the umbrella of a law firm that runs their mail through that place in order to avoid paying U.S. taxes?

Thanks to David Evans for the work he has done. But in many ways, I think this is the tip of the iceberg. There is substantial tax avoidance going on. Some of it is legal. The first description I made today was the description of the avoidance of what I think is about $104 billion in taxes under the 5.25-percent special tax deal.

The other one I mentioned, deferral for those who move their jobs overseas, that is in law. I am not criticizing companies for following the law. I am criticizing the Congress for not changing the law and doing what we should do—stand up for American jobs.

I was thinking I had actually done plenty yesterday to either aid or injure my cause, however one views these issues. But when I heard my colleague from Iowa come to the floor today, I at least wanted to respond to that. As I was coming over, I heard my colleague from Pennsylvania say someone else was obstructing, I guess, the work of the Congress over what I think is a technicality, and the technicality was we wanted to offer amendments.

I say to my colleague, there is never a technicality when someone wants to offer an amendment. If the rules allow us to offer amendments, just have the amendments, have a little debate, vote regular order, and let it go. When it is done and the dust is settled, we decide what we decide, and everybody is responsible for the vote they cast.

My colleague from Pennsylvania said he wished we would be a little less partisan. So do I. I think we need to find ways to make this a little less partisan. A good step in that direction would be, for example, for somebody to right now come out and say: We have a bill on the floor, let us have regular order. If amendments are, by the way, allowed, let us go ahead and offer them. Will you give us a time agreement? Sure. Vote, act the way legislators should act, and at the end of the day, we will all feel better about that.

That is what the Senate ought to be about when we call this the greatest deliberative body in the world. It has slipped a bit. We can regain that status if we only decide amendments are good and not bad things. Debate is good—not bad. The noise of democracy coming from the Senate is welcome noise for the American people, if we are engaged in constructive debate about issues that matter.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SCHUMER. Mr. President, I rise today, in recognition of the beginning of Black History Month, in support of a bill to posthumously award a congressional gold medal to Constance Baker Motley, an American hero who, sadly, passed away on September 28, 2005, after having lived an extraordinary and exemplary life. I am pleased to introduce this bill along with my colleague from New York, Senator CLINTON.

Constance Baker Motley was the first African-American woman, and only the fifth woman, to serve on the Federal judiciary. Before becoming a judge, she was a renowned civil rights lawyer, public servant, and trailblazer. Her remarkable career reads like a civil rights history book.

After earning her bachelor of arts degree in Economics from New York University and her law degree from Columbia University, Judge Motley joined Thurgood Marshall at the NAACP Legal Defense and Educational Fund. For two decades, Judge Motley worked closely with Marshall and other leading civil rights lawyers to dismantle desegregation throughout the country.

As a Black woman practicing law in the South, Judge Motley endured gawking and physical threats. But she was not deterred.

She won cases that ended segregation in Memphis restaurants and at Whites-only lunch counters in Birmingham, AL. She fought for Dr. Martin Luther King, Jr.'s right to march in Albany, GA, and visited him in jail whenever he was arrested.

Judge Motley was the only woman on the legal team that won the landmark desegregation case, Brown v. Board of Education. She went on to argue 10 major civil rights cases before the Supreme Court, winning all but one of them, including James Meredith's fight to gain admission to the University of Mississippi.

Before she died, Judge Motley would grin when she told people that she actually won 20 years later the only Supreme Court case that she lost, when the Court eventually agreed with her position and adopted her reasoning in holding that it was a violation of equal protection for prosecutors to use their peremptory challenges to strike Blacks from a jury because of their race.

In 1964, Judge Motley became the first African-American woman elected to the New York State Senate, and in 1965, she became the first African-American woman, and first woman, to serve as a city borough president. During this time, Judge Motley worked tirelessly to revitalize the inner city and improve urban housing and public schools.

In 1966, President Lyndon B. Johnson appointed Judge Motley to the Southern District of New York. She was confirmed 9 months later, over the strong opposition of Southern Senators. As a judge, Motley continued her commitment to social justice.

She rose to the position of Chief Judge in 1982, and assumed senior status 4 years later. Judge Motley served with distinction for nearly four decades, until she passed away last fall, at the age of 84. At that time, I was pleased to introduce a Senate resolution, which passed by unanimous consent with 27 Democrat and Republican cosponsors, to honor her life and achievements.

Since then, our country has lost two other great civil rights heroes, Rosa Parks and Coretta Scott King. Both of these remarkable women were awarded congressional gold medals for their leadership and contributions to American society while they were alive. I deeply regret that Judge Motley was not. But it is not too late for us to show our national appreciation to her friends and family. Congressional gold medals are reserved expressly for that purpose, and Judge Motley's lifelong commitment to the advancement of civil rights and social justice, and her lengthy career in public service, is worthy of just that.

The Senate Banking Committee requires 67 cosponsors before it will consider legislation to award a congressional gold medal. I am pleased to introduce this bill with 16 other original cosponsors from both sides of the aisle. I now call on all of my Senate colleagues to join us this Black History Month to give thanks on behalf of the country to one of our greatest civil rights leaders and public servants, Judge Constance Baker Motley.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

I will make some additional points on the Dorgan tax haven included in the Conrad substitute. I share Senator CONRAD's concerns about the ability of large corporations to manipulate the Tax Code, to shift large amounts of profit offshore, but this provision is not the right way to address those concerns. It is very overbroad and inadequate. It is overbroad because it harms the competitiveness of United States multinationals, repealing deferral for holding company structures

that allow them to efficiently allocate active foreign generated resources among their foreign operations without incurring U.S. tax on entirely foreign transactions.

It is inadequate because it applies only to the subsidiaries in black-listed countries. Companies that use tax savings for abusive purposes could easily avoid this rule by locating in a low-tax country that is not on the list.

Ireland would be a perfect example of that, where we read press reports that companies such as Microsoft are shifting huge profits. Treasury would have authority to add countries to the list, but does anyone think Ireland, with whom we already have a tax treaty, would be added to that black list? The way to deal with those cases is through effective transfer pricing policy and enforcement, not by curtailing deferrals.

Another issue that is going to be soon before us is the Democratic substitute of revenue raisers that are in our bill. I am flattered by the tax relief side of Senator CONRAD's substitute amendment since it includes extension of the same widely applicable tax relief provisions in the underlying bill.

I should also be flattered, and I am, by some of the pay-fors in that amendment—in particular, the provisions regarding the so-called SILO transactions. It is a fact that we shut down the abusive tax shelters that involve U.S. corporations claiming tax benefits on foreign subways and sewer systems in 2004. So these deals can no longer be done. The underlying bill would repeal a generous grandfather provision for certain domestic deals and would deny benefits for foreign deals entered into before the effective date of the JOBS Creation Act of 2004.

We have introduced a fully offset tax relief bill in the past. Most recently, that act of 2004 produced $82 billion of tax relief that was completely offset. The underlying bill, in fact, contains almost $20 billion of offsets while providing $90 billion in broad-based tax relief. We do not need any more offsets to pay for the lost AMT revenue that we never intended to collect and for other provisions, such as the R&D credit, for example, that are broadly supported as good for the economy.

We all know tax receipts are on the rise. In 2005, we had $274 billion more coming in over the taxes that came in in 2004 under the same tax policy, and we exceeded the CBO baseline by—can you believe it—$97 billion. It is a very vibrant economy which produces that kind of revenue. That amount, whether it is the $274 billion in 2005 over 2004 or the $97 billion above the CBO baseline, that amount exceeds the $70 billion of reconciled tax relief over 5 years provided in the budget resolution.

So I hope we will be able to take these points I have just made about the inadequacies of the amendments we are going to be dealing with when we vote on these amendments.

I would now, Mr. President, speak on the issue of an amendment I am going to place before the Senate this afternoon. In fact, I will submit this amendment at this point.

I wish to take just a few minutes, in offering this amendment, to speak about amendments that are also offered by Senator BINGAMAN and Senator NELSON regarding the Medicare prescription drug program. I thank the Senators for their amendments. I know their intentions are good and their hearts are in the right place. But having said that, I am forced to oppose the amendments, and my reasons follow.

Opponents of the benefit are trying to make it look as if Republicans are indifferent to the problems of the implementing part of the Medicare program. Such is not the case because everyone has to be concerned about the issues faced by some beneficiaries in getting their prescription drugs, even if that might be a very small percentage of the people who are involved. Whoever needs these prescriptions, we have to do everything we can to get them to them.

Like everybody else, I am concerned about the drug benefit implementation issues. It is not acceptable that some of the most vulnerable and frail seniors are experiencing problems. But my opposition to the amendments is rooted in the goal of not just taking some action, but that we need to take the right action when we act. There is no question that Congress meddling could just make things worse.

With that in mind, I want to share with you the following quote as to another new program that was getting underway:

> As the program gets under way the danger is that the strains on it will generate pressures for unsound change. They will come from those who will be disappointed because they have been led to expect too much as well as from those who see failure in every shortcoming. Changes will come in time, but they should be made on the basis of the program's own experience. This program must be given ample time to get over its growing pains.

Now, that is not about the prescription drug bill that is just now going into effect. That is a quote from the July 1, 1966, edition of the New York Times, and it is about the implementation of the original underlying Medicare Program passed by Congress a year before this July 1 edition of the New York Times.

Now, when I read that quote of 1966 just now, it said ''the program'' instead of ''Medicare'' because I did not want to give it away. The point of this editorial is that those words are extremely relevant today.

I am not trying to make excuses or minimize the difficulties some are having. Those problems need to be fixed, and fixed fast. By all accounts, everyone is working hard to get them resolved. But in my opinion—echoed by the New York Times nearly 40 years ago—rushing to ''fix'' things through legislation could do more harm than good.

Just last week, the Finance Committee, in a bipartisan setting—with almost every member of the Finance Committee there—had a meeting with Secretary Leavitt and CMS Administrator Mark McClellan. We had a candid discussion about the unfortunate glitches, and we heard about steps taken by the agency to address them. We had a very constructive dialog. That dialog covered a range of issues the Agency had identified and the administration's actions already taken to address them.

It is clear to me legislation is not needed at this time. Secretary Leavitt has the authority. Current law allows him to have a smooth transition. And administrative actions will work faster than if we pass this legislation. That is because changes in law have to be followed by more administrative actions. This is very much going to slow things down. That is not what we want. We want, need, and will get quick action.

The issues that have surfaced do not lend themselves to legislative fixes. For example, we talked about problems in the data files. The data files have not always identified the plan where a dual eligible is enrolled. Obviously, that is a problem. But can Congress write a law to dictate exactly how to fix computer system data files? That is not something I would want to do. There is an opportunity for getting something wrong, if I ever saw an opportunity for Congress to do something wrong.

But more importantly, these amendments are unnecessary. Senator BINGAMAN's amendment gets at issues that have already been addressed administratively. CMS has the authority to address these that way. And it will get fixed faster than if we pass additional legislation.

So I am going to offer a sense-of-the-Senate resolution. That resolution expresses our concerns about these problems, and it expresses the Senate's support for the Agency's efforts to fix them.

For example, prescription drug plans must have a first-fill policy. The first-fill policy already requires at least 30 days of coverage for the first prescriptions filled, even if the drugs are not on the plan's formulary. And just yesterday, Secretary Leavitt announced that the first-fill policy is being extended further. It is now going to be in place for 60 or 90 days as a first-fill policy. The Bingaman amendment requires only a 30-day policy. So it is already out of date. The administrative actions are much faster. Changes in law are not needed to address the issue.

Now, here is another one. The Bingaman amendment says that dual-eligible beneficiaries, whom we call dual eligibles, should be presumptively eligible. But the dual eligibles are already automatically eligible under the law, and they are automatically assigned to a plan. So again, no change in law is required.

Another example. The Bingaman amendment says it would require plans to reimburse enrollees for cost-sharing

problems. Here again, plans are already responsible for the costs to cover drugs. They are responsible for reimbursing beneficiaries for any cost-sharing charged in error. No change in law is required.

Let me give you another one. Some States have stepped up to fill claims during the transition. The Bingaman amendment requires States to be reimbursed for their costs. This is already happening. Last week, Secretary Leavitt announced that the Federal Government will reimburse States for costs they have incurred during the transition period. We were told that that day we met with Secretary Leavitt. I do not know exactly when Senator BINGAMAN was there, but he was there for that meeting. Not every Senator stayed for every minute of the meeting, but Secretary Leavitt made this very clear. So again, legislation is not needed because administrative action is being taken, with the legal authority of the Secretary to do it. So no additional legislation is needed.

Senator NELSON's amendment would extend the enrollment period through the end of the year and permit beneficiaries to change once before the end of the year. We have discussed this amendment before. The Senate has already voted twice, and we voted it down twice. And changing the enrollment period does nothing to address any of the issues experienced by beneficiaries just this last month.

We are well into the enrollment period. Enrollment is exceeding expectations. Twenty-four million beneficiaries out of 44 million, potentially, have prescription drug coverage. Every day, nearly 90,000 beneficiaries are enrolling in the program, and about 1 million prescriptions are being filled daily. So again, legislation is not needed.

There are a number of resources for beneficiaries to help them choose a plan. There is the Medicare call center. It is available 24 hours a day, and the Medicare Web site. Every State has counselors available to assist beneficiaries through the State Health Insurance Information Program. That is the whole point of that program—the SHIIP program, it is called for short—to help beneficiaries understand their Medicare benefits. The prescription drug plans based their proposals to serve Medicare beneficiaries on the enrollment period specified in the law.

In addition, there are already rules in place under which a beneficiary can change their enrollment outside of the open enrollment period. A beneficiary can seek what is called a special election period if that is needed for that individual—for example, if a plan fails to provide a beneficiary with information about the plan's benefits on a timely basis, or if it fails to provide benefits in line with quality standards, or if the plan, its agent, or plan provider materially misrepresents the plan in marketing that plan. So in all of these instances, there can be a special enrollment period or an opportunity to change.

So again, we do not need legislation. These are issues already covered in the law today.

I want to make another point about what is going on with these amendments. There was a time when opponents of this benefit were concerned that there wouldn't be enough choice. Now their concern is that there is too much choice. When we were in conference with the House on this 2 years ago, we were fearful there might not be a choice for people. So we provided if there wasn't a choice, the Secretary set up a subsidized choice so that every individual could at least choose from two. We wanted people to have choice. We followed the Federal Employees Health Benefit Plan where people have the choice of many plans to choose from, and they get to change once a year. We wanted to make sure we didn't cram anything down any senior citizen's throat. If they didn't want to participate, if they were satisfied with Medicare the way it was, they didn't have to. But if they wanted to participate, they elected.

You don't write one plan for 44 million seniors because everybody has different benefits. And one-third of the people already had some prescription drug coverage. We didn't want to screw up their plans. So we subsidized those plans so that those people who had something they wanted would be able to keep it. I don't know when you satisfy people. I didn't think there would be enough choice. Now we are hearing complaints about too many choices. There are 44 million Americans; there are 44 million different personal needs of those people. We, sitting on the floor of the Senate, are not going to figure out what those 44 million needs are and pass a one-size-fits-all plan that is going to satisfy the needs of everybody.

The point is, the opponents of this new benefit will complain and fight it no matter what happens. I hope everyone remembers that. I also find it ironic that folks think that legislation is the answer. These are the same people who are concerned about confusion. Now they are proposing legislative changes in a bill that has only been in operation for 1 month, on top of administrative actions that the agency has already taken. They want to screw that up with legislation on the floor of the Senate with changes that will have no impact on any of the problems encountered this last month, legislation that would have to be followed by yet more administrative action, a snowball rolling down the hill, just getting more complicated as it rolls on.

I ask whether this is going to help these perceived problems. Well, not just perceived problems; I admitted there are problems out there. I admitted when you put something like this into place, there are growing pains, just like I quoted that New York Times article from 1966 about the growing pains that we were going to have with Medicare when it was first put in place. Do you think these things are going to smooth the transition? I don't think so. Talk about opportunity for confusion among beneficiaries, pharmacists, and plans. This is not going to reduce the confusion.

Passing legislation now runs the very real risk of undermining and complicating things. It can undermine the progress already made. It will interrupt actions taken by the administration. It will create more problems, not fewer problems. I, for one, have a steadfast commitment to gaining a full understanding of the problems and pursuing the most appropriate and timely course of action.

When the Secretary came before my committee and everybody turned out to make their complaints known, and the Secretary announced at that time seven problems and he announced at that time seven solutions to those problems and took full responsibility for them, I had a feeling people left that meeting fairly satisfied that nobody was going to blame somebody else and they had a grasp of the problems and solving problems, with some accountability that some changes had already taken place for the better.

So then when you come out of an environment of a committee meeting like that, you wonder what planet they have been on when these amendments are being offered—amendments that, if they were passed, would not get to the President for another 30 days—to solve problems that were evident 30 days ago that the Secretary has already identified and taken action to overcome.

Senator BAUCUS and I are working together to get to the bottom of this issue. That is how we do it in our committee. We do it in a bipartisan way so that we are going to also be able to work together if it turns out that legislation is needed. But I asked the Secretary at that very committee meeting: Do you need any legislative changes to take care of these problems that we have all identified, particularly the seven that he identified? He said: No, he had ample legislative authority to do it.

An important part of Senator BAUCUS's and my work in this regard is going to be brought up at next week's Finance Committee hearing, an open hearing. We will hear from Dr. McClellan. We will hear from representatives of the plans. We will hear from pharmacies. We are, most importantly, going to hear from the people involved in educating and enrolling beneficiaries into the plan. More than once I have heard Members take issue with attempts to bypass the committee process. The amendments before us are just that.

Senator BINGAMAN's amendment has not gone through the Finance Committee. It is clear that this amendment falls within the jurisdiction of the Finance Committee, and the Senator from New Mexico is a member of that committee. I ask him to work within

the committee. If the Senate proceeds on legislation that the full committee has not considered, then nothing would prevent the Senate from legislating on other Finance Committee issues without the benefit of hearings or committee action.

Next week's hearing is very important. We need to gather more information about what is happening. This is needed to inform all of us of any necessary response. In the absence of such information gathering, it is dangerously premature to consider any amendments related to the prescription drug program. We all know that this whole issue of Medicare prescription drug coverage has long been a political issue. With the amendments offered today, I can't help but think that is very unfortunate. It is also unfortunate that is probably not going to change during the 109th Congress.

On the other hand, I hope that is not the case. But here we are, just 1 month into the prescription drug program, already we see a lineup of amendments to perhaps the most inappropriate vehicle there could ever possibly be to deal with Medicare. In other words, these amendments are on a tax bill. But more importantly than just the process, these amendments are unnecessary because of administrative actions taken to date or to be taken tomorrow, if a new problem comes up.

When these amendments that I have discussed—the Bingaman and Nelson amendments—come up for a vote, I hope my colleagues will trust what we learned in the committee: that the Secretary of HHS doesn't need any new legislative authority, consequently bringing any more uncertainty into this process by voting for these amendments. Vote them down.

I said that I had an amendment I wanted to have considered when we vote this afternoon. I send the amendment to the desk and ask for it to be printed.

I yield the floor. And since nobody else is desiring to speak, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mrs. MURRAY. Mr. President, I came to the floor this afternoon to spend a few minutes speaking in support of the Bingaman-Rockefeller-Murray Medicare drug REPAIR amendment that we will be seeing this afternoon. I came to the floor to urge my colleagues to support this amendment so we can address the immediate crisis facing our most vulnerable citizens.

I wish we were here debating a real fix to the Medicare Modernization Act, but unfortunately the Senate leadership has placed a lot higher priority on tax cuts than on providing reliable access to prescription drugs for low-income seniors and the disabled, so we are here today debating that. I know the chairman of the Finance Committee was on the floor earlier talking about the relevance of this amendment, the Bingaman-Rockefeller-Murray Medicare drug REPAIR amendment, but this is the first piece of legislation that we have had on the floor since the rollout of the Medicare prescription drug bill. Offering this amendment on this tax bill is our only option.

What this amendment does is ensure that our low-income seniors and our disabled—who are often technically referred to as duals—are at least ensured of a 30-day supply of lifesaving drugs, regardless of any communication or data exchange problem. It simply ensures that States and pharmacies and beneficiaries who have had to provide coverage to those who have fallen through the cracks in this rolling out of the Medicare prescription drug bill receive just and fair reimbursement.

Finally, it will end the confusion facing any of our duals. And for any of my colleagues who have not been out in their States since January 1, I will tell you there is tremendous confusion and conflict and people are falling through the cracks and we need to end that confusion so they know whether, in fact, they qualify for assistance.

Because of the tremendous data and outreach problems, many of these so-called duals have been told they have to meet a $250 deductible before their plan is going to cover their prescription drugs. If they are eligible today for Medicare and Medicaid, they are assumed eligible at the drugstore.

I have listened to Secretary Leavitt and CMS Administrator McClellan reassure all of us that they are acting to fix these problems. I am here today to applaud their attention and their commitment and their recognition of the tremendous challenges out there, particularly for our duals, as this prescription drug rollout bill is occurring. I only wish they had listened last November when I offered an amendment to provide a 6-month transition and predicted the dire straits that we are now in before this was rolled out.

I will say they have been responsive since January 1. But all of the steps that have been implemented are worthless if there is no education of our pharmacists and our seniors, or if there is no aggressive oversight and enforcement. Saying that they are just going to work to ensure the plans honor their commitment is not the same as saying plans will be required by law to honor that commitment. It doesn't do a senior any good to be told we are going to hold plans accountable, and they still do not have any access.

There are a number of problems with this flawed structure, but I think it is critical that we address the immediate crisis for those people who have very few options. If anyone on this floor today thinks this is fixed, or these problems are going to go away, I want them to know they are sadly mistaken. I have traveled around my home State of Washington since August. I am not hearing that things are getting any better. I have people come to forums that I am holding where I try to give them information, and every forum I have had, time after time, there are new problems, new challenges: pharmacists are falling through the cracks, doctors who don't know how to deal with their patients, long-term care facilities that are at their wits' end, and certainly the mental health advocates who are telling us we have people who could be in serious crisis very soon if we don't address these problems.

There is a lot of frustration. There is a tremendous amount of panic for these dual eligibles that they are being denied access to lifesaving drugs, and to low-income seniors, especially those in group homes, who can't afford the added burden of copayments. It is wrong for us to sit here and say this is going to get worked out. I think it is our responsibility to stand up today, at our very first opportunity, and make sure we fix this Medicare prescription drug plan.

This week, my Governor, as many Governors who have been facing this at home on the ground, joined with me in urging the Federal Government to fix this mess. I want to quote her. She said:

> All we are asking is don't make these people worse off than they were.

Our Governor's office, as many Governors' offices, has been flooded with calls about this prescription drug plan. She says some of these people are telling her they would rather take their own life than deal with the situation.

I have sat in forums in my State where people have said that to me, to my face, as well. These are people with mental health problems, they are elderly, they are having trouble working through the system. It is too much for them. They cannot deal with the copayments for the first time—and that is not what our country should be about. It does not sound to me like things are getting better and the kinks are getting worked out.

Congress promised in 2005, they promised to people in this country access to affordable prescription drug coverage. It is clear they are not getting that today. We know these problems cannot be fixed through some kind of administrative action alone. We here in Congress have an obligation to act and not follow CMS.

I urge my colleagues to support this amendment and send a message to those who are living, literally, in fear today that Congress is not going to wait and we are going to do the right thing.

I do not agree that this is not the bill to deal with this issue. I wish we had another bill in front of us. I wish we had an actual fix in front of us. But we cannot wait to work through the next several weeks and then the budget

process and everything else coming down the pike to deal with this issue. We are talking about real individuals in real communities who are not getting access to their prescription drugs because of the challenges that CMS is facing as this plan is rolled out, and we have an obligation to act.

I urge my colleagues to support the Bingaman-Rockefeller-Murray drug REPAIR amendment and get a fix in place so people's lives are not in crisis. We have an obligation to do this, and I urge my colleagues to vote for this amendment.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. TALENT. Mr. President, I rise for a moment to speak in favor of amendment No. 2711, which is at the desk. It is my amendment regarding the child tax credit offered by the majority leader. I will discuss briefly that amendment.

I originally hoped I could offer an amendment making the child tax credit permanent, which would help millions of workers and families around the country. I wanted to offer a straight-out extension. The Senate rules preclude that from being offered today. Instead, I will put the Senate on record that this Senator supports a permanent extension of the child tax credit.

In 2001, the Congress set in motion legislation which extended that credit to $1,000 per child, but in 2011, unless Congress acts beforehand, the clock will turn back and taxes will go up effectively 50 percent on the workers and families who qualified for the child tax credit. This additional money has made a big difference to families around the country and in Missouri. People like Beth Davis, who is a hairdresser in Kansas City, a single mother of three children, use this money to help pay for necessities for their children.

The most recent Treasury Department data shows that 543,000 married couples and single parents in Missouri benefit from the child tax credit enacted in 2001. I believe this child tax credit is supported very strongly in the Senate. I expect the sense-of-the-Senate will be approved. I certainly hope it will so that, at the minimum, we can go on record to support making this projob, progrowth, prochild tax credit permanent.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, we had a meeting and thought the votes would start immediately, and Members were advised that.

It is my understanding, Senator BAUCUS, the voting will not start for at least a half hour. Everyone should understand the votes will not start now but within the next half hour, 45 minutes probably.

Mr. BAUCUS. It is my understanding we could start early if Senators have amendments. We do not have to wait a full half hour.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, we have half an hour remaining. If there are Senators who wish to speak on their amendments, they should get over here immediately. If they do not come within a reasonable period of time, I am confident Senator BAUCUS will yield back the time on this side, as he should. If there is no one here who desires to speak, we can move to the votes more quickly. That is left up to Senator BAUCUS. If Members want to talk, now is the time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, I will speak up to 5 minutes on an amendment that is not in the first package of amendments we will vote on, but since we will have no opportunity in the second and third package of amendments, I will speak to it now.

I have an amendment that is fashioned to deal with the 9/11 Commission Report that came out less than 2 months ago, on December 5, 2005. It was the so-called report card where this prestigious bipartisan Commission, led by former Republican Governor Tom Kean and former Democratic Congressman Lee Hamilton, took a look at what we have done based on what they recommended in the 9/11 Report. It tells how little we have learned and how little we have done to actually make the homeland safer.

Most Americans, at least in my State, believe at least the most obvious steps have been taken to close the gaps in our homeland defense. They believe, at the very least, we have a plan, that we have set priorities, and we know what the next step will be.

Let me quote from the Commission's report, which is only 6 or 7 weeks old, on what we have done to assess the risks and vulnerabilities of our critical infrastructure—transportation, communications, industrial assets. Here is what they say:

> No risk and vulnerability assessments actually made; no national priorities established; no recommendations have been made on allocation of scarce resources. All key decisions [on homeland security] are at least a year away.

We all remember September 11 when we discovered that local police, fire, and rescue units could not communicate with each other, could not communicate with Federal agencies. There was no way to coordinate the action, no way to share information. Things are no better today.

It gets worse. Airline passenger screening, the one place most Americans think we have done pretty well, the 9/11 Commission gives that effort a grade of ''F.''

Regarding airline baggage screening, to check for explosives, from the report on December 5, 2005:

> Improvements have not been made a priority by Congress or the Administration.

This is unacceptable. This administration tries to fill in the most obvious gaps in our homeland defense, but they have not done it. We have not done it. We simply have not done it.

This amendment is designed to fill in the most obvious gaps. It begins with those areas where the Commission graded us and the President as ''F'' and ''D'' in the Commission Report. It addresses other issues such as the utter lack of a systematic program for rail security, passenger freight, stations, tunnels, rail yards, bridges.

Every dime in this amendment is fully paid for by closing corporate tax loopholes. Frankly, this is a modest list. There is much more to be done. We will need more resources to make us safer. Wiretapping, even if it is legal, is not the sole homeland defense. This amendment focuses on the most glaring and dangerous shortcomings in our homeland defense. By closing these loopholes, this amendment actually returns $23 billion to the Treasury to improve our fiscal security and reduce our dependence on borrowing from other countries.

I have been joined in this amendment—and I did not have time to notify her because I did not know until 2 minutes ago—by Senator STABENOW of the State of Michigan, who has worked tirelessly on dealing with this issue.

It is pretty basic. We have done nothing much to deal with the problems most Americans know relate to homeland security. We are safer but not nearly safe enough.

The bipartisan commission that got great grades from everybody in the Nation felt compelled on their own dime, with their own money, their own resources, not funded by the Government, to continue to issue reports and to hold hearings. And they issued a report on December 5 that is, quite frankly, embarrassing and dangerous.

So our amendment is designed to fill some of the loopholes, not all of them, that, in fact, have been left by the President's failure to secure our national interest, our homeland defense, as well as by our failure as a Congress to step to the ball.

We can and we have to marshal all our country's resources in this struggle. I will bet you $100, if you asked anybody in the public, from corporate CEOs to the average American out there, Would you rather us spend this money on securing our ports, our nuclear plants, our railroads, our cities, or would you rather us give it back in a tax break, I think it is just like the COPS bill years ago, given the choice, the American people said let's make our streets safer. I am confident they think we should make the country safer.

This amendment will be voted on not in this first tranche of amendments but the second, but I am not going to get a chance to speak to it at the later date. There was a little opening in time, and I thank the staff for letting me know this time was available.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise, as we are waiting for the votes as well, to join with Senator BIDEN and to thank him for his continued leadership. We have come to this floor on numerous occasions to speak about this issue over and over again, ever since 9/11, and we still do not have this fixed.

So I am pleased to be joining with Senator BIDEN to offer this amendment. It is time we act. It is past time. As Senator BIDEN said, it should be an embarrassment to all of us, the failing grades we received from the 9/11 Commission, a bipartisan commission, whose sole focus is on giving us information about whether we are safe today and what it will take to keep us safe, what it will take in the future to make sure Americans are safe.

We received, collectively—the administration, the Congress—failing grades in area after area. One of my main focuses has been on whether the radios work; it is stunning to me we are still talking about this. It is very unfortunate that after 9/11—because we did not connect all of the radios to be able to work to communicate with each other—that we saw the same kinds of failings that had firefighters and police officers running into buildings in New York instead of running out, as they should have been, because they did not know what was happening—that the same kinds of things, then, happened in the gulf, in New Orleans.

I will never forget, going down right after the hurricanes with the bipartisan leadership, sitting outside of the New Orleans Convention Center with someone from Michigan who was with the Army National Guard, someone from the Michigan Coast Guard, talking with these folks who had not slept for several days, who were down doing their part, trying to save lives, getting people off of rooftops, doing what was necessary.

I asked the gentleman from the Army National Guard: ''Do you have radios?'' ''Yeah.'' I asked the individual from the Coast Guard: ''Do you have radios?'' ''Yeah, of course.'' Then I asked: ''Can you talk to each other?'' ''No.'' I asked: ''Well, how are you talking to each other?'' ''Well, when we're out in the boats, we use hand signals.'' This was, at the time, 2005 in the United States of America, and they are using hand signals to tell whether they have found somebody, whether they are OK, and so on, because the radios did not work.

When are we going to get this right? People expect us to get this right. They do not understand why this has not already happened. This amendment basically puts our priorities in place by saying it does not matter what your income level is, if there is another attack, you are going to want the radios to work. It does not matter where you live in America. It does not matter if you are a CEO or if you are a person going in and punching a timeclock every day or if your kids are playing in a school yard. You expect that your Government is doing everything humanly possible to keep you safe.

We have heard from the 9/11 Commission. They have overwhelmingly told us that is currently not true. So I hope and pray we take action, that we would create the priorities that Americans are asking us to create, which is by starting with security, starting with security, making sure we are putting that at the top of the list, that we are providing police officers and firefighters with what they need in dealing with ports and nuclear plants and chemical plants and all of the other issues, such as with Amtrak, making sure people are safe as they travel, as well as airlines.

We can do that by setting the right priorities. And that is what this amendment does. I urge my colleagues to join us in adopting this amendment.

Thank you, Mr. President.

Mr. BAUCUS. Mr. President, I support the pending substitute amendment. I encourage my colleagues to support it as well.

I almost need a flow chart to explain how we got here. But because of several events, there is now more room for tax cuts. Yes, you heard right: more tax cuts.

We should tread carefully, though, rather than dive in. We have an opportunity to show responsibility. And I think that this substitute does just that.

Let me first explain how we got here. As my colleagues will recall, the tax reconciliation bill that we passed last November included much-needed relief for the Gulf States affected by Hurricane Katrina. Congress passed and enacted those incentives separately in December.

Further, our tax bill allocation was limited by the fact that the spending reconciliation bill had not been enacted. The House is expected to pass that bill today, clearing it for the President.

The bottom line is that this bill can accommodate $18 billion more in tax cuts.

We have an opportunity here to show some responsibility. And the responsible thing to do is to pass another year of extenders. Otherwise, we will be right back here in a few months to pass those extenders. Or since it is an election year, we will be back during a lame duck session considering the same set of expiring provisions.

These are very popular, bipartisan tax cuts we extend year after year. But we never have the resources in any given year to make them permanent.

This list of annual extenders includes several proven tax incentives. Businesses are encouraged to do more U.S.-based research and create high-paying jobs. Long-term welfare recipients and others who are hard to employ are given job opportunities through an employer credit. And teachers who reach into their pockets to pay for classroom supplies can get a small deduction for their expenses.

These tax incentives were all part of the original Senate reconciliation bill. But in that bill, they were limited to one year. Now, Chairman GRASSLEY and I are pleased to offer this amended version today to extend these provisions through the end of next year. We will thus provide certainty to businesses, workers, and teachers.

We know we will all vote to extend these provisions, if pressed at the end of the year to do so. We should take this opportunity now to provide these tax incentives through the end of 2007. It is the responsible thing to do. Individual and business taxpayers will be thankful.

Mr. President, before us now are a series of amendments. I have a list of 21 Democratic amendments. I have a list of eight Republican amendments, with promises of more amendments on that side of the aisle, depending upon the course we take today.

Pending a few moments ago, first was an amendment by the majority leader to permanently extend the child tax credit. That is a very popular amendment. I support—I think most of my colleagues do—extending the child tax credit. I daresay that most Senators on both sides of the aisle would probably strongly support extension of the child tax credit. Senator TALENT, the author, however, has expressed his will to convert his amendment to a sense of the Senate. The majority promises to offer the full version later.

Because of the Nation's record on budget deficits, I would prefer that we paid for the pending amendment. But because of the procedural posture in which we find ourselves, we will not have that choice. So we will be faced with an unattractive choice of voting for an appealing tax cut without paying for it or voting against an appealing tax cut.

After this amendment from the other side, we have been promised similar votes on measures to extend marriage penalty relief, estate tax relief, Social Security tax relief, 10 percent tax bracket relief, and so on. At the end of

the day, this could become a fiscally very irresponsible exercise.

I wish to propose a different path. I propose that we address a limited number of amendments—just six—and then go to third reading. I propose that these six amendments be Senator TALENT's sense of the Senate on the child tax credit, Senator BINGAMAN's prescription drug benefit, a Republican alternative to the prescription drug amendment, a modified Schumer-Menendez-Grassley sense of the Senate on AMT relief, a modified Rockefeller-Santorum mine safety amendment, and a paid-for substitute by Senator CONRAD, and then go to third reading.

The Republican manager has conveyed to me that he would find this procedure acceptable. This procedure would require, obviously, many Senators to forgo their opportunity to offer amendments. That is clear. It would have that consequence. But this procedure would also do the most to maintain fiscal responsibility. This procedure would also allow Senators to get back to their States and their constituents in much shorter order.

I implore my colleagues, let us choose the path of reason. Let us choose the path of moderation. Let us end this bill this afternoon.

I have given deep thought to this issue. I know there are many on both sides of the aisle who have conflicting emotions and views on this basic prospect we find ourselves facing. It is my considered judgment that the path I am outlining is probably the best course for the Senate and, more importantly, the best course for the Nation. After all, we are here representing our constituents. We should go the extra mile to do whatever we possibly can to represent the people back in our home States as well as we possibly can.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from North Dakota.

Mr. CONRAD. Mr. President, we are here at a moment that people have to think very soberly about what the possible consequences of our actions might be. The Senator from Montana has outlined one possible scenario. Far be it for me to judge which amendments would be in order and which would not. Let me just say what consequences could flow from a failure to reach agreement.

I have just had a consultation with the Parliamentarian. He informs me that if we were to waive on any one of the amendments that have been talked about on the other side, if we were to waive all budget points of order through conference committee, that would open up to the conference committee the opportunity to come back with legislation that would cost far in excess of the $70 billion limit we currently face as a result of the budget resolution.

I know this is complicated, but I urge my colleagues to think very carefully about the potential consequences. Let me give four.

If all points of order were waived through conference committee on the child credit, that could open up the conference committee to $185 billion of additional tax cuts, not offset. If the estate and gift tax changes that have been proposed by some were adopted and all points of order waived through the conference committee, that could add $358 billion that the conference committee could come back with with no points of order prevailing or possible.

On the expanded 10 percent bracket, that would open up an additional $262 billion for the conference committee to come back to this Chamber with no points of order pending. An income tax raise of 25, 28, 33, and 35 percent, if all points of order were waived through the conference committee, we could come back here and open up this Chamber to an additional $385 billion of tax reduction with no point of order pending.

I do not pretend to know what the package is that could be agreed on to resolve this. I do know that the Senator from Montana has made an impassioned plea to our colleagues to think twice before we get into this destruction derby. Believe me, the potential is, at the end of the day, we would find ourselves in the circumstance very easily in which you could have a trillion dollars of additional tax cuts pending on the floor of the Senate, with no point of order available.

I notice the leader is in the Chamber. I yield the floor.

Mr. REID. Mr. President, I think what we have here is a case being made for how bad this reconciliation plan is that we have. We have a number of amendments that Senators in good faith have tried to offer. There will be votes on these amendments. Ours doesn't break the bank, as indicated by the Senator from North Dakota. All the amendments he is talking about that are going to cost all this money come from the other side. With rare exception, our amendments are offset. We don't expect to ask to waive points of order through conference on our amendments. That is why Members should not vote to waive through conference.

Also, I hope the country is watching what is going on here today. First of all, as I said earlier today, we are working on something that has been named by the majority the ''Deficit Reduction Act of 2005.'' Using the numbers given us by the majority, it increases the deficit by $50 billion. Today, as I was walking to lunch, a reporter says: Are you aware that we are going to get a supplemental next week for $90 billion? The budget gimmicks of this administration are unbelievable. Everyone knows the cost of the war is ongoing. We are in our fourth year of war. The President doesn't include it in his budget because it would show the American people how deeply in the red we are. Rather than do that, he comes back later with all these supplementals. But I understand, having managed a few bills in my day, how the distinguished Senator from Montana and I will feel about it.

We want to get the bill out of here and move on to other things with as little damage as possible. But, Mr. President, damage has been done by having this reconciliation bill in the manner that we got it in the first place. Having been given this bill, we are $50 billion in the hole to begin with, using the numbers of the majority.

Now, people in good faith on our side offered amendments, or soon will offer them. Some have been debated. Our amendments take, for example, the amendment of the Senator from New York. She wants to have this Senate on record as to whether the Senate will stand for an independent bipartisan commission to study what went wrong with Katrina. We have been stymied every step of the way to do that. Rather than have a 9/11-type commission to find out what went wrong in the most significant natural disaster in the history of this country, we are being stonewalled. That is an amendment the majority doesn't want to vote on.

I wish there were an easy way out of this, but there is not. I say to my friends who are offering this amendment on the child tax credit, if it is offered, a lot of Senators over here on this side are going to vote for it. Someday maybe this administration will recognize what they have done to this country economically. We are going to be asked in a few days to increase the debt ceiling from $8.2 trillion to whatever the majority wants—$8.2 trillion is not enough. So my suggestion is, let's just start voting.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. I ask unanimous consent that the motion to commit be withdrawn. I further ask consent that amendment No. 2709 be withdrawn and further that the yeas and nays be vitiated on amendment No. 2708; further, that the amendment be agreed to; provided further that the only remaining amendments in order be the following, and further, when a motion to waive occurs, it be in order for each leader to offer up to two amendments to each motion to waive.

The amendments are:

Talent, child tax credit; Nelson, prescription drugs; Republican alternative to Nelson, relevant; Byrd-Rockefeller-Santorum, mine safety; Conrad, substitute; Dodd, veterans health; Republican alternative to Dodd, relevant; Reed, America's military; Republican

alternative to Reed, relevant; Clinton, Katrina commission; Republican alternative to Clinton, relevant; Menendez, AMT; Grassley, AMT; Reid, relevant to any amendment on the list; Frist, relevant to any amendment on the list.

I further ask consent that at the conclusion of this unanimous consent, all time be yielded back and the Senate proceed to votes in relation to the following amendments; that all votes in the sequence be limited to 10 minutes each; that following the reporting of each amendment, the amendment be considered as read and there be 2 minutes equally divided prior to the vote in relation to the amendment; finally, that following disposition of amendments, the substitute be agreed to, the bill be read the third time, and the Senate proceed to a vote on passage of the bill, with no intervening action or debate. The amendments will be considered in the order sent to the desk.

The PRESIDING OFFICER (Mr. CHAFEE). Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2727

Mr. FRIST. Mr. President, on behalf of Senator TALENT, I would like to call up his amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. TALENT, proposes an amendment numbered 2727.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding the permanent extension of the amendments to the child tax credit made by the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003)

At the appropriate place insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING THE PERMANENT EXTENSION OF EGTRRA AND JGTRRA PROVISIONS RELATING TO CHILD TAX CREDIT.

It is the sense of the Senate that the conferees for the Tax Relief Act of 2006 should strive to permanently extend the amendments to the child tax credit under section 24 of the Internal Revenue Code of 1986 made by the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2727) was agreed to.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 2728 TO AMENDMENT NO. 2707

Mr. BAUCUS. On behalf of Senators BYRD, ROCKEFELLER, and SANTORUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. BYRD, for himself, Mr. ROCKEFELLER, and Mr. SANTORUM, proposes an amendment numbered 2728 to amendment No. 2707.

The amendment is as follows:

(Purpose: To provide tax incentives for the purchase of advanced mine safety equipment and the training of mine rescue teams, and for other purposes)

At the appropriate place insert the following:

SEC. ___. PARTIAL EXPENSING FOR ADVANCED MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179D the following new section:

''SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat 50 percent of the cost of any qualified advanced mine safety equipment property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified advanced mine safety equipment property is placed in service.

''(b) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall specify the advanced mine safety equipment property to which the election applies and shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(c) QUALIFIED ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'qualified advanced mine safety equipment property' means any advanced mine safety equipment property for use in any underground mine located in the United States—

''(1) the original use of which commences with the taxpayer, and

''(2) which is placed in service by the taxpayer after the date of the enactment of this section.

''(d) ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'advanced mine safety equipment property' means any of the following:

''(1) Emergency communication technology or device which is used to allow a miner to maintain constant communication with an individual who is not in the mine.

''(2) Electronic identification and location device which allows an individual who is not in the mine to track at all times the movements and location of miners working in or at the mine.

''(3) Emergency oxygen-generating, self-rescue device which provides oxygen for at least 90 minutes.

''(4) Pre-positioned supplies of oxygen which (in combination with self-rescue devices) can be used to provide each miner on a shift, in the event of an accident or other event which traps the miner in the mine or otherwise necessitates the use of such a self-rescue device, the ability to survive for at least 48 hours.

''(5) Comprehensive atmospheric monitoring system which monitors the levels of carbon monoxide, methane, and oxygen that are present in all areas of the mine and which can detect smoke in the case of a fire in a mine.

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH SECTION 179.—No expenditures shall be taken into account under subsection (a) with respect to the portion of the cost of any property specified in an election under section 179.

''(2) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(f) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the mines of the taxpayer as the Secretary shall require.

''(g) TERMINATION.—This section shall not apply to property placed in service after the date which is 3 years after the date of the enactment of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B) is amended by striking ''or 179D'' each place it appears in the heading and text thereof and inserting ''179D, or 179E''.

(3) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 179E(e)(2).''.

(4) Section 1245(a)(2)(C) is amended by inserting ''179E,'' after ''179D,''.

(5) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Election to expense advanced mine safety equipment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act.

SEC. ___. MINE RESCUE TEAM TRAINING TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45N. MINE RESCUE TEAM TRAINING CREDIT.

''(a) AMOUNT OF CREDIT.—For purposes of section 38, the mine rescue team training credit determined under this section with respect to any eligible employer for any taxable year is an amount equal to the lesser of—

''(1) 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training program costs of each qualified mine rescue team employee (including wages of such employee while attending such program), or

''(2) $10,000.

''(b) QUALIFIED MINE RESCUE TEAM EMPLOYEE.—For purposes of this section, the term 'qualified mine rescue team employee' means with respect to any taxable year any full-time employee of the taxpayer who is—

''(1) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member as a result of completing, at a minimum, an initial 20-hour course of instruction as prescribed by the Mine Safety and Health Administration's Office of Educational Policy and Development, or

''(2) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member by virtue of receiving at least 40 hours of refresher training in such instruction.

''(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means any taxpayer which employs individuals as miners in underground mines in the United States.

''(d) WAGES.—For purposes of this section, the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2008.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', and'', and by adding at the end the following new paragraph:

''(27) the mine rescue team training credit determined under section 45N(a).''.

(c) NO DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

''(e) MINE RESCUE TEAM TRAINING CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45N(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45N. Mine rescue team training credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

Mr. BAUCUS. Mr. President, I believe we have 1 minute each. I yield 1 minute to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I simply want to thank the chairman of the Finance Committee, and I thank the ranking member for working this out and having everybody in it together. I welcome working with Senator SANTORUM. It is a good thing to do. It is dark days in Appalachia now, and this will help a lot. Thank you.

Mr. FRIST. Mr. Presient, on behalf of Senator SANTORUM, we yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2728) was agreed to.

Mr. BAUCUS. Mr. President, the next amendment on the list is to be offered by the Senator from North Dakota, Mr. CONRAD. He should be here at any moment now. Until he is here, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, is this an appropriate time to offer my amendment?

The PRESIDING OFFICER. Yes.

Mr. BAUCUS. It is.

AMENDMENT NO. 2729 TO AMENDMENT NO. 2707

Mr. CONRAD. Mr. President, I send my amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself and Mr. BINGAMAN, proposes an amendment numbered 2729 to amendment 2707.

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

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

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

Mr. CONRAD. Mr. President, the chairman and ranking member have done an excellent job in putting together this package that is in the interest of the American people. I have all of the same tax relief provisions that are in their package. The only difference is that I have paid for it over the 10 years. I have done it by adopting the same offsets as in the managers' package: closing the tax gap by shutting down abusive tax shelters and other reforms, raising some $34 billion, including revoking tax benefits for leasing foreign subway and sewer systems; second, ending a loophole for big oil that lets them avoid taxes on foreign operations, raising $9 billion; requiring tax withholding on Government payments to contractors such as Halliburton, raising $7 billion; renewing the Superfund tax so that polluting companies pay for cleaning up toxic waste sites, raising $17 billion; and closing additional loopholes, raising $22 billion.

This is the package that has all of the tax relief in the managers' package. It just has additional pay-fors, so we cover the costs. We have exploding deficits, exploding debt. Let's pay for these tax cuts we are offering.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I disagree with the proposal in two important parts.

First, the proposal does not extend to 2009 several provisions that are very important to both sides, bipartisan—specifically, the section 179 expensing, which encourages the growth of small business in our country, and the college tuition deduction, which will give parents more certainty in the planning of their children's education, and the low-income savers' credit, which assists families who make less than $50,000 in saving for their retirement.

The second point I have——

Mr. CONRAD. Mr. President, would the Senator yield on this point?

Mr. GRASSLEY. I only have 1 minute.

Mr. CONRAD. Can I grant you some additional time?

Mr. GRASSLEY. We don't have that time.

Mr. CONRAD. Mr. President, I ask unanimous consent for 30 seconds on this point, if I could.

Mr. GRASSLEY. Then I will take 30 seconds, too.

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

Mr. CONRAD. That is more than fair.

I say to my colleague that the statement he made is just not true. I have precisely the same tax relief in my package as in yours. Every one of the items the chairman just mentioned is in my package for exactly the same period of time as is in yours.

Mr. GRASSLEY. All I can say in my 30 seconds on my point is that the Senator may be entirely correct, but that is one of the things that happens when we have 2 days of debate and these amendments are not put before the Senate to study until the last minute.

The second concern I have about the proposal is the inclusion of offsets which we have not had an opportunity to fully consider or with respect to which we have some policy concerns. An example of that is the revival of the environmental excise tax offered, referred to as the ''Superfund tax.'' As you might expect, I believe the bill passed by a bipartisan majority with 64 votes in the Senate in November, which we are not going through again, represents a more balanced bill, one that provides longer-term benefits, including increased certainty and reduced complexity for planning.

In addition, I raise a point of order that the budget does not meet reconciliation instructions to the Senate. It is an issue of germaneness, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections of the act for the purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

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

The assistant journal clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

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

The yeas and nays resulted—yeas 44, nays 52, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—44

Akaka	Dayton	Kerry
Baucus	Dodd	Kohl
Bayh	Dorgan	Landrieu
Biden	Durbin	Lautenberg
Boxer	Feingold	Leahy
Byrd	Feinstein	Levin
Cantwell	Harkin	Lieberman
Carper	Inouye	Lincoln
Chafee	Jeffords	Menendez
Clinton	Johnson	Mikulski
Conrad	Kennedy	Murray

Nelson (FL)	Reid	Schumer
Obama	Rockefeller	Stabenow
Pryor	Salazar	Wyden
Reed	Sarbanes	

NAYS—52

Alexander	DeWine	Murkowski
Allard	Dole	Nelson (NE)
Allen	Ensign	Roberts
Bennett	Enzi	Santorum
Bond	Frist	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Smith
Burns	Gregg	Snowe
Burr	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Isakson	Talent
Coleman	Kyl	Thune
Collins	Lott	Vitter
Cornyn	Lugar	Voinovich
Craig	Martinez	Warner
Crapo	McCain	
DeMint	McConnell	

NOT VOTING—4

Bingaman	Inhofe
Domenici	Thomas

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we are making a lot of progress. I think if we just keep operating in the sense of comity we can do quite well. In that spirit, I ask unanimous consent the Grassley AMT amendment and the Mendendez AMT amendment be moved down the amendment list in the time of offering.

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

Mr. BAUCUS. That means the next amendment is the amendment of Senator GRASSLEY on the Medicare prescription drug program.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, tonight it has taken a long time to get where we are. We are going to have 10-minute rollcall votes, so everybody needs to stay in the Chamber. We are going to cut everybody off. We have agreed to 10 minutes. It has been a long day already. We know what we are going to be doing the rest of the night. We have the amendments laid out, but it means everybody has to stay here. It will be 10-minute votes. Everybody stay here.

Second, we have a request from the other side of the aisle that after this series of amendments there be a rollcall vote on the extension of the PATRIOT Act. We will run through the series of amendments as outlined and then, in discussion with the other side of the aisle, they are requesting a rollcall vote on the extension of the PATRIOT Act following these stacked votes on the amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the regular order?

The PRESIDING OFFICER. The next amendment is the Grassley amendment.

The Senator from Iowa is recognized.

AMENDMENT NO. 2731 TO AMENDMENT NO. 2707

Mr. GRASSLEY. Mr. President, the amendment expresses the sense of the Senate about the concerns regarding the problems encountered in implementing the new drug benefit. It expresses the Senate's support for the administration's efforts to fix them. These efforts have proven to be much speedier in getting the problems fixed, and fixed fast, than any legislation can do. To that point, one amendment offered yesterday has provisions that are completely unnecessary because administrative actions have already taken care of it. I see no point in legislating for the sake of legislating.

Moreover, legislative action on top of administration action will undermine and complicate progress to date.

I urge my colleagues to support this sense-of-the-Senate amendment.

The PRESIDING OFFICER. The Senator from Iowa will please send the amendment to the desk.

AMENDMENT NO. 2731 TO AMENDMENT NO. 2707

Mr. GRASSLEY. I call up amendment No. 2731.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 2731 to amendment No. 2707.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding the Medicare part D prescription drug program)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.

(a) FINDINGS.—The Senate finds the following:

(1) It is not acceptable that startup issues under the new Medicare prescription drug program have resulted in some of our Nation's most vulnerable citizens having difficulties getting their prescription drugs covered under the program, and these issues must be addressed and resolved.

(2) The Department of Health and Human Services and the Centers for Medicare & Medicaid Services are working tirelessly to address these startup issues and have taken numerous steps to smooth the transition process.

(3) All prescription drug plans under part D of title XVIII of the Social Security Act and MA–PD plans under part C of such title (in this section referred to as ''Medicare prescription drug plans'') already have a ''first fill'' policy in place that provides a new enrollee with coverage for prescription drugs during at least the first 30 days of enrollment regardless of whether the particular prescription drug is on the plan's formulary, and the Centers for Medicare & Medicaid Services is enforcing this requirement.

(4) Under current law, full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1395u–5(c)(6)) are already automatically enrolled into Medicare prescription drug coverage so no change in law is necessary.

(5) Medicare prescription drug plans are already responsible for covering the cost of covered prescriptions filled for enrollees, including short term transition prescriptions.

(6) Medicare prescription drug plans are already responsible for reimbursing any enrollee, including full-benefit dual eligible individuals, for any out-of-pocket costs incurred by the enrollee that should have been covered by the plan.

(7) The Centers for Medicare & Medicaid Services is already reimbursing States for the reasonable administrative costs incurred by States that have temporarily covered some claims for prescription drug coverage during the transition period.

(8) Enrollment is exceeding projections, with at least 24,000,000 Medicare beneficiaries who now have drug coverage and another 90,000 are enrolling each day in the Medicare prescription drug program;

(9) In addition, the Secretary of Health and Human Services has taken many other actions to smooth the implementation of the Medicare prescription drug program, including the following:

(A) Establishing processes to ensure that full-benefit dual eligible individuals are not overcharged for their prescriptions and to require Medicare prescription drug plans to refund overcharges to such individuals.

(B) Establishing a reconciliation process to ensure that Medicare prescription drug plans reimburse pharmacies for costs incurred by pharmacies that are payable by such plans.

(C) Conducting extensive and continuing outreach to pharmacies and pharmacy associations on the implementation of the Medicare prescription drug benefit, particularly with respect to full-benefit dual eligible individuals, as well as establishing a special pharmacy telephone help line.

(D) Requiring Medicare prescription drug plans to have comprehensive formularies and procedures for enrollees to rapidly secure an exception to the limitation of coverage of a prescription drug when medical necessity is demonstrated.

(E) Permitting full-benefit dual eligible individuals to switch Medicare prescription drug plan under the Medicare prescription drug benefit at any time, for any reason, and improving data flows and communication with plans to ensure that plan switches by such individuals become fully effective as quickly as possible.

(F) Partnering with national, State, and local groups that work with full-benefit dual eligible individuals to educate such individuals about the Medicare prescription drug program, and assisting in their transition to, and enrollment under, such program.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Secretary of Health and Human Services is making significant progress in smoothing the implementation of the new Medicare prescription drug program, legislation changing the program is not needed at this time, and legislation at this time would also likely complicate implementation of the program and confuse beneficiaries;

(2) each of the implementation problems identified under the Medicare prescription drug program will be resolved more quickly through administrative actions, which the

Secretary of Health and Human Services already has the authority to take under current law, rather than through Congressional action followed by administrative action;

(3) the Senate fully supports the efforts of the Secretary of Health and Human Services, Medicare prescription drug plans, pharmacists, and others to implement the Medicare prescription drug program and to resolve problems that have occurred during the implementation of the program; and

(4) the pace of enrollment in the Medicare prescription drug benefit indicates that extending the six-month enrollment period is not warranted at this time, and, by contrast, such an action could exacerbate implementation issues under the program.

Mr. BAUCUS. Mr. President, I yield 1 minute allocated to my side to the Senator from Florida.

Mr. NELSON of Florida. Mr. President, Senators had better look at this sense-of-the-Senate amendment because it indicates that ''extending the 6-month enrollment period is not warranted.''

That is a direct quote. You know what you have been hearing from your senior citizens and how confused they are. This sense of the Senate says it shouldn't be extended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. NELSON of Florida. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from North Carolina (Mr. BURR), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

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

The result was announced—yeas 42, nays 54, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—42

Alexander	DeMint	Martinez
Allard	Dole	McCain
Allen	Enzi	McConnell
Bennett	Frist	Murkowski
Bond	Graham	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Coburn	Hatch	Smith
Cochran	Inhofe	Stevens
Collins	Isakson	Sununu
Cornyn	Kyl	Talent
Craig	Lott	Thune
Crapo	Lugar	Vitter

NAYS—54

Akaka	Clinton	Feinstein
Baucus	Coleman	Harkin
Bayh	Conrad	Hutchison
Biden	Dayton	Inouye
Boxer	DeWine	Jeffords
Byrd	Dodd	Johnson
Cantwell	Dorgan	Kennedy
Carper	Durbin	Kerry
Chafee	Ensign	Kohl
Chambliss	Feingold	Landrieu
Lautenberg	Nelson (FL)	Sarbanes
Leahy	Nelson (NE)	Schumer
Levin	Obama	Snowe
Lieberman	Pryor	Specter
Lincoln	Reed	Stabenow
Menendez	Reid	Voinovich
Mikulski	Rockefeller	Warner
Murray	Salazar	Wyden

NOT VOTING—4

Bingaman	Domenici
Burr	Thomas

The amendment (No. 2731) was rejected.

AMENDMENT NO. 2730 TO AMENDMENT NO. 2707

(Purpose: To provide for necessary beneficiary protections in order to ensure access to coverage under the Medicare Part D prescription drug program)

Mr. NELSON of Florida. Mr. President, I call up amendment No. 2730.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself and Mr. BINGAMAN, proposes an amendment numbered 2730.

Mr. NELSON of Florida. I ask unanimous consent the reading of the amendment be dispensed with.

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

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

Mr. NELSON of Florida. On the vote Members just rejected, the thought was that extending the 6-month enrollment period was not warranted because, in fact, you have been hearing from your senior citizens. So we will give you an opportunity now.

This amendment expands the 6-month enrollment period for the entire year of 2006 and allows beneficiaries, one time, to change plans in that year when they make a mistake. We are also going to make all those folks, those seniors who are out of pocket, the pharmacies that are out of pocket, the States that are out of pocket because of the Federal bungling, we will reimburse them in the implementation where individual senior citizens have had to eat the cost when they find their drugs that are essential to their health, that they cannot get them because they are not eligible under the new plan under Medicare.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I object to this amendment. Remember, all but two of our members of the Committee on Finance, Republican and Democrat, joined with Secretary Leavitt to go over the problems 2 weeks ago that this program is having. Secretary Leavitt took responsibility for those problems. He laid out seven problems. He laid out seven solutions to those problems that he has already inputted.

I asked him if he needed additional legislative authority to solve these problems. He did not need any additional legislative authority. He had plenty. We are going to pass legislation now that not only will take a while to get passed, but we will also have a period of time afterwards of having regulations to administer that legislation.

The problem goes on and on. The problem is being solved by the Secretary right now. Let's not screw up what the Secretary is trying to do, something that is working very well. There are problems, yes, but those problems are identified, and they can work.

I raise a point of germaneness on this amendment. I raise a point of order under section 310 of the Budget Act, and I ask for the yeas and nays.

Mr. NELSON of Florida. Pursuant to 904 of the Congressional Budget Act, I move to waive the applicable sections of that act for consideration of this amendment. I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is opn agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

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

The yeas and nays resulted—yeas 52, nays 45, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—52

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Biden	Hutchison	Obama
Boxer	Inouye	Pryor
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Rockefeller
Chafee	Kerry	Salazar
Clinton	Kohl	Sarbanes
Coleman	Landrieu	Schumer
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Dayton	Levin	Stabenow
DeWine	Lieberman	Warner
Dodd	Lincoln	Wyden
Dorgan	Menendez	
Durbin	Mikulski	

NAYS—45

Alexander	DeMint	Martinez
Allard	Dole	McCain
Allen	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Frist	Roberts
Brownback	Graham	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Burr	Hagel	Smith
Chambliss	Hatch	Stevens
Coburn	Inhofe	Sununu
Cochran	Isakson	Talent
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich

NOT VOTING—3

Bingaman	Domenici	Thomas

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 2716 TO AMENDMENT NO. 2707

(Purpose: To establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future)

Mrs. CLINTON. Mr. President, I call up amendment No. 2716 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will please report.

The legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON], for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, Mr. LEAHY, and Mr. JEFFORDS, proposes an amendment numbered 2716.

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

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

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

Mrs. CLINTON. Mr. President, this amendment would establish a Katrina commission modeled after the 9/11 Commission, made up of experts on a bipartisan basis.

We are seeing the administration withholding documents, testimony, and information from the ongoing investigations by the House and Senate.

I commend our colleagues, Senator COLLINS and Senator LIEBERMAN, for their efforts to obtain the information that is needed. But we must establish this commission to get at what the truth is about what actually happened in order to take steps that will fix the problems so they do not happen anywhere else in our country.

A vote against this commission is a vote for continued stonewalling, sweeping problems under the rug, and ignoring the problems that we know exist today. That is a dangerous precedent for the people of this Nation.

I urge my colleagues to vote for the Katrina commission.

The PRESIDING OFFICER. Who yields time in opposition? The Senator from Maine.

Ms. COLLINS. Mr. President, the Homeland Security Committee of the Senate has been conducting a thoroughly comprehensive, bipartisan, and thorough investigation into the preparation for and response to Hurricane Katrina. We have held 15 hearings, the latest of which was today. We have interviewed 270 witnesses. We have reviewed 800,000—800,000—pages of documents. We have a completely bipartisan staff of investigators, attorneys, and other experts.

We are working together. We are making great progress. We will finish in March. We will produce a report and legislation. And, most important, we will finish our work before the next hurricane season is here.

I urge opposition to the amendment, and I raise a point of order that the pending amendment is not germane to the measure now before the Senate. I raise a point of order under section 305(b) of the Budget Act.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I move to waive the applicable sections of the Budget Act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to waive.

The clerk will please call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

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

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—44

Akaka	Feinstein	Mikulski
Baucus	Harkin	Murray
Bayh	Inouye	Nelson (FL)
Biden	Jeffords	Nelson (NE)
Boxer	Johnson	Obama
Byrd	Kennedy	Pryor
Cantwell	Kerry	Reed
Carper	Kohl	Reid
Clinton	Landrieu	Rockefeller
Conrad	Lautenberg	Salazar
Dayton	Leahy	Sarbanes
Dodd	Levin	Schumer
Dorgan	Lieberman	Stabenow
Durbin	Lincoln	Wyden
Feingold	Menendez	

NAYS—53

Alexander	DeMint	McCain
Allard	DeWine	McConnell
Allen	Dole	Murkowski
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burns	Grassley	Smith
Burr	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Talent
Coleman	Isakson	Thune
Collins	Kyl	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	

NOT VOTING—3

Bingaman	Domenici	Thomas

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 2732

Mr. GRASSLEY. Mr. President, I call up amendment No. 2732.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 2732.

The amendment is as follows:

(Purpose: To support the health needs of our veterans and military personnel)

At the appropriate place, insert the following:

SEC. ___. FUNDING FOR VETERANS HEALTH CARE AND DISABILITY COMPENSATION AND HOSPITAL INFRASTRUCTURE FOR VETERANS.

(a) FUNDING FOR MEDICAL SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Health Administration for Medical Care amounts as follows:

(A) $900,000,000 for fiscal year 2006.

(B) $1,300,000,000 for fiscal year 2007.

(C) $1,500,000,000 for fiscal year 2008.

(D) $1,600,000,000 for fiscal year 2009.

(E) $1,600,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Health Administration for Medical Care under any other provisions of law.

(b) FUNDING FOR DISABILITY COMPENSATION BENEFITS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Benefits Administration for Compensation and Pensions amounts as follows:

(A) $2,300,000,000 for fiscal year 2006.

(B) $2,700,000,000 for fiscal year 2007.

(C) $3,000,000,000 for fiscal year 2008.

(D) $3,000,000,000 for fiscal year 2009.

(E) $3,000,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Benefits Administration for Compensation and Pensions under any other provisions of law.

(c) FUNDING FOR INFRASTRUCTURE IMPROVEMENTS FOR HOSPITALS PROVIDING HEALTH CARE AND SERVICES TO VETERANS.—

(1) ESTABLISHMENT OF FUND.—There is hereby established on the books of the Treasury an account to be known as the ''Veterans Hospital Improvement Fund'' (in this subsection referred to as the ''Fund'').

(2) ELEMENTS.—The Fund shall consist of the following:

(A) $1,000,000,000, which shall be deposited in the Fund upon the enactment of this subsection.

(B) Any other amounts authorized for transfer to or deposit in the Fund by law.

(3) ADMINISTRATION.—The Funds shall be administered by the Secretary of Veterans Affairs.

(4) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Fund shall be available expenditures for improvements of health facilities treating veterans, including military medical treatment facilities, medical centers and other facilities administered by the Secretary of Veterans Affairs for the provision of medical care and services to veterans, and other State, local, and private facilities providing medical care and services to veterans.

(B) APPLICATION FOR FUNDS.—A non-Federal health facility seeking amounts from the Fund shall submit to the Secretary of Veterans Affairs an application therefor setting forth such information as the Secretary shall require.

(C) AVAILABILITY.—Amounts in the Fund shall remain available until expended.

Mr. GRASSLEY. Mr. President, the problem with the Dodd amendment is that it doesn't even do what the author says it does. He says it is paid for by using capital gains, but capital gains offsets don't even come into play until the year 2009. The author is leading us to believe that the military assistance is coming now. But it is not, if it is tied to an offset that won't come due until 2009. Our alternative now before the Senate will do the same thing as the Dodd amendment, but we don't tie it up with an offset that is way down the road 3 years. That is not truth in budgeting. I urge support for my amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield the 1 minute allocated to our side to the Senator from Connecticut.

Mr. DODD. Mr. President, with all due respect to my good friend from Iowa, for the Dodd amendment, the offsets begin next year, 2007, on the capital gains and dividends tax breaks. The Grassley amendment I will support. I hope the Senator from Iowa will support my amendment. The distinction between the two amendments is whether you pay for it. I am grateful that the Senator from Iowa has taken my language on veterans resources going to veterans hospitals, things such as the Intrepid Fallen Heroes Fund facility at Fort Sam Houston in Texas, and others, so that we can provide for the 103,000 veterans who come out of Iraq and Afghanistan, where there is a shortfall today. If you take my amendment, we actually pay for it by asking one-fifth of 1 percent of those people who in the year 2007 and 2008 would be beneficiaries as a result of capital gains and dividends tax reductions; 99.8 percent of all the beneficiaries under the capital gains and dividends tax reductions would not be touched by the Dodd amendment.

This is a simple distinction here. If you think we ought to do something on behalf of our veterans, then we ought to have the courage to pay for it. You have to make choices. A modest reduction in the capital gains and dividends tax reduction for 2 years, coming from less than one-fifth of 1 percent of the population making over $1 million a year is very little to ask for.

I ask for the adoption of the Grassley amendment. I also urge you to adopt our amendment. I don't want to see this amendment drop before it gets to the Ohio clock, and I know that is what is going to happen if we don't pay for the amendment.

Mr. GRASSLEY. Mr. President, I raise a budget point of order on my amendment, and I also move to waive all provisions of the Budget Act and budget resolution necessary for the consideration of the pending amendment to this bill and for the inclusion of the language of the pending amendment in the consideration of amendments between the House and conference report on the bill.

Mr. DODD. Mr. President, in a bizarre situation, pursuant to section 904 the Congressional Budget Act——

Mr. GRASSLEY. I ask unanimous consent that the motion be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Reserving the right to object, I ask for a quorum call.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Iowa has not relinquished the floor. Does the Senator from Iowa consent or dissent to a quorum call?

Mr. GRASSLEY. I have asked for unanimous consent.

Mr. CONRAD. I object.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The Democratic leader is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to waive all provisions of the Budget Act and budget resolutions necessary for the consideration of the pending amendment to this bill, and for the inclusion of the language of the pending amendment in the consideration of an amendment between Houses.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Mr. President, reserving the right to object, and I will not object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, this just makes clear that we would not be doing something tonight the Senate has never done before: allow direct spending on a bill such as this without the chance of it being considered in conference and coming back here without any points of order prevailing.

I apologize to colleagues for taking this time, but we cannot be engaging in a process never before done in the Senate to spend tens of billions of dollars without the ability to review it when it comes back from conference. I will not object.

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

The question is on agreeing to amendment No. 2732.

The amendment (No. 2732) was agreed to.

Mr. DODD. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 2735 TO AMENDMENT NO. 2707

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mrs. BOXER, Ms. MIKULSKI, Mr. AKAKA, and Mr. REED, proposes an amendment numbered 2735.

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

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

The amendment is as follows:

(Purpose: To support the health needs of our veterans and military personnel and reduce the deficit by making tax rates fairer for all Americans)

At the appropriate place, insert the following:

SEC. ___. FUNDING FOR VETERANS HEALTH CARE AND DISABILITY COMPENSATION AND HOSPITAL INFRASTRUCTURE FOR VETERANS.

(a) FUNDING FOR MEDICAL SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Health Administration for Medical Care amounts as follows:

(A) $900,000,000 for fiscal year 2006.

(B) $1,300,000,000 for fiscal year 2007.

(C) $1,500,000,000 for fiscal year 2008.

(D) $1,600,000,000 for fiscal year 2009.

(E) $1,600,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Health Administration for Medical Care under any other provisions of law.

(b) FUNDING FOR DISABILITY COMPENSATION BENEFITS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Benefits Administration for Compensation and Pensions amounts as follows:

(A) $2,300,000,000 for fiscal year 2006.

(B) $2,700,000,000 for fiscal year 2007.

(C) $3,000,000,000 for fiscal year 2008.

(D) $3,000,000,000 for fiscal year 2009.

(E) $3,000,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Benefits Administration for Compensation and Pensions under any other provisions of law.

(c) FUNDING FOR INFRASTRUCTURE IMPROVEMENTS FOR HOSPITALS PROVIDING HEALTH CARE AND SERVICES TO VETERANS.—

(1) ESTABLISHMENT OF FUND.—There is hereby established on the books of the Treasury an account to be known as the ''Veterans Hospital Improvement Fund'' (in this subsection referred to as the ''Fund'').

(2) ELEMENTS.—The Fund shall consist of the following:

(A) $1,000,000,000, which shall be deposited in the Fund upon the enactment of this subsection.

(B) Any other amounts authorized for transfer to or deposit in the Fund by law.

(3) ADMINISTRATION.—The Funds shall be administered by the Secretary of Veterans Affairs.

(4) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Fund shall be available expenditures for improvements of health facilities treating veterans, including military medical treatment facilities, medical centers and other facilities administered by the Secretary of Veterans Affairs for the provision of medical care and services to veterans, and other State, local, and private facilities providing medical care and services to veterans.

(B) APPLICATION FOR FUNDS.—A non-Federal health facility seeking amounts from the Fund shall submit to the Secretary of Veterans Affairs an application therefor setting forth such information as the Secretary shall require.

(C) AVAILABILITY.—Amounts in the Fund shall remain available until expended.

(d) OFFSET THROUGH MODIFICATION OF TAX RATES ON CAPITAL GAINS AND DIVIDENDS FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.—

(1) IN GENERAL.—Section 1(h) is amended by adding at the end the following new paragraph:

''(12) MODIFIED RATES FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.—If a taxpayer has taxable income of $1,000,000 or more for any taxable year—

''(A) paragraph (11) (relating to dividends taxed as capital gain) shall not apply to any qualified dividend income of the taxpayer for the taxable year, and

''(B) paragraph (1)(C) shall be applied by substituting '20 percent' for '15 percent' with respect to the adjusted net capital gain of the taxpayer for the taxable year, determined by only taking into account gain or loss properly allocable to the portion of the taxable year after December 31, 2006.''

(2) APPLICATION TO MINIMUM TAX.—Section 55(b)(3) is amended by adding at the end the following new sentence: ''In the case of a taxpayer with alternative minimum taxable income of $1,000,000 or more for any taxable year, the rules of section 1(h)(12) shall apply for purposes of this paragraph.''

(3) EFFECTIVE DATES.—

(A) CAPITAL GAINS.—Section 1(h)(12)(B) of the Internal Revenue Code of 1986 (as added by paragraph (1)) shall apply to taxable years beginning after December 31, 2006.

(B) DIVIDEND RATES.—Section 1(h)(12)(A) of such Code (as added by paragraph (1)) shall apply to dividends received after December 31, 2006.

(4) APPLICATION OF JGTRRA SUNSET.—The amendments made by this subsection shall be subject to section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. DODD. Mr. President, I offer this amendment on behalf of a number of colleagues: Senators KENNEDY, KERRY, LAUTENBERG, BOXER, MIKULSKI, AKAKA, and REED.

First, I thank the American Legion. I ask unanimous consent that a letter from the American Legion endorsing the Dodd amendment be printed in the RECORD.

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

THE AMERICAN LEGION,
Washington, DC, February 2, 2006.

Hon. CHRISTOPHER J. DODD,
Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR GENTLEMEN: On behalf of the 2.8 million members of The American Legion, I would like to offer our support of the proposed amendment to the Tax Relief Extension Reconciliation Act of 2005 that would provide for the unbudgeted costs of health care for veterans returning from Iraq and Afghanistan.

The amounts offered by this amendment would be in addition to any other amounts provided for medical care under other statutory provisions and would help to avoid funding shortfalls, such as what took place last year, or other problems that arise due to the discretionary funding model currently in place for VA health care. This amendment would also establish a ''Veterans Hospital Improvement Fund'' to provide for improvements in health care facilities treating veterans, including military medical treatment facilities, VA facilities and other facilities (state, local and private) that provide medical care and services to veterans.

Again, we appreciate your efforts on behalf of our nation's veterans. Your amendment acknowledges the need for adequate funding to ensure our nation's veterans receive the healthcare and other benefits to which they are entitled.

Sincerely,

STEVEN ROBERTSON,
Director, National Legislative Commission.

Mr. DODD. Mr. President, the distinction between this amendment and what we just voted on is, of course, paying for this. This amendment would provide at least around $18 billion, $19 billion in needed funds to serve returning veterans from theater of conflict.

We know last year that over 100,000 Iraqi veterans returned home. Yet the administration's fiscal year 2006 budget for the VA was only prepared to handle 23,000 veterans. There are shortfalls in every State across the country. There are shortfalls in private facilities as well as public ones. This amendment is for us finally to say let's do something for these people.

Last year, we were promised it would be accommodated in the appropriations process. It had to be done as almost an afterthought. I don't like offering this amendment on this bill. I understand the problems associated with it. But if we don't finally do something, these veterans will lose the support they deserve. That is why the American Legion is so strongly supporting this amendment.

I urge my colleagues to join me in seeing to it we have the resources to pay for this. If we don't pay for it, this amendment will not make it past the Ohio Clock. It will be dropped, and, once again, veterans will suffer. I urge adoption of the amendment.

Mr. AKAKA. Mr. President, I rise today with my friends, Senators KENNEDY and DODD, to offer an amendment to address the costs of providing health care and improved benefits to troops serving in Iraq and Afghanistan.

This amendment we offer today allows VA to provide care for returning troops—without displacing those veterans currently using the system. Let us never forget the budget disaster last year. Early in the year, we knew VA was not making ends meet. The administration, however, took months to come to that realization. And just last week, the President signed a declaration of emergency funding for $1.2 billion for fiscal year 2006.

We cannot repeat last year's budget scenario. This amendment provides more cushion for this fiscal year and future years.

Early warnings are that this will not be enough to cover expected shortfalls for this fiscal year. And VA will surely not have enough funding to open the system up to all veterans. In 2003, this administration closed the doors to all middle-income veterans who had not enrolled prior to that time. To date, more than 250,000 veterans who have tried to enroll for VA health care have been rejected. In Hawaii alone, 710 veterans were turned away at the door. We have no idea how many middle-income veterans never even try to enroll.

This amendment also sends a message that the Senate wishes to ensure that our veterans are appropriately compensated. For many of our severely injured veterans, disability compensation is their only income—the only way for them to provide for their families. This amendment ensures that our wounded warriors receive the compensation they have earned.

This amendment establishes a fund for infrastructure improvements. VA's infrastructure has suffered greatly over the past 5 years. Major construction projects were held up for some time while we waited for VA's own construction study. And while that process still awaits conclusion, VA has been trying to catch up with the projects that have been stuck in the queue for years. At the same time, the Department has faced consistent funding shortfalls that have paralyzed its ability to carry out these projects. Its no secret that when the health care account is strained, funds are then diverted from ''non-essential'' areas—such as maintenance and construction—to be spent on direct health care costs.

Meanwhile, smaller scale projects are put in jeopardy. In my home State of Hawaii, we have a need for $6.9 million to build a new VA mental health facility in Honolulu.

The costs of the war we are fighting today will continue to add up long after the final shot is fired, mainly in the form of veterans health care and benefits.

I urge my colleagues to join us in this effort to see that they are provided the care they are currently earning.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, since we adopted the previous amendment, we obviously don't need this amendment. But even if we consider this amendment, I raise a budget point of order on the amendment.

Mr. DODD. Mr. President, I move to waive all provisions of the Budget Act and budget resolutions necessary for consideration of the pending amendment to this bill, and for inclusion of the language of the pending amendment in the consideration of an amendment between the Houses.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

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

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

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

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—44

Akaka	Feingold	Menendez
Baucus	Feinstein	Mikulski
Bayh	Harkin	Murray
Biden	Inouye	Nelson (FL)
Boxer	Jeffords	Obama
Byrd	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Chafee	Kohl	Rockefeller
Clinton	Landrieu	Salazar
Conrad	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden
Durbin	Lincoln	

NAYS—53

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Roberts
Bond	Frist	Santorum
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Snowe
Chambliss	Hatch	Specter
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Isakson	Talent
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner
DeMint	McCain	

NOT VOTING—3

Bingaman	Domenici	Thomas

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Iowa.

Mr. GRASSLEY. Just not to confuse anybody, we are kind of going through the same thing we did on the previous two amendments, so be alerted.

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

The PRESIDING OFFICER. The Senator is correct. The Senate will please come to order.

AMENDMENT NO. 2736

Mr. GRASSLEY. I call up amendment No. 2736.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], proposes an amendment numbered 2736.

The amendment is as follows:

(Purpose: To strengthen America's military and for other purposes)

TITLE IV—STRENGTHENING AMERICA'S MILITARY

SEC. 401. SHORT TITLE.

This title may be cited as the ''Strengthening America's Military Act''.

Subtitle A—Military Funding

SEC. 402. FUNDING FOR MILITARY OPERATIONS.

There is appropriated, out of any money in the Treasury which is not otherwise appropriated, for the fiscal years 2006 through 2010, the following amounts, to be used for resetting and recapitalizing equipment being used in theaters of operations:

(1) $16,900,000,000 for operations and maintenance of the Army.

(2) $1,800,000,000 for aircraft for the Army.

(3) $6,300,000,000 for other Army procurement.

(4) $10,000,000,000 for wheeled and tracked combat vehicles for the Army.

(5) $467,000,000 for the Army working capital fund.

(6) $6,000,000 for missiles for the Department of Defense.

(7) $100,000,000 for defense wide procurement for the Department of Defense.

(8) $4,500,000,000 for Marine Corps procurement.

(9) $4,500,000,000 for operations and maintenance of the Marine Corps.

(10) $2,700,000,000 for Navy aircraft procurement.

Mr. GRASSLEY. The same arguments that I made on the previous amendments apply here as well. My amendment will do the same as the Reed amendment but doesn't raise taxes to pay for it, so it will provide more equipment for our troops without increasing taxes. I urge support of my amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield 1 minute to the Senator from Rhode Island.

Mr. REED. Mr. President, the amendment proposed by the Senator from Iowa is my amendment. It would meet the supreme need of the military to reset, recapitalize, and rehabilitate $43 billion or more of equipment. The one big difference is that my amendment will pay for it. It will take the responsible step of actually paying to help our military. What I will use is dividend offsets. I will offer that later. But we have the responsibility to be responsible, not only give the troops what they need but pay for it so we do not increase the deficit. I hope we respond by supporting my amendment which takes care of the troops but does so in a responsible way by providing the resources to pay for this necessary equipment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, again I raise a budget point of order. I ask unanimous consent it be exactly the same as the previous one on the last two bills. I ask unanimous consent to waive all provisions of the Budget Act and budget resolutions necessary for the consideration of the pending amendment to this bill and for the inclusion of the language of the pending amendment in the consideration of one amendment between the Houses—an amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 2736) was agreed to.

AMENDMENT NO. 2737

(Purpose: To strengthen America's military, to repeal the extension of tax rates for capital gains and dividends, to reduce the deficit, and for other purposes)

The PRESIDING OFFICER. The Senator from Rhode Island and the Providence Plantation.

Mr. REED. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Ms. STABENOW, Mr. LAUTENBERG, Mrs. CLINTON, and Mr. KERRY, proposes an amendment numbered 2737.

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

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, our Army and Marines face a critical problem: $47 billion worth of equipment which they have used in Iraq and Afghanistan needs to be repaired and reconditioned. They call it reset recapitalization. We have to do this. This equipment is not new equipment, it is not transformational, it is the equipment they need. I commanded a paratrooper company in the 82nd Airborne Division. I can tell you the worst thing for morale is to have soldiers with poor and inadequate equipment. We owe it to them.

My amendment would be the responsible way to do it, pay for it, by taking capital gains cuts that are proposed, dividend cuts and others that are proposed, and other loopholes. It is essentially very simple. Are we going to give a dividend to the wealthiest citizens or are we going to give a dividend to our troops, our soldiers, and marines? And that dividend is equipment that will work, not only today but in the future.

This is particularly important for the National Guard. Every one of your National Guard units has equipment they have left overseas or has been run into the ground. If we do not act responsibly—not just act but act responsibly, then we will not be able to assure our soldiers and marines that the equipment they have is the best equipment, that it works, and it will be reconditioned and refit and work in the future.

I urge passage of this amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Again, I raise a budget point of order on this amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I move to waive all provisions of the Budget Act and budget resolutions necessary for the consideration of the pending amendment to this bill and for the inclusion of the language of the pending amendment in the consideration of an amendment between the Houses.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent to speak to this issue for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. REED. Reserving my right to object, if the Senator has 2 minutes, can I have an additional 2 minutes?

Mr. GREGG. I just want to explain the parliamentary situation for the record.

Mr. President, these last two amendments are totally outside the traditional process of reconciliation. But the practical effects of the motion to waive, which the Senator from Iowa has made on his amendments, is that neither amendment can survive conference. I think it is important to understand that reconciliation cannot include spending under this bill, and that we would be doing fundamental damage to the process were either of these amendments to survive conference. And, therefore, I support the motion on this point of order and hope we proceed the same way we have with the other points of order.

Mr. REED. I ask unanimous consent for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Rhode Island and the Providence Plantation is accorded the floor.

Mr. REED. I have great respect for the procedures and rules of the Senate, but we have come too many times to issues—I can recall back when we were talking about armored humvees when the objection was made this is not the right legislative vehicle to do this. I think we have an obligation to our soldiers and marines to help them now and pay for it now. This might be the only occasion we can do both.

I urge passage.

The PRESIDING OFFICER. Is there objection to the request to waive the Budget Act?

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

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

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

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

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

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—44

Akaka	Feingold	Menendez
Baucus	Feinstein	Mikulski
Bayh	Harkin	Murray
Biden	Inouye	Nelson (FL)
Boxer	Jeffords	Obama
Byrd	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Chafee	Kohl	Rockefeller
Clinton	Landrieu	Salazar
Conrad	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden
Durbin	Lincoln	

NAYS—53

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Roberts
Bond	Frist	Santorum
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Snowe
Chambliss	Hatch	Specter
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Isakson	Talent
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner
DeMint	McCain	

NOT VOTING—3

Bingaman	Domenici	Thomas

The PRESIDING OFFICER (Mr. THUNE). On this vote, the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. Mr. President, I hope we just have one more rollcall vote—on final passage. It is my understanding that the Menendez amendment has been changed to a sense of the Senate, so that means the amendment I was going to offer on AMT will not be offered. Consequently, I am hoping we can get this amendment agreed to on a voice vote.

Mr. REID. Mr. President, Senator MENENDEZ told Members he wants a rollcall vote.

AMENDMENT NO. 2705

Mr. MENENDEZ. Mr. President, I call up amendment numbered 2705.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ], for himself, Mr. SCHUMER, Mr. KERRY, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. LAUTENBERG, and Ms. STABENOW, proposes an amendment numbered 2705.

The amendment is as follows:

(Purpose: To express the sense of the Senate that protecting middle-class families from the alternative minimum tax should be a higher priority for Congress in 2006 than extending a tax cut that does not expire until the end of 2008)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING PROTECTING MIDDLE-CLASS FAMILIES FROM THE ALTERNATIVE MINIMUM TAX.

(a) FINDINGS.—The Senate finds that—

(1) the alternative minimum tax was originally enacted in 1969 as a supplemental tax on wealthy tax evaders, but has evolved into a tax on millions of middle-class working families, particularly families in which both parents work, and families with 2 or more children;

(2) by the end of the decade, the alternative minimum tax will ensnare more than 30,000,000 taxpayers, the majority of which will have adjusted gross incomes below $100,000, and the National Taxpayer Advocate has thus identified it as the most serious problem facing individual taxpayers;

(3) the alternative minimum tax is often portrayed as a tax that is most problematic for residents of States such as New York, California, Massachusetts, and New Jersey, but the truth is that many other States have a significant percentage of taxpayers affected by the alternative minimum tax, including Oregon, Maryland, Virginia, Minnesota, Ohio, Maine, Georgia, North Carolina, and Pennsylvania, so the problem is of national importance;

(4) a family with 2 children will become subject to the alternative minimum tax at about $67,500 of income in 2006, and a family with 5 children will start owing the alternative minimum tax at about $54,000 of income, if Congress fails to act;

(5) the year 2006 is the ''tipping point'' for the alternative minimum tax, as the number of taxpayers affected nationally will explode from 3,600,000 to 19,000,000 if Congress fails to act;

(6) in 2004, only 6.2 percent of families earning $100,000 to $200,000 a year were subject to the alternative minimum tax, and that number will explode to nearly 50 percent if Congress fails to act;

(7) if alternative minimum tax relief is extended through 2006, about two-thirds of the benefits will be realized by families earning under $200,000, with more than half of the total benefits going to families with incomes between $100,000 and $200,000;

(8) starting in 2008, the average married couple with 2 children earning $75,000 or more will find that more than half of the tax cuts they have been expecting from the various laws passed since 2001 will be ''taken back'' via the alternative minimum tax; and

(9) the temporary relief from the alternative minimum tax (provided in 2001 and extended twice in 2003 and 2004) expired at the end of 2005, but the tax reductions on dividends and capital gains do not expire until the end of 2008, making immediate action on those provisions a less urgent matter.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that protecting middle-class families from the alternative minimum tax should be a higher priority for Congress in 2006 than extending a tax cut that does not expire until the end of 2008.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, this amendment, which is a sense of the Senate, which I am offering with Senators SCHUMER, KERRY, FEINSTEIN, CLINTON, LAUTENBERG, and STABENOW, is simply a sense of the Senate to try

to ensure that 17 million middle-class families do not see a tax increase next year through the alternative minimum tax. This tax was never intended to raise the taxes of average Americans but, in fact, it has—millions of Americans.

Some think this is more problematic for residents of States such as New York, California, or my home State of New Jersey. But the truth is a whole host of other States have a significant percentage of tax failures affected by the alternative minimum tax, including Oregon, Maryland, Virginia, Minnesota, Ohio, Maine, Georgia, North Carolina, and Pennsylvania. It is a problem of national importance. This is a question of whether the Senate values work and the work of honest and hard-working families who are going to be subjected to a tax not because they made more income but simply because of the way the tax is structured.

Ultimately, I urge my colleagues to support the sense of the Senate.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I dispute the presumption we have to choose between AMT hold harmless and not extending capital gains and dividends. We can do both. The presumption in this bill is that we can and we are going to be able to do that in the conference committee.

Since the amendment reflects the position of what we in the Senate previously had anticipated doing anyway, Members ought to vote for the amendment. I will vote for it.

Yesterday afternoon, I took time to respond to Senator HARKIN's statement that we have an AMT problem to a significant degree because of what the Finance Committee did in the 2001 tax bill. Importantly, he fails to recognize that we have addressed the problem for 2001 to 2005. And, now, we are trying to do the same thing for 2006—to make sure that the AMT problem is not worsened.

To the extent that Senator HARKIN suggests, like others who have looked at this issue, that the Bush tax cuts are responsible for the AMT problem, I respond in this way. Most who have reached that conclusion have done so by misusing data provided by the Joint Committee on Taxation, JCT, to distort the record on this issue. Additional analysis will demonstrate that conclusion to be erroneous. To the contrary, the analysis suggests an alternative explanation for the AMT problem—Congress's failure to index the AMT for inflation over the past 35 years.

Senator HARKIN suggests that the Bush tax cuts are responsible for the AMT problem. The conclusion is reached in error because it is based on faulty logic. Those who have done similar analyses have based their conclusions on the mistaken assumption that a reduction in Federal receipts should be interpreted as percentage causation of the AMT problem. JCT was asked to project Federal AMT revenue if the Bush tax cuts were extended, but the current-law hold-harmless provision was not extended—$1.139 trillion—and Federal AMT revenue if neither the Bush tax cuts nor the hold-harmless provision is extended—$400 billion. From that data, some erroneously concluded and publicly represented that the Bush tax cuts are responsible for 65 percent of the AMT problem—$1.139 trillion minus $400 billion divided by $1.139 trillion—and conversely, that the Bush tax cuts tripled the size of the AMT problem—$1.139 trillion divided by $400 billion.

The logic used to reach that conclusion is flawed. That is because the many variables affecting the AMT have overlapping results, and the order in which one analyzes those overlapping variables will directly impact the outcome of the analysis.

In that way, we can use the same JCT data in the analysis above to suggest that failure to index is actually the dominant cause of the AMT problem. If one were to first index the current tax system for inflation by permanently extending an indexed version of the current hold-harmless provision, Federal AMT revenue would be reduced from $1.139 trillion to $472 billion over the 10-year period. Thus, extending and indexing the current hold-harmless provision for future inflation would reduce AMT revenues by 59 percent over the same period, referred to in a JCT letter dated October 3, 2005, as ''percentage of AMT effect attributable to failure to extend and index hold-harmless provision''. A copy of the entire letter is attached. If we then assume that the Bush tax cuts are repealed, AMT revenue falls by an additional $302.3 billion, from $472 billion to $169.7 billion. That second drop, attributable to the repeal of the Bush tax cuts, reduces Federal revenues by only 27 percent. Thus, one could argue that failure to index is the greater cause of the AMT problem—59 percent vs. 27 percent. Using logic similar to that undertaken above would also cause us to conclude that failure to index is responsible for 59 percent of the AMT problem—$1.139 trillion minus $472 billion divided by $1.139 trillion—or alternatively, that failure to index also nearly tripled the size of the AMT problem, $1.139 trillion divided by $472 billion.

But simple logic suggests that the Bush tax cuts cannot be responsible for 65 percent of the AMT problem and failure to index responsible for 59 percent of the problem. The anomaly arises because there is overlap between the variables being analyzed. Although the analysis fairly demonstrates the amount of AMT revenue saved by making a particular change to the Federal tax system, it is inappropriate to represent that such analysis accurately isolates causation of the AMT. Because there is overlap in the variables being analyzed—in these examples, indexing and the Bush tax cuts—the order of analysis of those variables is crucial to the outcome. JCT acknowledges this point to us in a letter dated October 3, stating: ''There is, however, interaction between these two contributing factors to the AMT effect. In order to avoid double counting of interactions, a stacking order is imposed. The apportionment of effects to each contributing factor will vary depending on the stacking order, even though the total effect remains constant.''

To this point in time, I have not seen anything that accurately suggests that the 2001 tax cuts have worsened the AMT problem to date. It is my intention to ensure that we continue to honor that commitment and that is an important part of this tax reconciliation legislation.

I ask unanimous consent that a memorandum be printed in the RECORD.

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

To: Mark Prater and Christy Mistr
From: George Yin
Subject: AMT Effects

This memorandum responds to your request of September 29, 2005, for an analysis of the portion of the AMT effect (AMT liability plus credits lost due to the AMT) which can be attributed to the failure to adjust the AMT exemption amount to inflation, assuming alternatively that the EGTRRA and JGTRRA tax cuts (''tax cuts'') are either permanently extended or repealed. We also explain how this information compares to information previously provided to you on August 31, 2005 and September 16, 2005.

For the purpose of this analysis, we have first assumed that the tax cuts are repealed. The first set of figures in Table 1 compares the AMT effect under this assumption if, alternatively, (1) the AMT exemption amount hold-harmless provision is not extended beyond 2005; (2) such provision is extended permanently; and (3) such provision is extended permanently and indexed after 2005, The second set of figures presents the same comparison under the assumption that the tax cuts are permanently extended. All of the information provided in this table was previously provided to you in our September 16, 2005 memo, except in a different format.

To: Mark Prater and Christy Mistr
Subject: AMT Effects

TABLE 1.

Item	AMT effect (billions of dollars)
Tax Cuts Repealed:	
(1) Hold-harmless provision not extended	399.9
(2) Hold-harmless provision extended permanently	212.0
(3) Percentage of AMT effect attributable to failure to extend hold-harmless provision (((1)–(2))/(1))	47%
(4) Hold-harmless provision extended permanently and indexed	169.7
(5) Percentage of AMT effect attributable to failure to extend and index hold-harmless provision (((1)–(4))/(1))	58%
Tax Cuts Extended Permanently:	
(6) Hold-harmless provision not extended	1,139.1
(7) Hold-harmless provision extended permanently	628.5
(8) Percentage of AMT effect attributable to failure to extend hold-harmless provision (((6)–(7))/(6))	45%
(9) Hold-harmless provision extended permanently and indexed	472.0

TABLE 1.—Continued

Item	AMT effect (billions of dollars)
(10) Percentage of AMT effect attributable to failure to extend and index hold-harmless provision (((6)–(9))/(6))	59%

To: Mark Prater and Christy Mistr
Subject: AMT Effects

In the information provided to you on August 31, 2005 and September 16, 2005, we analyzed the portion of the AMT effect attributable to the tax cuts. In the analysis described above, we identify the portion of the AMT effect attributable to failure to adjust the AMT exemption amount to inflation. There is, however, interaction between these two contributing factors to the AMT effect. In order to avoid double counting of interactions, a stacking order is imposed. The apportionment of effects to each contributing factor will vary depending on the stacking order, even though the total effect remains constant.

This phenomenon is illustrated by Tables 2 and 3 below. The first two columns of Table 2 show the portion of the AMT effect attributable to the tax cuts, consistent with the information provided on August 31, 2005 and September 16, 2005. The second two columns of Table 2 show the portion of the AMT effect attributable to the failure to extend and index the hold-harmless provision, consistent with the information provided in Table 1 above. Note that if these two contributing factors were completely independent of one another, the information in Table 2 would suggest that the two factors together contribute to more than 100 percent of the AMT effect. In fact, as shown in Table 3, the two factors together contribute to only 85 percent of the AMT effect. Thus, there is substantial overlap between these two factors.

TABLE 2.

Item	AMT Effect (billions of dollars)	Item	AMT Effect (billions of dollars)
Baseline	1,139.1	Baseline	1,139.1
Repeal tax cuts	399.9	Extend and index AMT hold-harmless provision	472.0
Difference	739.2	Difference	667.1
Percentage of baseline	65%	Percentage of baseline	59%

To: Mark Prater and Christy Mistr
Subject: AMT Effects

TABLE 3.

Item	AMT Effect (billions of dollars)
Baseline	1,139.1
Repeal tax cuts and extend and index AMT hold-harmless provision	169.7
Difference	969.4
Percentage of baseline	85%

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

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

The result was announced—yeas 73, nays 24, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—73

Akaka	Feinstein	Murkowski
Allard	Graham	Murray
Baucus	Grassley	Nelson (FL)
Bayh	Hagel	Nelson (NE)
Bennett	Harkin	Obama
Biden	Hatch	Pryor
Bond	Hutchison	Reed
Boxer	Inouye	Reid
Bunning	Jeffords	Rockefeller
Burns	Johnson	Salazar
Byrd	Kennedy	Santorum
Cantwell	Kerry	Sarbanes
Carper	Kohl	Schumer
Chafee	Landrieu	Shelby
Clinton	Lautenberg	Smith
Cochran	Leahy	Snowe
Coleman	Levin	Specter
Collins	Lieberman	Stabenow
Conrad	Lincoln	Stevens
Dayton	Lott	Talent
DeWine	Lugar	Voinovich
Dodd	Martinez	Warner
Dorgan	McConnell	Wyden
Durbin	Menendez	
Feingold	Mikulski	

NAYS—24

Alexander	Crapo	Isakson
Allen	DeMint	Kyl
Brownback	Dole	McCain
Burr	Ensign	Roberts
Chambliss	Enzi	Sessions
Coburn	Frist	Sununu
Cornyn	Gregg	Thune
Craig	Inhofe	Vitter

NOT VOTING—3

Bingaman	Domenici	Thomas

The amendment (No. 2705) was agreed to.

Mr. FRIST. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT—H.R. 4659

Mr. FRIST. Mr. President, I will have a few announcements to make, but, first, I ask unanimous consent that following the vote on passage of H.R. 4297, the Senate proceed to the immediate consideration of H.R. 4659, the PATRIOT Act extension. I further ask consent that there then be 10 minutes of debate, equally divided, and that following the use or yielding back of time, the bill be read a third time and the Senate proceed to a vote on passage, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I apologize, were you referring to 10 minutes for debate on the PATRIOT Act?

Mr. FRIST. That is correct.

Mr. LEAHY. I will not object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, for the information of colleagues, we do have two remaining votes this evening. The next vote will be on passage of the Tax Relief Act. And following that vote, we will have 10 minutes of debate and a vote on passage of the PATRIOT Act extension. That will be the last vote. So, Mr. President, two more votes.

We will be in session tomorrow, but there will be no votes tomorrow. The next piece of legislation we will be considering is the asbestos legislation, and it will be necessary to file cloture on the motion to proceed to that bill.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, what we would be willing to do, if we are not in session tomorrow, we would be willing to allow the——

Mr. FRIST. If there are no votes tomorrow.

Mr. REID. Either no votes or not in session.

Mr. FRIST. All right.

Mr. REID. We would be willing to agree procedurally on a motion to proceed to the asbestos bill. You could file whatever papers necessary tonight to do that so we could have a Tuesday cloture vote.

Mr. FRIST. All right. Mr. President, we will work out on filing the motion to proceed here, and I will have an announcement. We will have no votes tomorrow. By the end of tonight, we will have Tuesday worked out. We will be debating the asbestos bill on Monday. The next vote will be on that cloture motion, and we will talk about when that would occur Tuesday. In all likelihood, if we have a vote Tuesday, it would be around 6 o'clock at night. There are a number of Members who will want to attend the funeral of Coretta Scott King, and, as I understand it, that will be at noon on Tuesday. Therefore, the next vote that we will have will be at approximately 6 o'clock on Tuesday night.

CONFLICT OF INTEREST

Mr. SPECTER. Mr. President, I would like to call the chairman's attention to a serious situation facing a Federal district judge in my State of Pennsylvania, who recently contacted me on this matter. He has an immediate problem that could be solved with an amendment to this bill. This judge was assigned as the transferee judge responsible for handling all pretrial matters in very large multidistrict litigation involving antitrust claims in the

corrugated paper industry from all around the United States. He has been working on the case since 1999.

Late in this last year, a company in which the judge inherited stock over 30 years ago merged into another company which happens to be one of the plaintiffs in the case. Because of the judge's stock holdings in this company, the judge may now have to recuse himself from the case. Most of the parties would like the judge to remain on the case because of his years of experience and expertise on this case. In order to remain as the transferee judge, this judge would have to sell his holdings, which would give him a capital gain this year well into six figures.

Last March and again this past November, Ralph Mecham, as Secretary of the Judicial Conference of the United States, transmitted on behalf of the Conference a legislative proposal to you and to Senator BAUCUS that would resolve this judge's problem and similar problems for countless other Federal judges throughout the United States. It would permit a judge who must sell financial holdings in order to avoid a conflict of interest to reinvest that money in another holding and defer paying the capital gains tax until the substitute financial interest is liquidated. The taxes are not forgiven, but deferred and payable at the later date, as I just said.

This same solution to conflicts of interest is already available to executive branch officials. The proposal by the Judicial conference would simply extend it to Federal judges, as well, bringing parity to these two branches of the Federal Government.

I understand that it is too late at this time to offer the Judicial Conference proposal as an amendment. However, I would like to know if the chairman would consider taking this matter up during the conference with the House on this bill.

Mr. GRASSLEY. Mr. President, I appreciate the Senator bringing this matter to my attention and regret that it is too late to amend the bill today on the floor. I will agree with the Senator, however, to review this proposal further with the intent of taking it up in conference.

Mr. KENNEDY. Mr. President, budget reconciliation is a process adopted by Congress nearly three decades ago to facilitate the passage of legislation to reduce the deficit and to help bring the Federal budget into balance. But in recent years, under the Republican majority, that process has been repeatedly abused to enact more and more tax cuts for the wealthy that make the budget deficit even larger.

Now, they are trying to do it again, in spite of the urgent problems facing the Nation, from the ongoing war in Iraq to the devastating hurricane damage along the gulf coast. The Republicans have brought before the Senate two reconciliation bills, one now passed, that would produce a net increase in the budget deficit by billions of dollars over the next 5 years.

It sounds like deficit reduction, until you look at the tax reconciliation bill, which will cut taxes by far more than the savings in spending—$70 billion. The net result will be a substantial increase in the budget deficit—exactly the opposite of what the reconciliation process is supposed to accomplish. Billions of dollars will go from programs that assist low income families and senior citizens into the pockets of the already wealthy. It takes from the least and gives to the most. It is a breathtaking Republican scam on the Nation that can only further discredit this Congress in the eyes of the people.

From day one, the Republican plan has been to use this reconciliation process to push through a cut in the tax rate on capital gains and dividend income. These are tax cuts that overwhelmingly benefit the richest Americans. Over half the tax benefits will go to millionaires. These tax breaks were in the original mark proposed by Chairman GRASSLEY, and they are in the bill already passed by the Republican majority in the House of Representatives. While they are not in the current Senate bill, we all know these capital gains and dividend tax cuts will reappear in the conference report. Leading Republicans have made that clear. The GOP is intent on delivering those tax breaks to their wealthy supporters. They will be included in the final bill.

What is the real cost of these capital gains and dividend tax cuts? The Republicans claim the cost of these provisions is $20 billion, the real cost of extending the lower rates for another 2 years is $50 billion. This tax break is particularly unfair, because over 75 percent of the tax benefits will go to taxpayers with incomes over $200,000 a year. Over half the benefits—53 percent—will go to taxpayers with incomes over $1 million a year. The average millionaire will save over $35,000 a year from these tax breaks for capital gains and dividends.

As a result of this shameful Republican let-them-eat-cake proposal, millions of working families would pay a substantially higher tax rate on their wages than wealthy taxpayers pay on their investment income. What could be more unfair? Republicans are penalizing hard work, not rewarding it. They are giving a preference to unearned income over earned income.

The Republicans cynically claim that capital gains and dividend income deserve special treatment because they will stimulate investment. The facts do not substantiate that claim. The stock market grew much more rapidly in the early and mid-1990s when investors' income was taxed at the same rate as employers' wages than since the rates on capital gains and dividend income were cut. The overall health of the economy has much more to do with financial stability than special tax breaks for the rich. More tax cuts that America cannot afford will hurt the economy, not help it.

There are some provisions in the Senate bill that we do need to address. The alternative minimum tax was never intended to apply to middle-class families, and they deserve tax relief. In a truly outrageous move, the House Republicans took AMT relief for the middle class out of their reconciliation bill so they could fit in more tax breaks for the rich. The research and development tax credit is important to our international competitiveness and should be retained. However, those worthwhile tax cuts should be paid for by rolling back some of the extravagant tax breaks that this Republican Congress has already given to the Nation's wealthiest taxpayers. We simply cannot afford more tax cuts at a time when we are facing record deficits.

The financial mismanagement of the Bush administration has weakened our economy and placed our children's financial well-being in peril. The national debt has risen to an all time high of $8 trillion. Under President Bush, our country has borrowed more from foreign governments and foreign financial institutions than in the prior 200 years combined. We are losing control of our Nation's future, and all the Republicans offer is more of the same. More and more tax breaks further enriching the already wealthy, while working families are left to struggle on their own in an increasingly harsh economy.

If we are honest about reducing the deficit and strengthening the economy, we need to stop lavishing tax breaks on the rich and start investing in the health and well-being of all families. These families are being squeezed unmercifully between stagnant wages and ever-increasing costs for the basic necessities of life. The cost of health insurance is up 59 percent in the last 5 years. Gasoline is up 74 percent. College tuition is up 45 percent. Housing is up 44 percent. The list goes on and on, up and up—and paychecks are buying less each year. The dollars that go to pay for more tax breaks for the rich are dollars that could be used to help these families. Instead, this Republican budget plan turns a blind eye to their problems.

The economic trends are very disturbing for any who are willing to look at them objectively. The gap between rich and poor has been widening in recent years. Thirty-seven million Americans now live in poverty, up 19 percent during the Bush administration. One in five American children lives in poverty. Fourteen million children go to bed hungry each night. Wages remain stagnant while inflation drags more and more families below the poverty line. Two-point-eight million manufacturing jobs have been lost. Long-term unemployment is at historic highs.

In his second inaugural address, President Lincoln reminded us of the solemn obligation that we have to those who fight our Nation's wars. He said ''let us strive on to finish the work we are in, to bind up the Nation's

wounds, to care for him who shall have borne the battle [and for his widow and his orphan.]''

Over 550,000 brave men and women have served in Iraq and Afghanistan. A majority of them have served multiple tours fighting under dangerous conditions, and battling an unseen foe. We owe it to them to care for their injuries incurred in service of our Nation.

As of today, over 16,000 of our troops have been injured in battle. Of those, over 7,500 were so seriously injured that they could not return to duty. We have seen the ravages of war in the wards of Walter Reed and Bethesda. While body armor saves lives, many soldiers and Marines have lost their limbs.

Others will survive with major injuries to their spine or brain damage. This summer, the Surgeon General of the Army reported that 30 percent of U.S. troops have developed mental health problems within a few months of their return from Iraq. Twenty percent of the troops injured in Iraq have suffered head and brain injuries that require a lifetime of continual care that could cost as much as $5 million.

A recent study by the New England Journal of Medicine found that 15 to 17 percent of Iraqi vets showed signs of ''major depression, generalized anxiety, or [Post Traumatic Stress Disorder].'' But of those, only 23 to 40 percent are seeking help. Many of them will wind up homeless with no other options for their health care than the VA. After their service to our country, we should not leave them out on the street.

The increased use of the Guard and Reserve in this conflict has created an entirely new category of people who may now make use of the VA. The Guard and Reserve make up approximately 40 percent of the troops on the ground, and approximately 90,000 have sought care at VA hospitals.

Unfortunately, our current budgets do not reflect this reality. A recent study by Nobel Prize-winning economist Joseph Stiglitz and Harvard professor Linda Bilmes found that the costs of paying for the injured from these wars has not yet been budgeted. To our dismay, we learned that the Veterans' Administration needed an additional $2.7 billion for this fiscal year to care for the veterans returning from the war.

Stiglitz and Bilmes found that, ''the military values the cost of those injured by what their medical treatment cost and disability pay; and current accounting only reflects current payments in disability'' not future payments.

Based on their calculations, it could cost as much as $24.1 billion to pay for these costs over the next 5 years. Of this amount, $9.4 billion for medical care and $14.7 billion for increased disability payments.

This amendment Senator DODD and I have introduced would rectify that shortfall and keep faith with our men and women in uniform. It would be paid for by elimination of the capital gains and dividends tax breaks for taxpayers with over $1 million in annual income.

We owe it to soldiers like Sergeant Peter Damon, a son of Massachusetts who lost his arms in Iraq.

I also express my support for the amendment offered by Senator ROCKEFELLER that would provide strong tax incentives for mining companies to adopt safer practices and up-to-date safety equipment.

The recent tragedies at Sago Mine and Alma Mine in West Virginia remind us that the safety of the Nation's workers is paramount. This year, 21 miners have already been killed on the job. In early January, 12 miners died when they were trapped after an explosion at the Sago Mine. Just 2½ weeks later, two more miners died in a mine fire at the Alma mine. And tragically, yesterday, there were three more mine accidents in West Virginia, killing two more men. One miner died in an underground mine in Boone County when a wall support came loose. A second miner died when a bulldozer struck a gas line, causing a deadly fire. Miners have also died this year in Kentucky and Utah.

Our entire Nation joins the families and the communities in mourning these fallen miners. We have a continuing obligation to do everything we can to protect the safety of America's workers. It is obvious that we are not meeting that obligation.

Two weeks ago, I traveled with Senator ROCKEFELLER, Health, Education, Labor and Pensions Committee Chairman ENZI, and Subcommittee Chairman ISAKSON to meet with the family members of the miners who were killed at Sago Mine, and with coalminers, company representatives, and health and safety experts. Each of us committed to improving the Nation's mine safety laws.

A critical part of that commitment is to ensure that all of our Nation's miners have the best safety equipment available. This amendment will encourage companies to adopt up-to-date mine safety equipment by providing accelerated deductions for companies that invest in these technologies.

It encourages mines to adopt emergency communications technology and tracking devices to locate miners underground. It will also encourage coal mines to ensure that workers have access to additional stores of emergency oxygen, which will give them extra time to exit a mine or to wait for rescue. Finally, the amendment acknowledges the vital need for experienced mine rescuers who are familiar with the underground geography of a mine. By providing a tax credit to encourage the formation of mine rescue teams, we hope to ensure that mines have well-trained rescuers onsite, saving precious minutes in any rescue attempt.

These are all safety measures that could have made a difference in the terrible tragedies that occurred this year at Sago and Alma Mines. By passing this amendment, we take the first step toward preventing future such tragedies from occurring.

I have joined separately in sponsoring legislation introduced by Senator BYRD and Senator ROCKEFELLER to require the Mine Safety and Health Administration to quickly adopt needed safety standards. Both of these measures are critical to improving safety conditions in America's mines. Our Nation's miners deserve no less, and I urge my colleagues to support this amendment and the Federal Mine Safety and Health Act of 2006.

Instead of helping hard-pressed families, the budget reconciliation process is being misused to cut the programs and eliminate the services that these families need most, while granting the wealthy even more tax breaks. It is yet another opportunity squandered—another chance that this Republican Congress had to make things better. But once again, this Congress has chosen to make them worse instead. The American people deserve better.

Mr. HATCH. Mr. President, I rise to express my support for the tax reconciliation bill being debated today. I have listened to the comments of my colleagues on both sides of the aisle with much interest. Because we have heard a great deal about the wisdom or folly of extending the lower tax rate on dividends and capital gains, I would like to take this opportunity to offer a few words in defense of the extension.

It is interesting to me that so many of my colleagues have juxtaposed the capital gains and dividends provision against the provision to relieve temporarily the individual alternative minimum tax. Listening to some of my colleagues, it seems they believe that we either must include the alternative minimum tax fix or extend the capital gains and dividends provision, but not both. My strong belief is that we can—and must—do both.

The reduced rate of tax on dividends and capital gains has been attacked repeatedly as being a costly sop to the rich and not much else, with little recognition given to its beneficial impact on the economy. The simple fact is that the data and basic economics tell us the cost of the lower tax rates on dividends and capital gains has been minor, and the benefits immense.

There is ample evidence that clearly shows the lower tax rates on capital income have stimulated saving. Alicia Munnell, an economist at Boston College and a former official in the Clinton Treasury Department, finds that working age households saved significantly more in 2003, the year the tax reductions on capital gains and dividends passed the Congress, than they did in 2002. Incidentally, Munnell's work also shows that the recently announced savings rate of zero is misleading—she reports that working families, and by that I mean families with breadwinners who have yet to reach retirement age, are indeed putting

money aside. However, looking at our broad, economy-wide measure of net saving, the dissaving done by retired households obscures this fact.

There are other benefits from a lower tax rate on investment income besides increased saving. With lower tax rates, capital becomes more fluid, making it easier for it to flow to projects with higher rates of return. Families lock in much less capital for fear of the taxman. The Government gets a lower percentage of each sale of stock, but it gets more opportunities to tax the money.

And, Uncle Sam is getting more cracks at it. The amount of capital gains realized in 2005 was twice that in 2002. The stock market's value has not doubled since then, and we are not twice as wealthy as we were then—people are just responding to incentives and they are holding their assets for a bit less time. There is nothing necessarily wrong with that. If capital is used more wisely, this ultimately benefits not just the investors but also the workers, who see their productivity increase. When productivity goes up, wages must follow.

The amount of revenue collected from taxes on capital gains and dividends has increased significantly since the reduction in tax rates passed. In 2005, capital gains tax revenues amounted to $80 billion, 60 percent higher than in 2002.

Now, I am not about to claim that this or any other tax cut ''pays for itself,'' but the revenue lost from the lower rates on capital gains and dividends is relatively minor precisely because of the increased economic activity the lower taxes generate. The jump in revenues collected from the two taxes is manifest proof of this.

The beneficiaries of lower taxes on investment income are not just those who own stocks and bonds either, and I would like to point out that it is not just the rich who have investments. I hear from retired Utahns who are living modestly on a Social Security check, a small pension, and their savings. They might not have a lot of money invested, and their dividends are not going to buy them a new car or luxury condominium, but every little bit helps, they tell me.

In reality, everyone benefits from lower taxes on dividends and capital gains—even those with little or no savings. The primary reason for lower tax rates on investment income is that it stimulates the economy. This is not a radical idea by any means—Nobel Prize-winning economists Robert Lucas and Ed Prescott have argued vehemently in favor of this. The logic is simple: Low taxes on the income we receive from our savings means we will save more. That ends up making more capital available for firms to invest in new plant and equipment, increasing productivity as well as wages.

The strong economic conditions of the 1990s are owed to a number of factors, but the most important factor was undoubtedly the resumption of high productivity growth in the middle of the decade. It was in the latter years of the expansion, when unemployment dropped below 5 percent, that we finally saw the elusive gains in income of low-skilled workers. I believe that the low tax rate on capital gains and dividends is an essential ingredient in creating more new jobs and maintaining healthy economic growth.

Some of my colleagues may say they agree that the benefits of lower rates are real and ought to be continued, but they do not see the need to renew a provision that does not expire until 2008. The simple answer is that we need to create some degree of certainty and stability for investors. Investors in 2006 care about what the tax rate on a long-term investment is going to be in 3 years. If they believe that Congress will allow tax rates on dividends and capital gains to increase to their previously higher rates, they will be less inclined to make those investments. That money will go instead to less productive, shorter term investments or will simply not be saved at all. The end result is that we'll have less capital available and lower economic growth.

We must acknowledge that the budget deficit is a problem—it is obvious we need to get our economic house in order soon. The baby boom generation is starting to retire and making our budget mess a lot worse. However, increasing the taxes on dividends and capital gains is not the answer to our budget morass, either in the short or the long run. We need every single bit of economic growth we can get for the next decade to help fund our obligations, and allowing the tax rates on dividends and capital gains to go back up would be a tax increase that would reduce growth.

When we seek to raise revenue by taxing the accumulation of wealth, we are essentially punishing a virtuous activity, namely saving. We should be doing all we can to encourage families to set aside money, to invest, to patiently prepare for the future. Allowing the low tax rate on dividends and capital gains to expire would do more than reduce productivity and economic growth; it would send a signal that we do not value savings in this country. At this point in time, we can afford neither.

Some of my colleagues believe that low tax rates on dividends and capital gains benefit solely the rich and no one else and feel that they cannot countenance a continuation of the low rates at the expense of programs more targeted to low-income households. I do not fault my colleagues for their concern, but I believe that the lower rates helps everyone in our country. It costs us relatively little in terms of lost tax revenue, since the lower rates have resulted in higher dividends, higher stock prices, and more sales of stock, with more revenue created by each activity. At the same time, every single working family in this country benefits from the higher savings engendered by the lower tax rates via the improved productivity, wages, economic growth, and the number of jobs available. High growth and economic prosperity are not the cure to every problem that ails the country, but it can make any solution much more attainable. Supporting low tax rates on dividends and capital gains is the right thing to do.

The PRESIDING OFFICER. Are there further amendments to the first-degree amendment?

If not, without objection, the first-degree amendment, as amended, is agreed to.

The amendment (No. 2707), as amended, was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. FRIST. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

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

The result was announced—yeas 66, nays 31, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—66

Alexander	Dole	Menendez
Allard	Ensign	Murkowski
Allen	Enzi	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bennett	Frist	Pryor
Bond	Graham	Roberts
Brownback	Grassley	Rockefeller
Bunning	Gregg	Salazar
Burns	Hagel	Santorum
Cantwell	Hatch	Schumer
Carper	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Isakson	Smith
Cochran	Johnson	Snowe
Coleman	Kyl	Specter
Collins	Landrieu	Stabenow
Cornyn	Lincoln	Stevens
Craig	Lott	Sununu
Crapo	Lugar	Talent
Dayton	Martinez	Thune
DeMint	McCain	Vitter
DeWine	McConnell	Warner

NAYS—31

Akaka	Durbin	Lieberman
Bayh	Feingold	Mikulski
Biden	Harkin	Murray
Boxer	Inouye	Obama
Burr	Jeffords	Reed
Byrd	Kennedy	Reid
Chafee	Kerry	Sarbanes
Coburn	Kohl	Voinovich
Conrad	Lautenberg	Wyden
Dodd	Leahy	
Dorgan	Levin	

NOT VOTING—3

Bingaman Domenici Thomas

The bill (H.R. 4297), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

USA PATRIOT ACT EXTENSION

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 4659.

The legislative clerk read as follows:

A bill (H.R. 4659) to amend the USA PATRIOT Act to extend the sunset of certain provisions of such Act.

The PRESIDING OFFICER. There are now 10 minutes equally divided for debate. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, the Republican leadership of the House and the Senate has proposed a second extension of the PATRIOT Act to last another 5 weeks until March 10. I support that. I support it because it is basically what Senator SUNUNU and I proposed in December in the bipartisan S. 2082, cosponsored by 47 Senators from both sides of the aisle. I hope this will allow us to make the final improvements necessary so that the final PATRIOT Act can be passed.

I support H.R. 4659, a bill by Chairman SENSENBRENNER. I hope all Senators from both sides of the aisle will. I say this because—notwithstanding the fact that the Senate doesn't even have a modicum of order, I would note, I am prepared to yield back the rest of my time if the place would just hush a tiny bit—it is a vital debate. The terrorist threat to American security is very real. It is vital that we have the tools to protect American security. That is why I coauthored the PATRIOT Act 5 years ago. That is why it passed with broad bipartisan support. I didn't believe it was a perfect piece of legislation, but I thought it was a good piece of legislation.

And then the Republican leader in the House, Dick Armey, and I put certain sunset provisions in it so that we would actually look at this again. I think we have done that. We are close to having a final product. After all, our Nation is a democracy. It is based on the principles of a balanced government, which requires something that we have not seen enough of lately—checks and balances. We can do that in this act.

I noted earlier this week that I was concerned that the Republican congressional leadership had not even proposed to the Senate Democratic leadership or to that of the Judiciary Committee that action be taken to ensure that certain sunsetting provisions of the USA PATRIOT Act not be allowed simply to expire at the end of this week. Thereafter, action was finally considered. Yesterday the House passed a bill to extend the sunsetting provisions until March 10, 2006. I support H.R. 4659, Chairman SENSENBRENNER's bill.

Those of us working constructively and in a bipartisan way to extend the USA PATRIOT Act with improvements have repeatedly offered to meet to work out the remaining differences. Regrettably, the Senate leadership has not made the effort to work through the remaining concerns or to bring us together. I was concerned because as recently as last week leading Republicans were indicating that they opposed another short-term extension that could be used to work out improvements that can lead to longer term Senate reauthorization.

I was concerned that the demagoguery we had witnessed from the White House and House Republicans would be repeated, but that this time it would have real consequences. Last December, even though a majority of Senators—Republicans and Democrats, those who voted against cloture on the conference report that failed to pass the Senate and those who voted for it urged the Republican leader to act on a short-term, 3-month extension before the end of the last session. At that time the President had said that he would not approve a short-term extension, and House Republicans had said that they would not allow a short-term extension. Those who threatened to let it expire were playing a dangerous political game. Fortunately, common sense prevailed, and in the waning days of the last session, just before adjournment for Christmas, the House approved a short-term extension until February 3, and the President reversed his earlier position and signed it into law.

Now the Republican leadership of the House and Senate is proposing a second extension that will last for another 5 weeks, until March 10. That is in line with the initial bipartisan proposal that Senator SUNUNU and I made in S. 2082, back on December 12, that came to be cosponsored by 47 Senators. It is my hope that this will allow us the opportunity to work out improvements to the reauthorization legislation to better protect the liberties and rights of ordinary Americans. We should do our best to get it right for all Americans.

I have continued meeting and talking with interested Republican and Democratic Senators. Senate staff has finally gotten together this week in a bipartisan meeting. I have joined in a bipartisan request to the majority leader that he bring together key interested Senators to work out a bipartisan compromise that improves the failed conference report.

Contrary to the false claims and misrepresentations by some, there was no effort on either side of the aisle to do away with the PATRIOT Act. That is simply and profoundly not true. Along with others in the Senate, I am seeking to mend and extend the PATRIOT Act, not to end it. There is no reason why the American people cannot have a PATRIOT Act that is both effective and that adequately protects their rights and their privacy. The only people who ever threatened an expiration of the PATRIOT Act were the President and House Republicans. As I noted on December 21, the administration and the Republican congressional leadership were those who were objecting to extending the act and threatening its expiration. That was wrong. That made no sense. They came to their senses in the days that followed.

In his State of the Union speech this week the President said only that reauthorizing the PATRIOT Act was needed to provide the same tools we provide to law enforcement authorities to fight drug trafficking and organized crime. I have worked with others to provide additional tools in the fight against terrorism. With others on both sides of the aisle, I also want to protect the liberties of ordinary and law-abiding Americans from overreaching and unchecked Government intrusion. Permanent gag orders and conclusive presumptions in favor of the Government, when intrusive demands for library records or personal medical records are being made by agents without court approval, smack of a police state, not the United States.

Republican and Democratic Senators joined together last month to say we can do better to protect Americans' liberties while ensuring that our national security is as strong as it can be. In the days after 9/11, the Senate Democratic majority joined with Republicans and the administration in bipartisan action. Unfortunately, the President's political adviser Karl Rove and other Republican partisans have sought to make the PATRIOT Act a partisan issue. I urge them, instead, to join with our bipartisan coalition and work with us to provide a better balance to protect the rights of ordinary Americans.

Every single Senator—Republican and Democratic—voted last July to mend and extend the PATRIOT Act. That bipartisan solution was cast aside by the Bush administration and Republican congressional leaders when they hijacked the conference report, rewrote the bill in ways that fell short in protecting basic civil liberties, and then tried to ram it through Congress as an all-or-nothing proposition. I have joined with Senators of both parties in an effort to work to improve the bill. Some of us are working hard to protect the security and liberty of Americans. What is wrong is for the White House to seek to manipulate this into a partisan fight for its partisan political advantage. Instead of playing partisan politics, the Bush administration and Republican congressional leadership should join in trying to improve the law. Especially when security and liberty are at issue, why not make the extra effort to produce a consensus bill that can deserve the confidence of the American people?

This is a vital debate. The terrorist threat to America's security is very real, and it is vital that we be armed