Mr. President, the title of this bill, ``The U.S. Troop

Readiness, Veterans' Health, and Iraq Accountability Act,'' doesn't say

much for the contents of this legislation because it has gone way

beyond that with a lot of material that has nothing to do with the

title. The Finance Committee matters definitely don't fit into this

bill.

As the distinguished chairman of the Appropriations Committee,

Senator Byrd has said on so many occasions the Founding Fathers vested

the great power of the purse in the Congress. Likewise, the other great

power, the power to raise taxes, is vested in Congress. The power of

the purse, appropriations, is our power. We are directly accountable to

our constituents for our spending actions. In that vein, I deeply

respect the deep traditions of the Appropriations Committee.

As former chairman and now ranking member of the Finance Committee, I

also deeply respect the division of power. The power to tax is our

power as a committee, and we are directly accountable to our

constituents for our taxing actions. We should mix the jurisdiction of

the two great money committees--Finance and Appropriations--rarely, if

at all. It should only occur if at all when the senior members of the

tax writing and appropriations committees agree. Mixing tax writing and

appropriations jurisdiction should not occur. As a leadership power

play, those kinds of actions demean the committees.

Fortunately, the leadership respected this division of jurisdiction

between the tax writers and appropriators over the last 6 years.

Unfortunately, early on in the tenure of this new Democratic majority

and their leadership, we have seen a dramatically different course of

action for purely partisan reasons.

The Democratic leadership inserted into this sensitive supplemental

appropriations bill two major matters that involve Finance Committee

jurisdiction. So the first lesson we have learned is that the line

between the tax writing committee jurisdiction and appropriations

jurisdiction will not be observed. That will only undermine each

committee and break down the committee process. The second lesson is

the ``I told you so.'' Shortly after the Senate acted on the minimum

wage and small business tax relief bill, I said I had learned something

from the Democratic leadership, as they were in the minority over the

last 6 years. It was a lesson the Democrats taught us while they were

in the minority. That lesson is, get a preconference agreement. Put

another way, if you are in the Senate minority, as we are now, don't

agree to a conference unless you secure an agreement for fair treatment

in advance. That is something that worked well for the Democrats while

they were in the minority, something we ought to have learned, and we

have learned.

Now let me say I appreciate all the consultation and courtesy that

Chairman Baucus has given me. He worked with me and I worked with him

to get the minimum wage, small business tax relief bill through the

committee. But the composition of the final package that is before us

is heavily weighted toward an extension and modification of the work

opportunity tax credit--and I support that credit--and the benefits of

that policy are delayed. Small businesses need tax relief to be in sync

with the time of the minimum wage kicking in. Both of these outcomes do

not reflect a proportionate agreement between the House and Senate

bills. The arbitrary ceiling on the amount of tax relief was not a fair

balance. This agreement confirms that a preconference process--learning

that from the Democratic minority of the last 4 years--is necessary to

ensure that a conference agreement will reflect the priorities of both

bodies. I will reiterate my point to the Republican leadership again on

that. This process proves that we need a preconference agreement before

agreeing to go to conference in the first place.

Now I will return to the substance of the deal, Mr. President. I am

hearing from a lot of small business folks who are going to be paying

the minimum wage. They want to retain their current workforces, hey

have to look to the bottom line. They are very disappointed that the

arbitrary $5 billion limit meant that important tax relief measures

were tossed out. I am referring to a simplification of the cash method

of accounting. That proposal would cut down on a lot of paperwork small

businesses currently have to do. I'm also referring to faster

depreciation rules for new restaurant buildings, and I am referring to

faster depreciation rules for retailers and owner-financed building

improvements. All of these proposals would help with the coming cash

crunch that these small businesses will be facing.

I am not hearing from a lot of the big business folks who were

targeted by the loophole closers and anti tax shelter measures. Because

of House opposition and fealty to the $5 billion number, those

reasonable revenue raisers were tossed out the window.

This was a missed opportunity. It was a missed opportunity for a

Congress that started with a supposed reform mission to send a message

to K Street in DC and Wall Street in New York City. That message

would've been simple. Don't engage in tax shelters like the so-called

``SILO'' transactions. Don't move your company headquarters offshore to

minimize your American tax responsibilities like the so-called

``inversion'' transactions. For high-paid CEOS, don't rely too much on

non-qualified deferred compensation arrangements. Nope, you can kiss

that opportunity goodbye.

When it came to the small business tax relief package, K Street and

Wall Street big business won and Main Street small business lost. Not a

good outcome. Hopefully, once this bill is vetoed and we return to the

minimum wage/small business tax relief package, Main Street small

business will come out on top.

Now I am going to turn to the other Finance Committee material in

this time-sensitive appropriations bill. I am referring to Medicaid

proposals in the conference agreement. There is a provision in the

conference agreement that would prevent CMS from implementing the cost-

limitation rule.

Certainly, a one-year moratorium is an improvement over the two-year

moratorium that was in the bill as passed by the Senate, but the

language in the bill still encourages states to push the envelope on

payment schemes.

If CMS gets a waiver or state plan amendment that has authority to do

with the rule, I don't think CMS has the authority to turn it down.

Neither does CMS.

And after trying to work it out with the sponsors of the provision

for the last couple of weeks, I don't think they want CMS to have any

authority either.

Why? This is a provision written for the benefit of a special

interests so they can avoid real scrutiny of their financing

arrangements.

This provision will encourage states to offer payment schemes that

CMS has previously disallowed as being inappropriate.

It will encourage litigation if CMS tries to assert that they do

still maintain jurisdiction.

This is just bad public policy.

The inspector general has investigated and reported to congress on

why there are problems in the areas the rule addresses.

We have not had the first hearing on why the rule doesn't work and

must be stopped.

This is a tremendous mistake and should not be in the bill.

The way that this provision is paid for is equally noxious.

The extension of the Wisconsin pharmacy plus waiver is an unnecessary

earmark. Every State but Wisconsin has changed their pharmacy

assistance program as the MMA required.

But why hasn't Wisconsin? It's very simple. They want the Federal

dollars that Medicaid provides and the rebates they get from drug

companies.

That it is an earmark is bad. But the way the language is written is

really offensive. The language is written in a way that games

Medicaid's budget neutrality test. It's written to guarantee that it

appears to save money.

The reality is that Wisconsin will be providing many poor seniors

with less of a benefit than they could get through part d. Wisconsin

charges greater cost-sharing than Medicare for low income seniors.

It truly is another missed opportunity. They could have paid for this

with a provision we would have gladly supported.

But again, the special interest won out. We could have struck a

provision that the House Rules Committee stuck in the tax bill in the

middle of the night last December that creates an unfair advantage for

certain private fee-for-service Medicare Advantage plans.

Senator Baucus and I thought this was terrible policy, we said so on

the floor, and have wanted to change it. Plans based in Illinois and

Nevada are among the plans it advantages most. So for some reason,

striking the provision didn't make it into the bill. It's a corporate

giveaway that should be eliminated.

Legislating to prevent CMS from cleaning up intergovernmental

transfers scams on this appropriation bill sets a bad precedent. That

is clear. It's legislation on Medicaid and, that is a basic part of the

jurisdiction of the Finance Committee.

If the Senate proceeds in this manner, then nothing then would

prevent the Senate legislating changes on other Medicaid and Medicare

issues on appropriation bills without the benefit of hearings or

committee action on those subjects.

Invading the Medicaid and Medicare jurisdiction of the Finance

Committee is a mistake.

It is almost impossible to cope with Medicaid and Medicare

legislation on appropriation bills. These are complex issues that are

best dealt with by the committee of jurisdiction.

This bill is going to be vetoed. The Appropriations Committee will

return to its work to fund the troops in the field. We ought to focus

on that. On minimum wage/small business tax relief, we need to go to

regular order. Let's arrive at a pre-conference agreement on the House

and Senate bills and go to conference and hash it out with a real

conference. Unlike this situation, the chairmen and ranking members of

both tax writing committees should be conferees. In that setting, we

can arrive at a bipartisan agreement that passes the House, Senate, and

be signed by the President. On the Medicaid provision, it ought to be

crafted by the committees of jurisdiction and incorporated in a vehicle

controlled by those committees.

After the veto, let's get this right. I would ask the leadership to

get out of the way of the tax writing committees and let us do our work

on our schedule in line with our committees' objectives.

I yield the floor.