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No. 17

## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 14, 2006, at 2 p.m.

## Senate

MONDAY, FEBRUARY 13, 2006

The Senate met at 12 noon and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

### PRAYER

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

Let us pray.

O God, we take refuge in You. Thank You for guiding us through life's trials and for giving us songs in the night. Strengthen the Members of this body for their important work. Guide them to make decisions that will accomplish Your purposes in our world. Give them an abiding sense of Your presence and an awareness that they are never alone. By Your grace, lead them through the seasons of their labors, through tough times as well as tranquil periods.

Give all of us the discernment to see what You are doing in our day and the willingness to be part of what You are making happen for humanity's good. Deliver us from missing opportunities to serve You because we are preoccupied with life's trivia. Lead us from darkness to light and from chaos to calm.

We pray in Your Holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 13, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. SUNUNU thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. FRIST. Mr. President, this week, we are beginning with the House message on the Taxpayer Relief Act. This bill passed the Senate on February 2 by a vote of 66 to 31. The House has appointed conferees, and we are now taking up that message to appoint Senate conferees. There will be motions to instruct the conferees that will be offered by the other side. They have provided us with a list, and we hope they will not all be offered. We will be discussing

that shortly after the opening this morning.

In any event, we will begin the process of appointing conferees with votes on the motions to instruct. As I announced on Friday, we will debate the motions today and stack the votes to begin around 8 o'clock this evening. Therefore, we do expect votes to begin at that time. We may decide to have some of the votes on Tuesday morning, depending on how many of these motions to instruct the other side offers, but we will make that determination after we discuss what will be offered, and hopefully, during the course of the afternoon, I am sure that will settle out. I will reiterate that we will be in session into the evening with those votes.

This is the last week of legislative business before the Presidents' Day recess. We will first appoint conferees on the tax bill, and we will return to the asbestos bill after we address the tax bill over the course of today and likely into the early morning tomorrow.

We have a point of order pending to the asbestos bill, and Senators will desire some further debate before we vote on that waiver motion. We will be conferring with Senators on both sides to determine the best time for that vote.

Finally, I also mention that we need to address the PATRIOT Act before we leave. We will complete the PATRIOT Act before we leave. It is a bill that addresses concerns on both sides of the aisle, and we will proceed to that bill before finishing the week. Senators should not plan to depart early this week. As my colleagues can tell, we

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



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have a very busy week planned with the three matters I have mentioned.

In addition, I hope we will be able to proceed with appointing conferees to the pensions bill as well. It will be a full week, and I will be updating Members as the week progresses, but it will be a week that will require votes today, Tuesday, Wednesday, Thursday, and Friday to complete our business.

Mr. REID. Mr. President, through the Chair to the distinguished majority leader, how many votes does the majority leader intend to have tonight?

Mr. FRIST. Mr. President, through the Chair in response, it really depends on how many of these motions we have. They are coming from the Democratic side of the aisle, and although a list has been provided, how many actually will require a vote—I would think we would have at least two tonight, and then if there are a lot of motions, we would have to have more tonight because we do need to complete whatever votes there are tomorrow and then get back to the asbestos bill in the morning to continue to address the waiver of the point of order.

Mr. REID. Mr. President, the distinguished majority leader mentioned the PATRIOT Act. While the Presiding Officer is in the chair, I express my personal appreciation for the many hours of work he put forth in resolving the PATRIOT Act dispute. It was a bipartisan problem. The distinguished junior Senator from New Hampshire worked long and hard to come up with a conclusion. I appreciate being advised during the process as he was visiting with the White House. Of course, as has been said, the Presiding Officer didn't get everything he wanted, certainly I didn't, but it is a much better piece of legislation than when it came back from the House. So I compliment and applaud the Senator from New Hampshire for his hard work.

I say through the Chair to the distinguished majority leader, we are ready to move forward on this legislation. As has been explained by the Senator from Tennessee, we have at least one Senator who is going to make us go through all the procedural hoops, so that will take some time. But the vast majority of the Senators over here want this matter to move forward, and we will offer help in any way we can to move this along, with the understanding that there are some who want to make sure that all of the procedural hoops are jumped.

Mr. FRIST. Mr. President, in brief response, as I outlined, we are ready pretty soon to go to the PATRIOT Act. I agree, the negotiations which have taken place under the leadership of the Presiding Officer have gone smoothly, and I think we are going to have an overwhelming vote in the Senate. The House, through their leadership, has expressed support, as I believe the administration has. So I do wish to make a request of our colleagues that although there are procedural hoops which we can be made to jump

through, I don't think it is in the best interests of the American people to unduly delay this important bill that essentially, at least by statements today, is going to have overwhelmingly, strong support.

We do have a lot to do this week, and we will use the time as effectively and efficiently as possible. But if we keep having delays such as people coming back tonight to vote on motions to instruct, on which we could argue as to how useful that actually is, or we have too many procedural roadblocks based on this bill, it is going to be impossible for us to move ahead and move the country forward when we have so much important legislation. So I think we can complete all of our business this week, but it is going to take a lot of cooperation on both sides of the aisle not to throw too many procedural roadblocks in front of us.

I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

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

#### SENATE AGENDA

Mr. REID. Mr. President, we do have eight motions to instruct. I doubt very seriously there will be any others. I will say this: This is the procedure, and if the minority wanted to stall this budget reconciliation conference, we could do that. Under the rules of the Senate, we could have, instead of the 8 motions to instruct, 80 or 800. We are not in any way trying to prevent this legislation from going through. As bad as it is, we recognize that we have had a fair shot at it on the floor on a number of occasions. But the eight instructions are instructions that are well taken, and we hope the conferees will follow these instructions. We don't know if any of them will be agreed to. We certainly hope so, but it is certainly something that is worth debating.

I was surprised to hear that the distinguished majority leader, when he announced we were going to this piece of legislation, this budget matter, did not call it what it has been called for more than a year; that is, the Budget Deficit Reduction Act of 2005. I guess everyone has come to the realization that the Budget Deficit Reduction Act does not reduce the deficit; it increases it by \$50 billion. And I guess there has been a change of name, calling it the Taxpayer Relief Act. I guess if you are rich, it is a Taxpayer Relief Act, but for the poor and middle class, it increases the deficit and it is not a fair piece of legislation.

On asbestos, I believe there are two groups of people who really need to make sure Congress takes care of them: those people who, through no fault of their own, get the dreaded mesothelioma and they die, and asbes-

tosis, which is aggravating and serious, and they die; one just takes longer than the other. The goal of the Senate should be to make sure these two groups of victims are compensated for their pain and suffering, which came about through no fault of their own. What we want to try to avoid are the bad cases, the ones that are taking too much of the court's time and taking valuable resources from these people who are really sick.

I made a commitment to the junior Senator from Texas, Mr. CORNYN, that I believe we need asbestos legislation. I really do believe that. I have told him I would be happy to work with him and Senator DURBIN, as my designee, to try to come up with legislation that is patterned after successful programs in Illinois and Texas, where there is medical criteria set up.

For example, in Illinois, they have a pleural registry where people are able to list their names if they work around asbestos, the statute of limitations is tolled, and then if something happens to them down the road, they are not prevented from going to court as a result of the statute of limitations. It would do away with the bad cases.

As I said, we are committed to coming up with legislation such as that. Senator CORNYN offered some, but there wasn't an ample amount of time to debate his suggestion, and that is too bad. But we are willing to work with him on something similar to what he came up with. I believe it is important that we do that, and I am certainly making a commitment that we will work to see what we can come up with on medical criteria legislation to, in effect, get rid of the bad cases and allow these two sets of victims to move forward.

This FAIR Act we have before the Senate is anything but fair. I have explained how this bill will harm victims by trapping them in administrative claims systems which are irreparably defective and doomed to failure.

One of the primary reasons the trust fund is doomed to fail is because of unrealistic and sloppy calculations that led to the \$140 billion trust fund in the first place. In designing this bill, the bill sponsors have not adequately assessed the number of future claims by asbestos victims, the borrowing costs necessary for the trust fund to function, and the administrative costs associated with operating the trust fund and claims system.

Last August, the Congressional Budget Office estimated the program could generate as much as \$150 billion in claims, leaving the trust fund way short, billions of dollars short. As I have explained, even that figure understates the problem because the bill does not adequately take into account the trust fund's borrowing costs, further depleting the compensation available to victims. The CBO estimates approximately \$8 billion will be borrowed before the first decade, an amount that will saddle the fund with huge debt-

service costs over the life of the program. The Senate Budget Committee, through its own analysis, also concludes that taxpayers will have to finance a significant amount of the fund's debt service. Contributions to the fund will occur over a 30-year period, but most of the claims are expected in the early years of the program. That is what the borrowing is all about.

I have spoken to Karl Rove, one of the President's top men. He is talking about setting up some kind of a task force made up of Members of Congress and others to look at the huge costs that are out there. They are getting higher every day.

We will have a vote in the next few weeks on increasing the debt ceiling from \$8.2 trillion to—I don't know how high the administration wants it raised. If people are concerned about the deficit, they have to look at this bill before the Senate, this asbestos bill. Other experts believe it is on even less solid fiscal footing than CBO. For instance, the Bates White economic consulting firm has concluded the program will cost as much as \$600 billion or more. This is not some front by the asbestos lawyers. It amended its analysis and found another \$90 billion error in CBO's analysis because the CBO underestimated the number of cancer victims who will likely file claims.

The pending question on this bill is a long-term spending budget point of order by Senator ENSIGN, my colleague from Nevada. The 2006 budget resolution prohibits any net increase in direct spending in excess of \$5 billion in any of the four 10-year periods from 2016 through 2055. Based on its own estimates, which are inadequate, the CBO concluded that enacting the asbestos bill would violate that spending prohibition.

In the substitute bill, the bill's sponsors attempted to cure these budgetary concerns and assured this body that there will be no Federal borrowing. Their efforts failed. First, the substitute contained new language that the bill: is not intended to increase the deficit or impose any burden on the taxpayer.

Stating the intention, however, cannot erase the effects of this bill. The bill will increase an entitlement for asbestos victims and has obligated the Federal Government to provide compensation to those victims. Throughout the fund's existence, the Federal Government is obligated to pay regardless of the actual amounts raised for the fund through company contributions, and this contributions remains so long as the fund is operational.

Last week I gave the example of 4 companies, each an American company over 100 years old. They will all go bankrupt if this bill passes. One is an engineering/consulting firm. One makes wire. They will go out of business. Right now, they have taken care of their asbestos claims. They, like a lot of businesses, purchased insurance.

One of the companies pays nothing, zero, for asbestos claims. If this bill passes, they will pay \$19.5 million a year. They cannot do it. They will go broke. It is unfair. Based on the timing issues and expected shortfalls discussed above, taxpayers most certainly will shoulder some of the costs related to this fund.

The managers' substitute bill provides that in assessing whether there are sufficient moneys in the trust fund to continue paying out the claims, the administrator of the fund can only consider nontaxpayer resources, but these funds include funds borrowed from the taxpayer. If anything, this language increases the likelihood that the trust fund administrator will be forced to use taxpayer dollars to finance the fund.

Let's be realistic about this. Black lung was supposed to cost \$3 billion; it is now up to \$41 billion. Once these programs start, these entitlement programs, Congress does not cut them off. Despite the bill's sponsors' best efforts, the bill continues to have enormous financial implications for the Federal Government and the American taxpayers. Federal spending on asbestos claims facilitated by this bill will violate the 2006 budget resolution and require borrowing of taxpayer dollars in order to function.

Again, the budget point of order is valid and should be sustained. But if the point of order is sustained, that will not be the end of the asbestos debate. We need to do something. I have stated now, today, for the third time, I am committed to work with Senator CORNYN, and Senator DURBIN is my designee to work with him to come up with an approach that will allow these asbestos cases that are bad to get out of the system. We can move forward on this issue. But the pending bill is not the way to do it. It is a bad bill, and in light of the serious budget problems we are having in the country, with an \$8.2 trillion debt ceiling about to be violated, it is important that we get this bill off the floor and do other things. One of the things we will continue to do is, this year, work on the asbestos litigation problem.

#### RESERVATION OF LEADER TIME

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

#### TAX RELIEF EXTENSION RECONCILIATION ACT OF 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the House message to accompany H.R. 4297.

The Acting President pro tempore laid before the Senate a message from the House of Representatives disagreeing to the amendment of the Senate to the bill (H.R. 4297) entitled "An Act to provide for reconciliation pursuant to section 201(b) of the concurrent

resolution on the budget for fiscal year 2006," and asks a conference with the Senate on the disagreeing votes of the two Houses thereon.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate insists on its amendment and agrees to the request of the House for a conference.

Who yields time?

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I yield myself such time as I may consume off of the time that has been designated on the pending issue.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. LOTT. Mr. President, it is Monday at noon and I think the people's business needs to be attended to sooner rather than later, in the daylight rather than at night, so I rise to point out my concern that the Senate continues to fiddle while Rome burns. I have no idea why there is a justification for up to 10 hours of debate and multiple motions to instruct on this tax reconciliation. We have been through this already multiple times. This convoluted procedure is, in my opinion, very unhelpful for the legislative process and for the relationship between the two sides of the aisle. There is no need for this. The Senate has voted twice already on this and 66 Senators are for this bill—or 68, 66 and 68. Go back and look at the RECORD. So we are going to go to conference.

We can't let these motions to instruct prevail. By the way, they are outrageously ridiculous, anyway. Nobody pays any attention to that. I hope to be a conferee. Do you think I am going to pay any attention to any motions to instruct me? Baloney.

The Senate leadership that is responsible for the way we do our business and the way we appear to the American people needs to get a grip on this situation. The very idea that there would be even 3 motions to instruct, let alone 8, 9, 10—we have to stop this. We have had our chance to make our speeches. We don't need to eat up 3, 5, 10 hours of debate on this bill. What in the heck are we going to say? Are we going to talk about the snow event this weekend? Nobody is going to be snowed by what is going on here. This is delay and obstruction. We need to find a way to get over this. I realize Senators have their rights to have motions to instruct. But how can we move this process forward?

That leads me to my next point, in terms of fiddling while there is a problem that is getting worse. If you talk to the American people, an awful lot of

people are concerned about the future and their retirements. Will the retirement benefits be available to them and to their children? Will they be there when they need them? Will they be portable? We need pension reform. We need certainty in pensions. People need to know what the law is going to be. We need to know it is going to be actuarially sound. How are we going to pay for all these benefits people are expecting in their pensions when they retire?

Of course, an important part of this pension bill is what are we going to do about aviation pensions? Airlines are having a difficult time. They are teetering in the balance. At least a couple of them are prepared, if they have to, to enter into bankruptcy and walk away from their pensions. But they don't want to. They want to do the right thing. They don't want the taxpayers to be saddled with these pensions that airlines unfortunately quite often agreed to in the past. They want some way to make sure those pensions are protected.

I urge my colleagues on both sides of the aisle, and the leadership, to find a way to move forward, to appoint conferees on the pension bill, so we can step up to this issue that worries people. Why should it take days or weeks to appoint conferees on a bill that is broadly supported, is going to be bipartisan, and is important to the working men and women of America?

I know there is a lot that goes on in making these appointments. You have to decide on the numbers and you have a lot of Senators who would like to be conferees. But I plead with our leadership to find a way to get the conferees appointed—not tomorrow, not Wednesday—today, because we are fiddling while people's pensions are burning. It concerns me.

I am glad to be here. I am here. I am perfectly willing to be a pain in everybody's neck as the day and the week progresses so we can find a way to get to a conclusion on two conference issues. These are issues we can get into in conference. These are issues on which we can get a result.

I urge our leadership to find a way to appoint these conferees as soon as possible on the pension bill and to get into conference on the tax bill.

I yield the floor.

Mr. REID. Mr. President, first, I agree we should be moving forward on the pension conference. It is very important. We are ready to do that.

I would also suggest that this budget reconciliation could already have been finished. We over here didn't choose what the majority leader brought to the floor. Instead of bringing to the floor the conference report dealing with taxes, he decided to bring asbestos, a bill that wasn't ready to come to the floor. We were ready to move on this any time last week.

I say to my friend, the distinguished Senator from Mississippi, whom I have so enjoyed working with over the years, if we were truly trying to delay

this legislation, we could do that. Under the rules, which I think should be changed, instead of having the 8 motions to instruct which we have, we could have 80 or 800. The rule is not good. We need to change this whole budget setup.

Again, if this legislation had been brought to the floor last week rather than the asbestos legislation, we could have finished it.

Also, I think we have been fairly direct in our amendments which we have on the conference report. They are not on subjects that are outside of the scope of this bill. We have one, which will be a motion to instruct, to not raise the debt ceiling. There will be another one regarding the need to replenish the military—which all experts say is \$50 billion—and replace vehicles and other such things because of the war in Iraq; both Guard and Reserve, \$50 billion; to take some of the tax cuts and give it to our military; and the same with veterans health benefits. There is a very important amendment dealing with energy to help make us a little more energy independent.

I am not going to go through all of the motions to instruct other than to say they are important, and also, frankly, we haven't been much of a participant in the conference, anyway. We might as well give the conferees some idea of what we are thinking since they do not invite us to the meetings.

I agree with the Senator from Mississippi; it is important that the budget process be changed. I think it is right—if we had wanted to, we could stop this thing from ever moving forward. Rather than spending a few hours on it, we could spend weeks on it. That would be wrong.

I hope we can have a bipartisan group of Senators take a look at how we can change this whole budget process in the Senate. It is subject to a lot of abuse, no matter who is in power.

I suggest that on our motions to instruct we are willing to move forward on those quickly. We complained about the 8 o'clock votes. We are willing to finish the votes tomorrow, but it will take a little bit of time.

Further, it is my understanding that maybe the Republicans have some amendments they want to offer. We have eight. I don't see our side having more. Under the rule we could have more, but I think that would be all.

I look forward to working with my friend from Mississippi to make sure we can move forward on this legislation, particularly the pension reform, which is so important to the country.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that all quorum calls which we might have on the pending issue be equally charged to both sides.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, earlier this month we began and finished the second floor debate on the tax relief reconciliation bill. At that time, I spoke in recognition of Groundhog Day because it was just around the corner. I have next to me that portrait of Punxsutawney Phil. Phil is the groundhog.

In thinking of Phil and his unique form of weather reporting, I thought about that popular film entitled "Groundhog Day" starring Bill Murray in which a man relives the same day, Groundhog Day, over and over again. This film has taken on even greater significance for me as I seem to be in a similar situation for the third time. More than just the sense of *deja vu*, I feel as though I am reliving a couple of past experiences, and before these several votes tonight or tomorrow, I think everybody will agree with me.

I have before you another chart. The chart shows a scene from the Bill Murray movie "Groundhog Day." From this movie is a picture of Phil, the groundhog, driving the car and Bill Murray is there with him. Bill Murray is in this case the copilot. Phil is driving the car. You see Phil with his paws on the steering wheel, and you see the copilot seated behind him.

As I said just now, I feel like the Bill Murray character in the movie. It seems we are reliving the same events over and over again. We are going through the same debates over and over again.

For those who watch C-SPAN regularly—probably not too many Americans—they know what I am talking about because it was 2 weeks ago we were debating the tax reconciliation bill, the same tax reconciliation bill we were debating back in November, and the same debate we had a couple of weeks ago.

I will summarize the floor process we have been going through on this bill.

At 11:08 a.m. on Wednesday, February 1, 2006, I opened the second Senate floor debate on this bill. The rollcall vote on final passage occurred at 9:42 p.m. on Thursday, Groundhog Day, 2006. All the time permitted for debate under reconciliation—20 hours—was used in the second floor debate—again, Groundhog Day.

Three Senators were not here for the final vote. There was a total of eight rollcall votes that day, including the vote on final passage.

You will recall that, as I said, this was the second time. I hope you will recall I said then that we actually had debate earlier in November on the very same bill. The very same bill is this bill right here, S. 2020, the Tax Reconciliation Act.

We started that debate at 3:35 p.m. on Wednesday, November 16, 2005. For 20 hours on Wednesday, Thursday, and into Friday we debated this bill, S. 2020. A total of 80 amendments was filed, and 7 of those amendments were agreed to. The liveliness of the legislation culminated in 18 rollcall votes.

The final vote on passage came at 12:05 in the morning of Friday, the 18th of November, 2005. According to the Secretary of the Senate, 97 of us were there for that vote. I must not be the only one who is reliving this experience of Groundhog Day over and over again.

There is one Senator whom I can't speak for, so I have to clarify that the new Senator, Senator MENENDEZ, was not a Senator during the first debate back in November. He has been appointed to the Senate since then. He was here for the second debate because he joined the Senate after the first bill passed. Maybe the second debate would not be old hat to him, but for the other 99 Senators it would be more or less old hat.

Here are the two bills. Technically, right now we are on the House bill, H.R. 4297, but between these two publications, I guess it would be fair to say they are 95 percent the same.

This bill, S. 2020, was first debated in November last year and passed then as the Tax Relief Act of 2005. The Senate passed the second bill, after we amended the provisions of this to it, as H.R. 4297. The first bill, S. 2020, is 417 pages long, and the second bill, H.R. 4297, as amended, is 363 pages long. The bills are very close to the same length. What happened in between was between November and February, the Senate removed the Hurricane Katrina provisions and interest suspension provision because those proposals became law in a separate piece of legislation in November 2005. Removing the Katrina provisions and the interest suspension provision accounted for a reduction of 63 pages from this bill. The five amendments agreed to during the second floor debate added 14 pages to H.R. 4297.

Again, except for those five amendments that were put in, plus the Katrina provisions taken out, most all of this bill is pretty much the same.

So why are we debating this for a third time, November of last year, 3 days, 2 days this year, on February 1 and February 2, and now back here again this very day, February 13?

My point is these two bills are virtually the same. The Senate basically debated the same popular, bipartisan bill twice, and we are going through another one of these purposeless delays at the insistence of the Democratic leadership again today, and it may take much more than 1 day.

As we consider what they are going to offer—we refer to them as motions to instruct the conferees—to the bill, we are going to go to conference on H.R. 4297 to work out the differences between the House and Senate. I have to ask my colleagues: Why are we still doing this? Didn't we already go through this exercise? Shouldn't we be finished with the Senate debate? For me, the answer to those questions is there is no reason to be here. All you have to do is in 5 seconds appoint conferees and get to work ironing out the differences between the House and the Senate.

Without a doubt, we have gone through this exercise twice. When is debate on the same subject enough for the Senate? In the face of the multitude of other important issues this body needs to deal with, does the Democratic leadership want to reenact recent debates and resuscitate old talking points? The tax reconciliation bill already passed with the support of 64 of us the first time. The second time we passed this bill, the bill garnered the support of 68 Members. Included in the first count were 15 Democrats. I am pleased we picked up two more Democrats the second time we debated the bill. Maybe if we keep up this exercise enough times, we will have a bill that will get 100 Senators for it.

What is the purpose of that? If we do that, we will not be passing this bill in the year 2006; we will be passing this bill in the year 2007. Do not think that the millions of taxpayers expecting us to act would be very happy about running the Senate through that many Groundhog Days. Even Phil, the groundhog, might even be a bit irritated. Phil, wouldn't you be irritated if you had to go through all of this?

This legislation is extremely important. We will debate it as long as necessary. I question the necessity of going through a process that resulted in bipartisan passage of the same bill almost 3 months ago. We often think bipartisanship is when we get to 60. You are lucky to get to 60. That is what you have to do in the Senate to get anything done. To get to 64 or 68 is almost a landslide in the Senate. Why the continued debate? I doubt if the people who are stalling this want to continue the debate long enough to convince even more Democrats to vote for this bill. I don't think that is their motive.

That is my first point. This is a very curious exercise. It is an exercise with no apparent purpose other than delay. Is the delay on the part of the Democratic leadership important? The answer is, yes. Ask American tax-paying families and you will get an answer, but you get a different answer. The answer is, yes, if you are 1 of 20 million families waiting for certainty that you are not caught in the clutches of the alternative minimum tax with which this bill deals.

We hear a lot of talk about the alternative minimum tax. We will hear about it in the debate over the next few hours. This bill does something about the AMT. It holds harmless 20 million Americans so they will not be hit by a tax that they were never supposed to pay in the first place.

I will use some charts that describe different provisions of this legislation and how it affects the constituents of each of the Senators, on a State-by-State basis. The data is from the Internal Revenue Service. It is the latest available in terms of State-by-State impact. The data comes from the year 2003, so it understates the tax problems of citizens in the various States for

taxes in the year 2006. I apologize for not having more up-to-date information. I suggest to people who are considering the figures on the charts to more than double the figures; that will be a rough State-by-State idea.

We will look at a chart dealing with the alternative minimum tax. This tax will hit 20 million Americans if we do not pass this legislation. It is not on the taxes they will file for 2005 because we are talking about income earned during the year 2006. They will be hit by the alternative minimum tax 12 months from now, when people file their taxes, if we do not pass this legislation.

When you start a tax year, you ought to have some idea what the tax laws are going to be for the next 12 months and into the future. That is why this legislation should have been passed in conference last fall to get a permanent law so people earning money on January 2, 2006, would know they would not be hit by the alternative minimum tax.

The basis of the bill the Senate passed and the bill that is once again before the Senate is an extension of the AMT hold harmless, so that no additional number of people will be hit by the alternative minimum tax. Every Member who is participating in this deliberate strategy of delaying our entry to conference to work out the difference between the House and the Senate is delaying the certainty these millions of American families deserve. Again, it affected 8 million in 2003. That figure now is 20 million in 2006. For my State of Iowa, it is 65,000 taxpayers. It is probably tens of thousands more now. In Nevada, there are 68,000, with a lot more than 68,000 being hit in 2006.

Those are the facts on the alternative minimum tax. Look it up in the Internal Revenue Code. The AMT relief provisions expired December 31, 2005. I ask my friends and the Democratic leadership to look at the calendar: 1½ months have passed, and the alternative minimum tax hold harmless has not been extended to prevent 20 million Americans from being hit by a tax on income earned in 2006; earning the same income in 2005, they would not have had to pay that tax. The AMT hold-harmless provisions are the cornerstone of this legislation. It is the cornerstone of a bill that the Democratic leadership is delaying. I don't want to hear people talk about the alternative minimum tax problem and at the same time delay real action to help those millions of tax-paying families. I suggest we may hear that.

This bill also includes another provision, broadly popular and broadly applicable in its tax benefits. I will talk about them beyond the alternative minimum tax.

This chart shows deductibility of college tuition, first inaugurated in the tax bill of 2001. This is a benefit for families who send their kids to college. By definition, this benefit goes to middle-income families. A lot of these families are not low income so their kids

possibly do not qualify for Pell grants. They are not high income either. All they have to do is have mom and dad write out a check, and they go to college. These are families that get the full benefit of the deduction if they make up to \$65,000 as a single person or up to \$130,000 as a couple.

The reason I say it is conserved on the middle income is because above those figures the benefit phases out. A lot of these families are paying significant Federal, State, and local taxes, and they get no help in defraying the high costs of their kids' college tuition. This tax deduction provides help for these hard-pressed, middle-income families with a benefit and furthers a very important national goal that we try to give attention to, the support for higher education. This deduction runs out at the end of this year, 2006. These families next year will face tax increases if we do not act on this bill. We ought to act on it now, although it does not phase out until the end of this year. During the spring, people anticipate their capability of sending their kids to college. If they cannot count on this, they have to dig up money someplace else for their kids to start college in September, which carries over into 2007.

The chart before the Senate shows the number of families, on a State-by-State basis, that benefit from this deduction. I emphasize that these are 2003 figures. I don't know exactly how much more we increase them because we are now in 2006, but it would be significant. In Iowa, more than 37,000 families are affected by this legislation, 37,000 in Iowa who do not know for sure if the tax deduction will be available when their kids go to college next year.

Now I will pick out another State. Nevada has 25,000 families. If we do not pass this legislation, 25,000 families will not know whether their kids are going to get the advantage of this tax for the next school year.

It seems to me the perpetuation of support for higher education, particularly for middle-income families, that their families cannot qualify for Pell grants, we ought to be reenacting this legislation now so these families can plan on sending their kids to college next September.

Another benefit addressed in this bill is the small savers credit. This gets back to the problem we are always talking about, that Americans are not saving enough. Lower income people, spending most of their disposable income on the necessities of life, do not have money left over to save. They may not have an ethic to save. Through the Tax Code, we try to give incentive to save and some help to save. This happens to be the tax credit for low-income people to save through an individual retirement account or a pension plan. Saving money is important. We all want all Americans to be part of the effort to save for the future.

This chart shows the number of low-income savers who benefit from this

bill, on a State-by-State basis, from the small savers tax credit. Again, more than 5.5 million people take advantage of this. How many more for the 2006 figures, I don't know, but in Iowa 95,000 people take advantage of saving money through the small savers tax credit. And I will also take Nevada: 36,000, almost 37,000 people 3 years ago were saving through this program. That needs to be reenacted or there will not be incentive to save.

The bill before the Senate also extends another needed tax deduction. This is for teachers who buy their own supplies for their students. This provision was developed by Senators WARNER and COLLINS. It makes whole teachers who go that extra mile to pay out of their own pocket classroom expenses. Who is going to argue with a devoted teacher whose school district does not provide enough supply if she wants to spend out of her own salary, his or her own salary, to buy supplies? That proves the dedication of our teachers.

I will point to the number of teachers included on the chart, on a State-by-State basis, who take advantage of this deduction. This deduction needs to be reenacted for these teachers to have the certainty that money they will spend today will be deductible from the taxes they file 12 months from now. Again, in my State of Iowa, almost 34,000 Iowa teachers benefit from this. Another State we could look at would be Nevada, where 22,000 families benefit.

Is there any reason this help to teachers—who are good teachers but want to make better use of their talent, to make sure their students have adequate supplies—why that should not be reenacted, and why, this very day, in classrooms across America, teachers have to be worrying about whether they are going to have this benefit to reimburse them for going that extra mile?

Now, there is another item in this bill which is very popular which I do not have shown on a chart. But this bill extends what we call small business expensing, so that anything which is depreciable, on an increased amount of money of up to \$100,000, can be expensed in 1 year rather than spreading it out over a period of 5 to 10 years. Many small businesses use this benefit to buy equipment on an efficient, after-tax basis.

This is very good for small business. Small business creates 70 to 80 percent of the new jobs in America. So it is a job-creation tax incentive. It is good, then, for workers in these small businesses. Obviously, if you employ more people, you end up with greater economic growth for our entire country.

The final chart I have deals with the tax deductibility of the State and local sales tax deduction. This applies to the States of Alaska, Florida, Nevada, South Dakota, Tennessee, Texas, Washington, and Wyoming.

This bill helps 12.3 million taxpayers in your States. Tennessee is one of

these States. It is the home State of our majority leader. He has worked hard to get this bill to the floor. For the third time now, our majority leader, Senator BILL FRIST, has worked hard to move this bill into conference. I want the good people of Tennessee to know that.

Now, another State that could benefit when we get this passed is Nevada, the home State of our Democratic leader. Unfortunately, this bill is going through another process of holding it up for another day of debate, meaning the people in these States who have deductibility of their State taxes do not know whether, come 12 months from now when they are filing their income tax on income earned in 2006, it will be deductible.

So I would ask them to focus on the taxpayers of these respective States. I still hold out hope that the Democrat leadership will see the light. I hope they will work with me to guarantee that the folks in their States will be able to deduct their sales taxes this year. This is the third time, then, this bill has been delayed.

This is a bipartisan bill with a bipartisan consensus. This needs to pass. Maybe the third time will be a charm. Maybe we will finally get this bipartisan bill to conference because you do not get bills to conference around here that are not bipartisan because when you only have 55 Republicans in the Senate, there is no way, even when all of us vote alike—and we do not vote alike—we can move a bill to conference. So it has to be bipartisan. You have to have Democratic support. So in this particular instance, we have 15, 16, 17, roughly, of the Democrats voting for it.

Every Senator ought to help us pass this bill because of the provisions I just went through on these charts which are included in the bill. But there are also other reasons for supporting this bill.

Our bill addresses expiring business and individual provisions that are known as extenders. These provisions include items such as the research and development tax credit and the work opportunity tax credit. This bill also includes many of the charitable incentives introduced in what we call by the acronym the CARE Act and which provisions have previously passed the Finance Committee and passed the entire Senate.

In this regard, in regard to the CARE Act, in regard to the R&D credit, I have to give particular applause to Senators SANTORUM and BAUCUS in working with me to balance these incentives with several of the much-needed reforms that are supported by the charitable sector, the Treasury Department, the IRS, and donors and taxpayers to make sure charitable giving is not abused.

Last, but not least, this bill contains loophole closers and tax shelter-fighting provisions that raise revenue.

This bill is bipartisan.

I thank my friend and working partner and ranking member, Senator BAUCUS, for his cooperation. He and I were not always partners on this bill, at least in the beginning, but we teamed up in the Finance Committee. We teamed up in the first Groundhog Day floor debate. We teamed up in the second Groundhog Day debate. I look forward to working with him today and hope we can team up in the conference working out the differences between the House and the Senate. As always, his cooperation and, in tense times, his good humor make a big difference in this body.

Let me also thank those Democratic Senators who joined us in this bipartisan effort on our first floor journey. Most of them repeated through the second time on February 1 and 2 of this year. I ask them to help me persuade their leaders to let this bill proceed. I ask them to ask their leaders to focus on taking care of tax legislative business, bringing certainty to the tax policy of this country for the benefit of our taxpayers and the benefit of investment because investment creates jobs. I ask that the political games be cut out. I ask that we roll up our sleeves and get down to the people's business. I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

#### MOTION TO INSTRUCT CONFEREES

Mr. KENNEDY. Mr. President, I send to the desk a motion to instruct conferees and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the motion.

The bill clerk read as follows:

Mr. KENNEDY moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendments to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to reject the extension of the capital gains and dividends rate reduction contained in section 203 of the bill as passed by the House of Representatives.

Mr. KENNEDY. Mr. President, Americans are wondering what has happened to their Government. They are working hard to raise strong families and to live the American dream. But with each passing day, they find the American dream farther and farther out of reach as they juggle just to make ends meet. Over the past 5 years, the cost of health insurance has jumped 73 percent. Gasoline is up 74 percent; college tuition, 45 percent; housing, 44 percent. The list goes on and on and up and up.

Working families do not ask for much. Low- and middle-income families are doing their part. But they could use a little fair play from their

Government as they are facing such hard times.

But that is not what is going on in Washington today. Again and again and again, under this Republican President and this Republican Congress, they have seen trillions of their tax dollars given away in tax breaks to the wealthy and to corporations while the rest of America is asked to sacrifice. And this bill and the budget President Bush sent to Congress last week are yet another example.

The House version of the bill before us provides tax breaks on capital gains and dividend income that will take \$50 billion over the next 10 years and give it to people who are already wealthy. At the same time, the President's budget cuts almost \$50 billion from Medicare and Medicaid for the next 5 years, harming health care for our seniors, for the disabled, and for the poor. And it robs key funds from other health priorities as well.

Those are the wrong priorities for America, and the motion I offer today gives the Senate a chance to set things right. My motion says it is wrong to give away \$50 billion in tax breaks for the wealthy while cutting \$50 billion from Medicare, Medicaid, and other health care needs.

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. Nowhere is the crisis facing working families more apparent than in health care.

Overall costs are soaring. Families have been losing their health insurance at the rate of 4,000 people per day—per day—since President Bush was elected. Close to 2 million Americans in 2001 were involved in medical bankruptcy—an increase of 2,200 percent from 1981. Around 50 percent of all bankruptcies in America today are caused, at least in part, by illness or medical debts, and of those, 60 percent were caused by high medical bills. High drug costs were responsible for half. Most involved had some health insurance but suffered from coverage gaps. Out-of-pocket medical costs averaged \$11,854. For cancer patients, out-of-pocket costs averaged \$35,878.

These are not people trying to game the system. In the 2 years before filing for medical bankruptcy, 22 percent of filing families went without food, 30 percent had a utility shut off, 50 percent failed to fill a doctor's prescription, and 61 percent went without needed medical care.

Let's look especially at what Republicans are doing to Medicaid and Medicare. The Medicaid Program is key to promoting a real culture of life in America. A third of all mothers giving birth receive their care through Medicaid. The Medicaid Program provides the prenatal and pediatric care their children need to be healthy. The Medicaid Program is our statement that we will do everything we can to help

women bring their babies to term and give them the health care they need as they grow up. That is the way it should be in a true culture of life.

But rather than stand by women in their time of need, Republicans are abandoning this culture-of-life program. Mere hours after the President had declared in the State of the Union Address that the Government would meet its responsibility to provide health care for the poor and the elderly, the House of Representatives sent to the White House a bill to impose draconian cuts on the Medicaid Program.

Did the President stand up for this culture of life program and veto the House bill? No. He signed it. According to the Congressional Budget Office, under the Republican Medicaid bill, the poor and the disabled, those with mental illness, will lose: 45,000 enrollees will lose coverage over 5 years; 65,000 enrollees will lose coverage over 10 years; 60 percent of those losing coverage will be children; 13 million of the poorest Americans will have to pay more for prescriptions by 2010; and 20 million will have to pay more by 2015.

You may ask where we get these numbers; do they represent what is going to happen? All you have to do is look at the examples. It is already happening in States across the country. In Maryland, a quarter of the families subject to increased premiums disenrolled, and those premium increases were extremely modest. In Oregon, higher costs caused disenrollment, and 67 percent of those who disenrolled became uninsured. The list goes on. In Rhode Island, nearly one in five families subject to the new premiums lost coverage. In Vermont, 11 percent disenrolled for nonpayment 1 month after the premiums increased. This is what is happening. This is an attempt to destroy the Medicare and Medicaid systems, make no mistake about it.

Not satisfied with the cuts in Medicaid already enacted, the President's budget proposes another \$14 billion in reductions in the program that meets the health needs of the poorest Americans. Some will try to say this does not have any effect on a family's health, but the facts say otherwise. When copayments rise for the poorest, health declines. This chart reflects a study of the Journal of the American Medical Association. It shows that increased copayments for medication for poor families caused an 88-percent increase in adverse events. This is from a study by the American Medical Association. The reference is printed in JAMA, the Journal of the American Medical Association. This is what happens with copays: a dramatic increase in serious adverse events. You almost have a doubling of adverse events when individuals have a nominal copay of \$2 to \$3.

Look at what happens in this chart: A 78-percent increase in emergency room visits when a copay is required. This represents emergency visits with



no copay, and this is with a nominal copay. With \$3 to \$4 for the copay, we see a significant increase in emergency visits.

What is the result? It is going to cost the system a great deal more money. This is dollar foolish and, from a health point, a disaster for individuals adversely impacted. It will fall on the States and local communities to pay for this. It is a transfer of obligation. The people who will get hurt are going to be those who have the potential for an adverse event or who need prescription drugs in order to prevent a disease from continuing to disable them.

This debate isn't about statistics. It is about the real harm these severe cutbacks will do to the most vulnerable Americans. A single mother with two children who makes \$8 an hour currently pays \$3 when she visits the doctor, and she does not have any cost sharing when her children go to the pediatrician. Under the new law, when her child goes to the pediatrician with an ear infection, she may be charged \$20. When she goes to a doctor for treatment and tests for diabetes, she will be charged \$50, and she will have to pay as much as \$832 a year. That is what you are going to get as a result of Medicaid cuts, as the chart before showed us. A single mother with two children earning \$25,000 a year now pays no premiums or cost sharing for her children's medical care and pays \$3 copayments for herself under the existing system. Under the new law, she will now be charged monthly premiums for Medicaid coverage for herself and her children. Even if she manages to pay the premiums, she may now have to pay \$40 for a pediatric visit. And she will have to pay as much as \$1,250 for Medicaid.

This is the wonderful Republican scenario. We've had no increase in the minimum wage; it has been 9 years and no increase in the minimum wage. And we are going to put more pressure on that mother, who is making \$25,000 and has two children, for her family's health care. Why? Because we want some \$50 billion more in tax breaks for the wealthiest individuals. That is what this is all about. Being in the Senate is a question of voting on priorities. The Senate will have a chance to say whether they want to give \$50 billion more to the wealthiest individuals, or take that \$50 billion and put it right back in the Medicare and Medicaid Programs which this President has cut, now and into the next several years.

The President's policies, if enacted, will cause serious hardship for the most vulnerable Americans. But the administration's cuts to Medicaid are not the only assault on our health plans. The botched Medicare drug plan and the President's Medicare cuts further harm working families. When it comes to the new prescription drug benefit in Medicare, we had a good Medicare bill in the Senate, supported by a broad, bipartisan majority. Over 70 votes supported it. But that bill was

hijacked once the White House entered the negotiations. Ideology trumped common sense. Instead of building on the Medicare Program that seniors know and trust, the drug bill was turned over to HMOs and private insurance plans enticed to participate by massive subsidies, funds that should have gone to strengthen benefits. The result has been a disaster.

But that is not how the administration's spin machine sees it. According to the budget the President submitted to Congress, the Medicare drug program is off to a good start:

The Medicare prescription drug benefit program is off to a good start.

I wish those in the administration who thought so had the opportunity to visit with seniors in Massachusetts trying to figure their way through this. My office is filled with letters of the sadness and grief from individuals who are confused and can't find their way through the 45 different alternative programs. And as they search, they ask: "Why couldn't they just give us the prescription drug benefit under the Medicare Program? I know the Medicare Program. It takes care of hospitalization. It takes care of doctor's fees. I know it. I trust it. I support it. I wonder, in these 45 programs, where the Medicare Program is?" They can search and search and search, and they won't find it because this administration is opposed to it. So the seniors in my State are going to have to fight their way through those 45 different programs to find out which one suits them and then, after they sign it, they find out that the program can change the formulary and raise the premium. That is quite a deal, isn't it? Once you are enlisted, the program can change like that. And if the senior doesn't get involved in one program or another, they will pay an extraordinary penalty for not becoming involved. Some deal.

This is off to a good start? This is how it has been described: "Prescription for Disaster; Medicare Mess Cuts Cash Flow to Pharmacists," *The Washington Times*, February 6; "Medicare Drug Mess," *New York Times*, January 22; "Pharmacists Decry Medicare Chaos," *The Tennessean*, January 17; "New Medicare [Prescription Drugs] Causes Numerous Headaches," *Chicago Sun Times*. This is what is happening: cuts in Medicare, refusing to build on the solid Medicare system which is tried and tested and proven and would give the greatest advantage to our seniors. That is what the administration is doing.

Across the country, seniors and disabled individuals facing the challenge of mental illness have been denied the medications they need to maintain their health. They have been forced to pay massive fees for the drugs they counted on. States, cities, and many pharmacies have stepped into the breach and incurred millions of dollars in expenses to fill the gaps left by the administration.

The reality is that 15 million seniors lose under the Republican Medicare

law. This chart shows what is happening across America today. Retirees are being dropped. Low-income seniors are paying more in premiums. The dual eligible is also losing. Premiums are costing more than the benefits. This represents another 6 million who will lose under the Republican Medicare law. You add those together, and you have 15 million beneficiaries who are somehow going to lose. That is the reality.

Who is going to gain? If all of these seniors and disabled Americans are losing, we have to ask: Who wins from the Republican drug plan? Someone must win. The answer is clear. The drug companies and the insurance industry win. The Republicans turned Medicare into the "sugar daddy" for the insurance industry by doling out \$67 billion in subsidies. Here is the latest chart: \$67 billion, with a \$10 billion slush fund built in. You also have the overpayment and the risk inflator. We know that any individual that is in an HMO program is 15 percent healthier than the average Medicare recipient. That is a given. CMS knows that. And what did we do? We gave the HMOs the inflator, close to 7 percent, representing an advantage of more than more than 15 percent. I thought the private sector was supposed to be more competitive and was supposed to save money. But instead, we have given \$67 billion to the insurance industry. Those are the sweeteners in the Medicare prescription drug benefit.

People back home in Massachusetts ought to understand why they are paying more in their copays—because a sweetener was needed for the insurance industry, for the HMOs. Those are the figures.

Now what about windfall profits for the drug companies? This chart represents the difference between the money that is being paid now in this particular Medicare program and what would have been paid to drug companies if they had negotiated with the administration, similar to the VA system. So now we have to pay \$67 billion to the HMOs and \$139 billion to the drug companies. That makes over \$200 billion, adding the \$67 billion and the \$140 billion, \$200 billion, Mr. Senior Citizen. We could have lowered your premiums, lowered your copayments, and gone a long way toward closing what they call the donut provisions in here.

Even with all of these sweeteners, we have a disaster. Why? Because the bill blocked Medicare from negotiating the same kind of discounts for seniors that the VA is able to get for veterans. In order to promote competition under this part, and in carrying out this part, the Secretary may not interfere with the negotiations between the drug manufacturers and the pharmacies and the Prescription Drug Providers. There it is. That effectively prohibited the administration from being involved. They pay effectively almost what the companies want.

Does the administration propose to make things right? Does President



Bush propose to kick the insurance industry and companies out of Medicare and provide a real benefit? The answer is "no." Instead of strengthening Medicare, the new budget proposes \$36 billion in Medicare cuts over the next 5 years and \$105 billion over the next 10.

The Medicare cuts will mean higher premiums for seniors and the disabled. This will result in reductions in the quality of care at hospitals and at home health agencies. In my State of Massachusetts, President Bush's Medicare cuts will mean that our hospitals will have to cut their budget by \$213 million, home health agencies by \$50 million, nursing homes by \$150 million.

Cuts in public health programs mean that our State program to screen newborns as early as possible for hearing loss will be eliminated. Seventeen rape crisis centers across the State would face significant financial hardship. Our programs on violence prevention and suicide would effectively be eliminated. Over 35 programs that train health care providers who deliver care in underserved areas and that support diversity in the health professions will be eliminated. Why should patients pay the price while this bill gives away billions in tax breaks to people who don't need them?

But, of course, Republicans have never liked Medicare and Medicaid. Even though retirees and the poor were hurting, Republicans fought against Medicare and Medicaid tooth and nail when Democrats fought to create those two important programs in the 1960s. I was here on the Senate floor in 1964 when Medicare was defeated. I was here in 1965 when the Medicare Program was enacted. Republicans defeated Medicare when it was debated in Congress in 1964. When Republicans came under fire for their opposition in the 1964 election, enough crossed over to join Democrats in passing the Medicare and Medicaid Programs in 1965.

Republicans never gave up their opposition. When they gained control of the White House and Senate in the 1980s, they tried to break Medicaid's promise of health care to poor families. They proposed converting the program into a block grant, and Democrats in Congress stopped them only after a pitched battle.

Once again, in the 1990s, House Speaker Newt Gingrich and his Contract With America wanted to eliminate Medicare. Even though seniors and Americans with disabilities relied on the program and Americans respected it, Gingrich said Medicare should just "wither on the vine." Democrats stopped them again.

More recently, Glenn Hubbard, who was President Bush's chairman of the Council of Economic Advisers in his first term, said Medicare and Medicaid should be replaced by so-called health savings accounts, which would primarily benefit the healthy and the wealthy. He said:

There is no reason to have a separate Medicare and Medicaid arrangement if you had these souped-up HSAs.

That is the architect of President Bush's health savings account, Glenn Hubbard, proposing to abolish Medicare and Medicaid. That is what this is really focused on, Mr. President. We ought to understand that.

Meanwhile, the Bush administration and Republicans in Congress continue to chip away at Medicare and Medicaid. Now they are at it again.

In the budget the President just submitted to Congress, no health priority is safe. Medicare, Medicaid, cancer research, newborn screening, trauma services for children, and many other essential programs will be severely reduced or even eliminated.

Look at this, Mr. President. Here is how these cuts affect the budget and undermine medical progress. This is how much they would need to have current services, to keep the inflator in the Medicare prescription drug benefit. Take the National Cancer Institute. Right now, we are in the age of the life sciences—with the human genome project, the sequencing of the genome, potential stem cell research, and a whole range of different opportunities. Right now, under the human genome project, researchers are sequencing genes from cancers, which are the greatest danger to families, using computers and other kinds of advanced technology. Those who are involved in this research believe that it is going to open up such hope and opportunity for the families affected and impacted by cancer. Yet we are cutting those programs \$208 million.

The National Heart, Lung and Blood Institute: we are cutting that \$123 million.

What are the reasons for this? To provide additional tax breaks for the wealthiest individuals. This is your choice. Do you think we ought to have the investment in cancer research and the Heart, Lung, and Blood Institute? At the National Institute of Diabetes and Digestive and Kidney Diseases, which funds diabetes research, we are cutting back. Yet \$1 out of \$4 from Medicare is now spent to try to deal with diabetes, along with \$1 out of \$10 Medicaid dollars. That makes a lot of sense, doesn't it? Of course it does not make sense.

Then there are neurological disorders and stroke and mental health, and we are cutting back on understanding these challenges, even as so many young people in this country are suffering with increased rates of youth suicide. We're also cutting back on Child Health and Human Development, which is so important.

All of this money should go into programs at the National Institutes of Health, but instead it is coming out and going right into additional tax breaks for the wealthiest individuals in this country.

Under the President's budget, NIH will receive \$1 billion less than is needed to keep up with inflation. Its budget will be flat for 2 years running. That has not been allowed to happen in more than half a century. Mr. President, 18

of the 19 NIH institutes will lose funding, which means that NIH will fall behind in the race for new cures. At the time when we are in the life science century, we are cutting back on those opportunities for individuals and families who are affected by cancer and Parkinson's and Alzheimer's. Is that what we want to do in the Senate? Is that the vote we want to cast? Senators will have that opportunity later on, but I believe it is the wrong priority for our Nation. The amount saved by these dangerous reductions is dwarfed by the payouts that the tax bill now under consideration in the Senate gives to the wealthy.

The tax break is particularly unfair because more than 75 percent of the tax benefits will go to people with incomes above \$200,000 a year. Over half of the benefits—53 percent—will go to people with incomes over \$1 million a year.

This amounts to a \$35,000 gift each year from Uncle Sam to the average millionaire, but it is highway robbery for the millions of seniors, disabled Americans, and poor families who will see a cut in Medicaid and Medicare services.

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 more rapidly in the early and mid-1990s when investors' income was taxed at the same rate as wages. President Bush cut taxes on capital gains and dividend income in 2003. More tax cuts that America cannot afford will hurt the economy, not help it.

There are some provisions in the Senate bill that we 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, 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 breaks at a time when we are facing record deficits.

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.

The economic trends are very disturbing for any who are willing to look at them objectively. The gap between the rich and the poor in this country has been widening in recent years. Thirty seven million Americans now live in poverty, up 19 percent during this Bush administration. One in five American children lives in poverty; 14 million children go to bed hungry every night. Wages are stagnant while

inflation drags more and more families below the poverty line. Mr. President, 2.8 million manufacturing jobs have been lost, and long-term unemployment is at historic highs.

The bill before us has the wrong priorities for the Nation. The Senate should instruct our conferees to reject any House proposal to extend the capital gains and dividend tax cuts. The funds those cuts would consume would be much better spent on Medicare and Medicaid and the Nation's other health needs. The Senate should instruct our conferees to follow the right priority and the right course.

I know the point will be made at some time during the discussion that, while this is a nice instruction, under the Senate rules we cannot really instruct, even if we were able to carry the vote. Even though it involves \$50 billion, we can not reallocate funds in this particular way. It is interesting that the \$50 billion giveaway for capital gains and dividends is exactly the amount of the cuts for Medicaid and Medicare—\$36 billion cut from Medicare and \$14 billion cut from Medicaid.

Effectively, what you are doing is continuing the extension of the 2-year dividends and capital gains tax cuts over the period of the following 5 years, reaching up to 10 years. This is the \$50 billion that we are talking about here.

So we know what is really going on, Mr. President. This is an opportunity for choice and for making a decision about what priorities you want. We know the continued assault on the Medicare Program, which is happening by undercutting that program, is going to mean that our seniors are at greater risk. Our children and expectant mothers are going to be at greater risk with cuts in Medicaid. And by failing to deal effectively with the Medicare prescription drug program, our seniors are going to be more poorly served.

In 1965, the Medicare prescription drug program was not included for a very simple reason; that is, 97 percent of private plans at that time didn't have a prescription drug program. Now they do. I was there when President Johnson signed the Medicare Program. He said: Pay your dues in Medicare and your health care needs will be attended to. That is what the Medicare prescription drug legislation did, right? Wrong. Our seniors are not attended to unless they have an effective prescription drug program. They are not getting it with this legislation, Mr. President.

To at least give our seniors the same alternatives for prescription drugs that they have for medical services in the hospital and for doctor's fees under Medicare—to say that we are going to give you these same alternatives under the Medicare prescription drug program—is effectively what over 70 Senators voted for in the Senate in a bipartisan way. Then that program was effectively hijacked by the industry, as well as by AARP, I might add, which poorly served our seniors and now regrets it. We have an opportunity to do

something about it. But, Mr. President, without an expression by our colleagues here in the Senate, we are going to see that the rush will be on to continue the kind of expenditures that will increasingly threaten the most vulnerable in our society: the elderly, the disabled, those who are facing challenges with mental health, and the children of the Nation. Those are not the priorities, I know, for my State. I hope that at the time we vote later this evening, they won't be the priorities for the Senate as a whole.

I yield the floor.

Mr. GRASSLEY. Mr. President, on Medicare—and I know the debate here is not about Medicare, but Senator KENNEDY spoke to one part of the new prescription drug program to which I wish to make reference. He referred in his remarks to the dual eligibles. He spoke about a problem that is real—the problem of signing up people who were dual eligibles into the new Medicare Part D prescription drug program.

I do not find fault with his explanation. I will say, however, that our committee which has jurisdiction over this, the Senate Finance Committee, has been working with Secretary Leavitt and Administrator McClellan of CMS to work through these problems. They pointed out seven problems they have identified. They have assumed responsibility for those problems, and they are giving us a program to work through those problems so they will not be repeated and enrollment will be easier and work more smoothly.

But the Secretary has told us about dual eligibles, that with 50 different States having 50 different ways of handling dual eligibles, frankly, merging the information technology system at the Federal level with the information which came out of 50 different States has been difficult to do.

Several of us in the Senate knew this was going to be a problem in 2003. That is why, in the Senate bill, along with the White House, we wanted to leave the dual eligibles just as they were—covered by Medicare and Medicaid. It happens that most of the Democrats in the Senate, along with Republicans in the House, felt we should end up with just 1 national Medicare Program so all of the 50 different States' dual eligibles ought to be merged into the national program.

We had a debate on the Senate floor on that issue, and my point of view won on a very narrow margin. Let me see if I can find it exactly—a very narrow margin of 47 to 51. We defeated an amendment on the Senate floor to bring them together.

What bothers me is Senator KENNEDY is bringing up all these problems. If he had listened to us 2 years ago, we would not have ended up where we have because we would not be integrating dual eligibles into the national Medicare Program. But people on his side of the aisle were just totally insistent that was the wrong way to go, that we

ought to have them integrated into the prescription drug Part D Program.

So, without embarrassing any Senator, I wish to quote a Democratic Senator who was in the middle of this debate. I am not going to give the name. Comments like this came out about how gung-ho they were to have dual eligibles in the Medicare Program. It says:

It's not a frequent day that Chairman THOMAS—

I assume that refers to Chairman THOMAS of the House Ways and Means Committee.

and I are in full agreement. But he does say such a shift "ensures that all seniors across the country will have access to affordable prescription drugs, while alleviating much of the burden that states now confront." I say to my colleagues, as I indicate, I am not always in agreement, but we are going forward directly on this policy, I hope.

Continuing to quote:

Fully integrating a key benefit for prescription drugs into Medicare is a critical first step toward improving the current system's flaws. Not only is it unfair to exclude the poorest seniors from part of the Medicare program, it is a raw deal for some of our neediest seniors. For seniors who have worked all their lives, paid into the Medicare system, it is not fair for them to be at the mercy of State coverage decisions. All Medicare beneficiaries deserve to receive Medicare benefits. There should be no exception for drugs. It would be a very bad precedent to make Medicaid pay for items that are clearly the responsibility of Medicare except at the present and in this bill for one particular discrete population.

I think that—i.e., coverage under Medicaid—puts the dual eligibles, 74 percent or less of poverty, at terrible risk, and that is not something I associate with my understanding of the values of the Senator from Iowa—

Meaning me, I believe—whom I so much respect.

That was on January 23, 2003.

On June 26, 2003, this quote was given by the same Senator:

Never in the history of Medicare have we precluded Medicare beneficiaries from being Medicare beneficiaries. In the underlying bill, for the very first time, we do.

In that rollcall of 47 to 51, to leave the dual eligibles as they were, which presumably we would not have the problem Senator KENNEDY is complaining about now—that we have a hard time integrating them into the program—he was one of those 47 Senators who thought they ought to be put into the prescription drug program.

The reason we left them out is because we wanted to solve a problem for people who did not have prescription drugs, people who were dual eligibles, already had their prescription drugs through a State/Federal program, probably to a better point than maybe their having it through our bill where they pay some copay. At least in some States, they probably didn't have to pay a copay. We wanted to take care of the seniors who didn't have any prescription drug program, and by leaving the dual eligibles as they were, it would free up money to take care of more seniors.

As I said, we lost out in the final analysis. In conference, we agreed to include the dual eligibles in this program. Now I hear all this complaint about how it is working to the detriment of seniors because of the integration of 50 different State programs into 1 national program. It will be worked out. It will be worked out. The Secretary of HHS, Mr. Leavitt, says it will work out. He is working on it. He has identified a solution to it, and every day the signup is getting better as we sign up 94,000 people each day into the Part D prescription drug program.

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

Mr. BAUCUS. Mr. President, today, we debate this tax reconciliation bill for a third time.

We last debated this bill on February 2, Groundhog Day. My friend from Iowa, the chairman of the committee, Senator GRASSLEY, last week compared this repeated debate to Groundhog Day. That is true. This debate does remind us of the wonderful film "Groundhog Day," where Bill Murray is forced to live the same day over and over again. But at the risk of giving away some of the plot of the film, let me remind my colleagues of the lesson of the film. In the film, providence dooms Bill Murray to repeat the same day—Groundhog Day, that is—until he learns to live it right. One might say that is where we are. We are doomed to debate tax policy over and over again until we get it right.

In November, when we first debated this bill, the Senate voted 64 to 33 to pass the bill to support AMT relief to middle-income families. Again, last week, the Senate voted 66 to 31 to again pass the bill and support the alternative minimum tax, otherwise known as AMT, relief for middle-income families. In particular, the Senate last week voted 73 to 24 to support the Menendez amendment to express the sense of the Senate that protecting middle-income families from the alternative minimum tax should be a higher priority in 2006 than extending capital gains and dividends tax cuts that do not expire until the end of 2008 or the beginning of 2009.

So the same question keeps popping up over and over again and the same answer keeps coming back: Let's make sure the relief from the onerous and family unfriendly AMT happens now. We must defer on extending expensive tax breaks for investors until a later date.

Yet I keep reading in the papers that Senate leaders have promised that capital gains and dividends tax cuts will still be in this reconciliation bill. The Senate position, by an overwhelming vote of 73 Senators, is providing immediate relief to more than 17 million middle-income families that otherwise would see a tax increase this year. Since that is so, it seems to me we should accept that position, accept

that view, and work toward its enactment.

Statements that we will provide AMT relief to working families separately and later in the year undermine this Senate position. It is statements such as those that have led us to this Groundhog Day. It is statements such as that that call into question the Senate's votes and cause the Senate to have to vote once again to deliver that same message. Today, we will debate several motions to instruct, and the first one will be Groundhog Day for AMT.

For 17 million American families, 2006 came with an unwelcome surprise—a stealth tax. The temporary protection from alternative minimum tax, or AMT, expired December 31. That means that 17 million more American families will be subject to it this year. That is an increase from 3 million to 20 million taxpayers in one year alone.

Once again, the Senate will debate whether to support our position, where AMT relief is a priority. In contrast, the House position was to prefer extending capital gains and dividends cuts, which expire in 2009; that is, over AMT protection, which expired 6 weeks ago. I think the answer to that is clear.

If the House position prevails in conference, working families will lose. If we do not extend the AMT protection, a family with three kids earning \$63,000 will be hit by the AMT this year. The AMT is family unfriendly. The AMT creeps deeper and deeper into working families each year. Protection from the AMT should be a priority for both sides of the aisle and both sides of the Capitol.

Instead, the House has passed a separate alternative minimum tax bill without the procedural protections of this bill. And while this other House bill purports to protect families from the alternative minimum tax, there will still be 600,000 additional taxpayers paying higher taxes for this year 2006 due to this stealth tax. The House AMT patch, or otherwise known as the harmless provision, as some have called it, does not really hold anyone harmless. Last year, 2005, there were 3.6 million American taxpayers paying this AMT stealth tax. Under the House bill, there would be 4.2 million taxpayers paying the AMT stealth tax in 2006; that is, this year.

So as we debate this issue once again, let us remember our priority: that millions of working families now subject to a tax increase courtesy of the AMT are a priority we should address. Once we accept that priority, the decision whether to allocate \$50 billion to extending capital gains tax cuts becomes much more clear. So let us do what is urgent first. Let us do what working families expect and need. Doing so will be the only way to move on to better days for these families.

I want to expand on that last point. The capital gains and dividends tax cuts contained in the House bill, as I

mentioned, are among matters most in dispute in this legislation, so let me take a couple of moments to discuss why Congress does not need to extend them in this bill.

Under current law, taxpayers who earn money in capital gains and dividend income pay taxes on that income at a lower rate than they do on their ordinary income; for example, wages. In 2003, we passed legislation that set the current law for the taxation of capital gains and dividend income. For taxpayers in most income brackets, capital gains and dividend income are taxed at 15 percent. Taxpayers in the lower two tax brackets do not receive a great deal of capital gains and dividend income. But for taxpayers in those two brackets, what capital gains and dividend income they receive is taxed at 5 percent now and will be tax free in 2008. Prior law, before 2003, taxed long-term capital gains at 20 percent or 10 percent. Prior law taxed dividend income similar to any other ordinary income, so there is a split in capital gains. The House bill would extend the lower tax rates Congress enacted in 2003 to the end of 2010.

The first question before us, therefore, is when does Congress need to act on capital gains and dividend income tax rates? Those rates do not expire this year. Those rates do not expire next year. Those rates do not expire the year after that. Rather, those rates expire on January 1, 2009, about 3 years from now, after the next Presidential election.

So the first thing we need to note is that extension of capital gains and dividends tax rates is far from an urgent matter.

The second question we need to ask is: Is it fiscally responsible to extend those tax cuts right now?

According to the Joint Committee on Taxation, the cost of a 2-year extension of those tax rates amounts to \$50 billion over a 10-year budgetary horizon. Some who like lower capital gains and dividends tax rates will cite a lower 5-year cost of \$20 billion, but that masks the full cost over the decade to come.

Perhaps we should be a little more frank with the American people because it is no secret that many who like lower capital gains and dividends tax rates would like to make those lower rates permanent. This is the position the administration takes. So we ought to look at the cost of making those rates permanent. According to the President's new budget request, making these tax cuts permanent would cost more than \$200 billion over 10 years.

Mr. President, \$200 billion is a lot of money. Two hundred billion dollars is about what we spend on fighting crime, combating drugs, and the entire administration of Justice for 5 years. Two hundred billion dollars is about what the Federal Government spends on highways, airports, and the entire Transportation budget for 3 years. And \$200 billion is about what we spend on

veterans' retirement and disability benefits for 6 years. So extending capital gains and dividend tax cuts costs real money.

The third question we need to ask is: Are capital gains and dividends tax cuts the best use of the money set aside for tax cuts in the budget? For there is a far more pressing need for tax relief before us in this bill and that is relief from the onerous alternative minimum tax.

Millions of working families are beginning their annual ritual of filling out their tax returns. It takes more time than most of us would like, and millions of taxpayers are being forced to fill out their returns twice. They have to do so if they owe money under the alternative minimum tax. The need for relief from the alternative minimum tax is not some faraway possibility, several years down the road. Relief from the alternative minimum tax expired for the tax year 2006. That is the more pressing tax relief need before us.

Treasury Secretary Snow testified before the Senate Finance Committee last Tuesday. He told the committee:

Tax increases carry an enormous risk of economic damage. And I can tell you today that the President will not accept that risk. He will not accept a tax increase on the American people.

That is exactly why we need to prevent a tax increase on those working American families who would be subject to the alternative minimum tax, unless we act. In the same vein, the popular research and development tax credit expired at the end of last year. Businesses have argued for years that the annual 1-year extension provides no certainty for business planning and investment. We need to extend the R&D tax credit.

Some will make breathless arguments that capital gains and dividends tax cuts are necessary. Why are they necessary, they say? They say they are necessary to prevent dire consequences in the stock market. They say that the stock market will plunge if we don't enact this in 2 years. It doesn't need to be enacted. They want to enact it because the current law is in existence until January 1, 2009. But they say the stock market is going to fall.

Let us look at the time period starting in May 2003, when Congress reduced the dividend and capital gains tax rates. Since then, the stock market has seen a 14-percent growth. Furthermore, let us look at the time when Congress first cut the capital gains tax rate in August of 1997. Between then and the time the further cuts were made in May of 2003, the market grew by 13 percent. Now let us look at the time before either the capital gains or dividends tax cuts. Before the 1997 tax cuts, capital gains were taxed at 28 percent, much higher than the current law, and dividends were taxed as ordinary income, higher than under current law. In those times of higher capital gains and dividend tax rates, be-

tween the time the Clinton administration took office and August 1997, did the market grow by 13 percent or 14 percent? No. The market grew by a whopping 236 percent, far more than the 13 percent and 14 percent when the lower rates were in existence.

So the evidence is not there that lower capital gains and dividends tax cuts will lead to increased stock prices. Indeed, one would make the case that other economic factors are much more important to stock market returns than are capital gains and dividends tax rates.

One of those factors is the fiscal responsibility of the mid-1990s. After President Clinton took office in 1993, Congress and the President enacted meaningful, I mean meaningful deficit reduction. We reduced the Government's demand for scarce capital. We freed up savings to finance productive business investments. And we put the Nation on a path to economic growth. In contrast, financing tax cuts by running greater deficits increases the Government's demand for scarce capital. Deficit-financed tax cuts take away savings that could be available to finance productive business investments. Increasing the deficit detracts from economic growth.

To encourage economic growth, we need to get deficits under control, and the first step we can take down that road is to stop making the deficit worse by enacting more tax cuts than we can afford.

Capital gains and dividends tax cuts do not expire for 3 years. Capital gains and dividends tax cuts cost a lot of money. Capital gains and dividends tax cuts are a less-pressing priority than relief from the alternative minimum tax. And the evidence is simply not there that capital gains and dividends tax cuts contribute to market strength. That is not the evidence. It may be somebody's theory, but that is not the evidence.

So that is why we do not need to extend capital gains and dividends tax cuts today. We can face this issue later. Rather, let us address the more pressing need to extend relief from the alternative minimum tax. Let us act responsibly. Let us save capital gains and dividends tax cuts for another day.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, Senator KENNEDY repeats the old demagogic saw about capital gains and dividends being only tax benefits for the wealthy. The facts are very different. I have two charts here which will show how wrong he is. One of these charts deals with capital gains. The other one deals with dividends.

Dividends is the first one to which I make reference because, in the State of Massachusetts, you can't have all these wealthy people benefiting from the 15-percent dividend tax instead of what he would prefer, the 20-percent dividend tax. Don't forget, again, as I referred in

my opening remarks, these are year 2003 figures, so it could be a lot more than that right now, but these are the most up-to-date Internal Revenue Service figures we have.

In Massachusetts, we have 589,897 taxpayers who benefit from the 15-percent capital gains dividend. Don't tell me that all 589,000 of those are millionaires. Massachusetts may be a very wealthy State, but it doesn't have that many millionaires in it. So somewhere along the line, Senator KENNEDY ought to wake up to the fact that there are a lot of middle-income and common folks in his State who are benefiting from the 15-percent tax on dividends instead of having a 33-percent increase in that tax and having it go back to 20 percent.

My friend from Montana did make a correct judgment that this is not running out right now. But the point is that when you are asking people to invest to create jobs in America, they have to have the long-term view of that investment. If you want to encourage investment to create jobs, people have to know what the tax law is for the long term, not for the short term.

The point is, in order to persecute a few millionaires, Senator KENNEDY wants to punish the many. And the many are the 589,000 people in his State who benefit from the 15-percent tax on dividends.

Let's go to the number of people in that State who benefit from the 15-percent capital gains tax. There are 212,000 people in Massachusetts—again, I remind you these are 2003 tax year figures because that is the most up-to-date we have from the IRS. There are more today, probably. But there are 212,000 people in Massachusetts, tax-paying families and individuals, benefiting from the 15-percent capital gains tax. Those are not wealthy people.

Again, you get back to the point of whether we ought to persecute the few, the few millionaires he is talking about, persecute them and at the same time punish 212,000 people in the State of Massachusetts. I don't think so. I don't think it is good policy.

I hope this Congress is able to have a sensible tax policy that not only includes sensible levels of taxation, but if you look at all the dividends that are being paid out today that wouldn't have otherwise been paid out, you think you would come to a conclusion that is a sensible policy because we have tens of millions of taxpayers deciding how the profits of a corporation are going to be spent instead of a few thousand chief executive officers of those same corporations deciding how it is going to be spent. When millions of taxpayers are making those decisions, it is going to respond to the dynamics of our economic system and create more jobs and important prosperity than when a few corporation executives keep all those profits internal in a corporation making those decisions.

I don't think we ought to be persecuting a few to punish the many.

When it comes to these motions to instruct, we may have some motions to instruct on this side of the aisle that will set the record straight on what we are trying to accomplish and give people opportunities to vote on good economic policy and good tax policy as well as bad economic policy and bad tax policy that we are getting from some on the other side of the aisle.

In 2003, a bipartisan Congress lowered the top tax rate on dividends and capital gains to 15 percent through December 31, 2008, and for low- and middle-income taxpayers to 5 percent through 2007 and zero percent through 2008.

I filed six motions to instruct conferees to report back a conference report that includes the extension of these tax rates through 2009 and through 2010, the same as the House of Representatives has.

Critics of this policy claim these are tax cuts for the rich that make a budget deficit worse because they want to persecute the few and in the process punish the many. But I filed these motions that are going to tell the other side of the story; that when you have sound tax policy which encourages the economy to grow, we are also going to reduce the deficit.

Besides, let me suggest to you that I don't know how it is in other States, but I don't run into very many in my State who are saying I am undertaxed, tax me more. But I run into people day after day in almost every one of my town meetings where they are complaining about the overspending of the Congress of the United States.

In regard to the other side of the story and the motions to instruct that I filed, the lower rates of capital gains and dividends have produced several positive effects. They benefited low- and middle-income families in a meaningful way.

Can't you see that when you have a very low tax rate for certain low-income people, as one example? For low- and middle-income taxpayers, it will be 5 percent through 2007 and zero percent through 2008. This is going to encourage people to save to a greater extent, particularly people who have a lower income and don't have the ability to save.

These lower tax rates have reduced the tax burden on senior citizens who rely on their investment incomes during retirement. They have contributed to our economic recovery and continue to help the economy grow. They have made capital investments in America more competitive with the capital investment in other countries. With the globalization of the economy, that is something we always have to be cognizant of in this Congress, that you can't have a tax policy that makes our corporations, particularly in manufacturing, uncompetitive with manufacturing overseas.

Finally, these tax rates have helped impose transparency and discipline on corporate managers which is critical to protecting investments and workers.

I may or may not seek a vote on these motions to instruct, but I want to go through each one of these points which I made so that when Members come over to vote tonight, they will know some of the rationale behind Republican motions.

The lower rates on dividends and capital gains have benefited low- and middle-income families in a meaningful way. That is the third time I have said that in the last 5 minutes. But we have to get away from this attitude of persecuting a few and in the process punishing the many.

I don't know whether they on the other side of the aisle realize it, but when they want to persecute a few millionaires, they are punishing hundreds of thousands of people—I guess it is millions of people, if you take all 50 States, but I was making reference to the State of Massachusetts.

According to the Internal Revenue Service estimates for 2003 tax return data, about 10 million low- and middle-income taxpayers have \$34 billion of income taxed at the 5-percent rate and saved at least \$1.7 billion, or about \$170 per taxpayer on average.

I know what I am going to hear from the other side. Well, \$170 is nothing. Why don't we let the taxpayers of this country decide whether they would rather spend that \$170 or that we ought to spend it for them?

I can guarantee if they invest it, or if they spend it, it is going to do more economic good than if I spend it for them as a Member of Congress. That is the way the dynamics are and the way society works. Money spent by the Government doesn't turn over as many times in the economy as it does if it is spent in the private sector.

At these 2003 levels, these taxpayers I have referred to save a heck of a lot of money. Don't forget, in 2008 that rate drops to zero percent.

My motion would instruct the conferees to ensure that Congress won't raise the annual tax bill on low- and middle-income taxpayers at the 2003 levels. That tax increase would be at least \$3.4 billion. That is an average of \$340 per taxpayer.

Senior citizens benefit from lower tax rates on dividends and capital gains. They have reduced the tax burden for senior citizens who rely more than working people do on investment income, and they need this particularly during retirement.

According to IRS estimates for 2003 tax return data, about 57 percent of the tax returns for taxpayers age 65 and older had taxable dividends income. That is over 6.5 million tax returns. These taxpayers rely on investment income, and particularly dividend income in their retirement. Low- and middle-income seniors pay tax on this dividend income at the 5-percent rate instead of 20 percent or 15 percent. That rate for these low-income seniors is going to drop to zero in 2008. Other taxpaying citizens, those with higher incomes, paid at the 15-percent rate,

but that was instead of paying at the 35-percent rate.

We need to instruct the conferees that Congress won't impose a new tax on low- and middle-income seniors and more than double the tax on other tax-paying seniors in 2009 and 2010. In other words, we need to tell the other side to quit persecuting a few because in the process you punish the many.

In this particular case, why would they be crying about what we might be doing to senior citizens in one of the recent speeches and then stand there and want to increase the tax rates from zero percent to 35 percent for some of these people who are senior citizens?

Also these reduced tax rates on dividends and capital gains have contributed tremendously to our economic recovery and continue to help our economy grow. They reduce the cost of capital for American businesses and increase return on investment, enhancing economic growth, creating more jobs, and expanding the tax base.

Companies are responding to shareholder demand created by the lower 15-percent rate on dividends by paying record levels of dividends.

According to the Congressional Budget Office, capital gains realizations increased significantly in 2003, 2004, and 2005, causing capital gains tax revenues to be \$62 billion higher over those years than were projected before we changed this law.

Don't tell me that \$62 billion more coming in, according to the CBO—not a partisan like me; they are non-partisan—\$62 billion more didn't benefit the Treasury and reduce the deficit by reducing taxes. You know what you get out of this—a growing economy. That means more jobs, and 44.7 million jobs have been created since this tax policy has been in effect. The unemployment rate has dropped during the same period of time from 6.1 percent to 4.7 percent.

I feel very strongly, just as the other side wants to persecute the few to punish the many by going after what they call millionaires, that we ought to state the reality: that is, my motion to instruct the reality of keeping these tax rates so the economy continues to grow.

The progrowth policy will not expire at the end of 2008 or at the end of 2009 because investors who need the long-term view of investing know what the law is going to be and are going to make decisions.

The lower rates have done another thing—they have made our businesses more competitive with the global economy. And other countries around the world, having lower tax rates than we have, have jumped ahead of our businesses. Even with the United States at 50.8 percent, we still have the eighth highest tax rate on corporate income among the 30 nations in the OECD. For every dollar an American corporation makes on its U.S. investments, more than half of it ends up in Federal and State governments. Without the lower

dividend tax rate, it would have been nearly 63 cents of every dollar, ranking second only behind Japan.

High taxes on capital investment make the United States less attractive compared within investment opportunities in other countries. That costs us jobs. In today's global economy, we should do everything we can to ensure the competitiveness of our businesses.

In this process of persecuting a few, the few millionaires, punishing everybody, you are punishing the people who need jobs, and who lose jobs because our businesses can't be competitive because our cost of capital is higher than global competition. Also, there is a benefit to a motion to instruct for transparency of how a corporation works. The lower rates have helped impose transparency and discipline on corporate managers. That is very important to protecting investors and, particularly, jobs for our workers.

The high tax on dividends causes corporations to favor debt financing over equity financing, leaving more highly leveraged businesses vulnerable to economic downturns. High dividend taxes reduce the demand to receive and thus the incentive to pay dividends, leading corporate managers to invest in wasteful and unprofitable projects and to hide the results from their investors and their workers.

On the other hand, the reduced tax rate on dividends lessens the disparity between debt and equity financing, thus heightening demand for dividends, thus contributing to more transparency and more accountability of corporate managers for their decisions.

It seems to me in this post-Enron era, we need to instruct the conferees to ensure that the transparency and the discipline imposed on corporate managers by lower dividend taxes and critical to protecting investors and workers is not threatened by this expiration date in 2009 and 2010.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we next expect to hear from the Senator from Connecticut, Mr. DODD, to have a motion to instruct on veterans and military personnel. We anticipate thereafter we will hear from the Senator from Rhode Island. He will have a motion to instruct on defense needs.

I yield the floor so the Senator from Connecticut may send his motion to the desk.

The PRESIDING OFFICER. The Senator from Connecticut.

#### MOTION TO INSTRUCT CONFEREES

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

The PRESIDING OFFICER. Without objection, the pending motion is laid aside.

The clerk will report the motion.

The assistant legislative clerk read as follows:

Mr. DODD moves that the managers on the part of the Senate at the conference on the

disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to insist on the inclusion in the final conference report of the funding to support the health needs of America's veterans and military personnel contained in section 315 of the Senate amendment instead of any extension of the tax breaks for capital gains and dividends for individuals with annual incomes greater than \$1,000,000.

Mr. DODD. I thank the clerk for reading the full motion. Normally, I would interrupt the reading by the clerk, but I thought it important that those interested in the debate would understand what the motion is. This is a motion to instruct the conferees to support an amendment this body passed 2 weeks ago.

That evening, my good friend from Iowa, the chairman of the committee, in an awkward moment—it was a rather complicated moment involving an amendment—offered a substitute that took the heart of my amendment without the offsets that were included in my amendment, which this body adopted unanimously on a voice vote.

I am offering a motion to instruct the conferees to support that amendment. I also hope they will reconsider some of the offsets we suggested in the amendment I offered when this matter was debated by the full Senate. I would like to remind my colleagues that the proposal I offered the other evening was strongly endorsed and supported by the American Legion, a group that certainly understands the importance of providing the support and backing our veterans deserve, particularly those who are returning from theaters of conflict today in Afghanistan and Iraq.

I ask unanimous consent this letter from the American Legion 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,

STEVE ROBERTSON,  
Director,  
National Legislative Commission.

Mr. DODD. I will have additional inclusions for the RECORD further in the debate as I lay out the arguments for this motion.

This is about priorities and choices. Those involved in public life are constantly asked to make choices and establish sets of priorities. It is not easy in many cases. Sometimes the choices are very difficult to make. In this case, the choice is a rather easy choice, it seems to me, given the facts presented by this motion. The amendment we offered 2 weeks ago and the substitute offered by the chairman of the Committee on Finance that this body adopted, provides for \$12.9 billion for disability payments to veterans, \$6.9 billion for veterans medical care, and \$1 billion for veterans health facilities. I will explain those particular items in more detail in a few minutes. Basically, that was the amendment to which this body agreed.

The offset proposed in my amendment would have sunset the capital gains and dividends tax breaks for only those people making more than \$1 million a year—which amounts to two-tenths of 1 percent of all taxpayers—99.8 percent of all other taxpayers under our proposal would not have been touched, only those making more than \$1 million a year.

We suggested that the money saved by not providing the tax break for people in that small group be used to pay for the veterans benefits I have described. The House bill proposes to raise to \$64.8 billion the amount we spend on tax benefits for the income group I have just described. We asked instead to reduce that amount in order to adequately provide for these veterans benefits.

I noticed earlier our friend and colleague, the chairman of the Committee on Finance, referred to today's proceedings as being akin to the movie "Groundhog Day." He stated that this is the third time the Senate has debated this bill in one form or another. I appreciated his discussion. Certainly, I can understand his frustration as the chairman of the committee that deals with such an important matter in this tax legislation. He and my colleague from Montana, Senator BAUCUS, have worked very hard on this legislation and would like to see it moved to conference. I agree. In fact, his reference to that movie is apt, and I endorse it.

The movie "Groundhog Day" reminds us sometimes in life we get another chance to get it right. That is what we are going to try to do this evening. That is why we are here today, to hopefully get it right when it comes to paying for urgent priorities



such as the health and safety of our troops and our veterans.

I don't know of another constituency group in America—maybe some of my colleagues might argue with what I am about to say, but I don't think there is another group of Americans who deserves as much of our attention as people who put their lives on the line for the United States of America every day. Those young men and women who are returning from theaters of conflict, broken individuals, at least in body—amputees, scarred, burned, and suffering tragic injuries of war—deserve every bit of thanks, verbally, we can provide for them. But beyond that, they deserve our support and backing when it comes to the priorities of this Nation. I don't think it is asking too much, at a moment like this, to say to two-tenths of 1 percent of taxpayers: How about a break; how about not taking that extra tax break and providing for the veterans benefits that are needed for these young men and women who are coming back from the theaters of conflict.

When this bill last came to the Senate 2 weeks ago, I offered an amendment that would have provided crucial health funds in a fiscally responsible manner to our wounded troops coming home.

Tax legislation passed in 2003 calls for spending \$43 billion over the next 5 years on capital gains and dividend tax breaks for individuals making more than \$1 million a year. The bill proposed by the House of Representatives would raise this number much higher—by this chart I am showing—to \$64.8 billion. Instead of spending this money on the wealthiest two-tenths of 1 percent of the population of the United States of America, my amendment would have used the resources to meet our veterans health needs—estimated by Nobel Prize-winning economist Joseph Stiglitz to be \$18.9 billion over the next 5 years—establish a \$1 billion trust fund for health facilities treating wounded and disabled veterans returning home, and reduce the deficit by approximately \$23 billion. That was the amendment I offered 2 weeks ago.

Regrettably, this Senate did not approve my amendment. We did, however, unanimously adopt, as I mentioned earlier, a substitute offered by my colleague from Iowa, the chairman of the Committee on Finance, that still provides these needed funds—just without paying for them, as I and many other colleagues would have preferred. We believe you ought to pay for it.

Once again we are coming back. I regret the need for a “Groundhog Day,” but because of the procedures we operate under, I am getting a second chance. In effect, I am giving my colleagues a second chance to get this right. Do you believe it is that difficult a choice to make to reduce that \$64.8 billion that we are about to provide to two-tenths of 1 percent of the wealthiest Americans, to provide for the basic needs of our veterans returning from

the theaters of conflict? That is the choice we will make when this vote occurs later today or this evening.

The House of Representatives has proposed not only keeping in place the scheduled dividends and capital gains tax breaks enacted in 2003 but adding 2 more years of them. My motion makes no statement about these tax breaks for the 99.8 percent of Americans who will get them. But for the two-tenths of 1 percent of the population that I am talking about, I think, frankly, they could do without this. I will tell you why.

Over the last number of years, we have provided \$125 billion in benefits for this very narrow group of individuals. Between the 2001 and 2003 tax breaks alone, individuals in this narrow group—the top two-tenths of 1 percent of the population of our great country—have received more than \$125 billion in benefits under the Tax Code. Meanwhile, our soldiers and veterans are being told to go without essential items such as body armor and the health care they need and deserve.

Again, politics is often about choices. In fact, in most cases it is about choices. What I am offering my colleagues tonight is a choice on whether we continue to underscore what the House has done or what we are doing by not paying for the benefits, or do we do what all of us would like to see done; that is, do we properly take care of these men and women coming back from the theaters of war.

The motion does not ask for the return of any of the \$125 billion we have given between the 2001 and 2003 legislation. It simply acknowledges the reality that in a time of record budget deficits we need to make some different choices. Do we provide more tax breaks for a small group that has already received so much since this administration took office, as the House of Representatives proposes to do, or do we meet the needs of a nation at war in properly taking care of our wounded and disabled veterans as the funding approved by this Senate would do?

Over 2,200 men and women in uniform have died in combat in Iraq. Over 16,000 have been severely wounded in that conflict. But instead of addressing their needs fully and adequately, this administration has underfunded veterans medical health care.

Let me go back and make a point on tax, so everyone knows what I am talking about. Under the House bill, this is the choice: If we adopt in the conference the House bill and drop this amendment—some suggest it would not make it 10 feet down the hall between this Chamber and the House—we will be left with the wealthiest benefiting the most by extending the capital gains and dividends tax breaks.

The average tax cut in 2009, if this bill is agreed to, if you make \$50,000 or less, will be \$11. If you make between \$50,000 and \$100,000, your tax break is \$77. If you make between \$100,000 and

\$200,000, you get a \$228 tax break. If you make between \$200,000 and \$1 million, you get a little more than \$1,300 in a tax break. If you make \$1 million or more, you get \$32,111 in tax breaks. That is from the Urban-Brookings Tax Policy Center, their analysis of what would happen under this bill.

All we are suggesting is to take care of this by reducing that tax break for the people making over \$1 million a year. I also want to see us beef up what could happen for the other individuals in the tax categories. The people making \$100,000 and less, to receive \$75 or \$85 in a tax break is hardly what I call a windfall for people in this category.

I come back again to the beneficiaries under the motion I am making today and how they benefit. In fact, last year the administration devised its fiscal year 2006 VA budget that could only handle 23,000 veterans returning from Iraq. This number was drastically too low and the Veterans' Administration had to scramble to meet the needs of over 103,000 Iraq veterans on top of its already existing patient load. Imagine that. They submitted a budget that only provided for 23,000, and yet over 103,000 actually came back from that theater alone, to be added to the already overburdened patient flow.

Congress was forced, of course, as my colleague may recall, to intervene in the middle of the year, and in June of last year we approved an emergency spending bill that provided an additional \$1.3 billion to address shortfalls in the VA health budget.

Now, I must stress that I have the greatest respect and admiration for former VA Secretary Tony Principi and the current occupant of that post, Jim Nicholson. I do not envy their jobs, particularly when they have an administration that does not seem to want to step up to the plate and provide the kind of backing at the budget office they deserve. They have led their Department with great distinction and have continued to do the best they can under the circumstances. But they have had a difficult task since the current occupants of the White House have repeatedly provided them with very, very limited resources.

I would like to show as well this article which appeared in the Washington Post. I will not read all of it, but I wish to point out a particular commendation for a Republican Member of the House, STEVE BUYER, a Republican from Indiana, because it was from his insistent questioning at the time of the VA Under Secretary for Health that they were able to determine the \$1 billion shortfall existed. Had it not been for the efforts of STEVE BUYER, we may not have been able to correct the shortfall which existed at the time. From the beginning, our colleague, Senator PATTY MURRAY, as a member of the Senate Appropriations Subcommittee covering veterans and a lead sponsor of Democratic efforts to restore this amount, also led the charge, later joined by LARRY CRAIG of



Idaho and others in her efforts. That is how the money got back in. But if it had not been for these Members, we might still be arguing about the shortfalls that were needed to provide for those people.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 24, 2005]

**FUNDS FOR HEALTH CARE OF VETERANS \$1 BILLION SHORT**

(By Thomas B. Edsall)

The Bush administration, already accused by veterans groups of seeking inadequate funds for health care next year, acknowledged yesterday that it is short \$1 billion for covering current needs at the Department of Veterans Affairs this year.

The disclosure of the shortfall angered Senate Republicans who have been voting down Democratic proposals to boost VA programs at significant political cost. Their votes have brought the wrath of the American Legion, the Paralyzed Veterans of America and other organizations down on the GOP.

"I was on the phone this morning with Secretary of Veterans Affairs Jim Nicholson, letting him know that I am not pleased that this has happened," said Sen. Larry E. Craig (R-Idaho), chairman of the Senate Veterans Affairs Committee. "I am certain that he is going to take serious steps to ensure that this type of episode is not repeated."

The \$1 billion shortfall emerged during an administration midyear budget review and was acknowledged only during lengthy questioning of Jonathan B. Perlin, VA undersecretary for health, by House Veterans Affairs Committee Chairman Steve Buyer (R-Ind.) at a hearing yesterday.

"We weren't on the mark from the actuarial model," Perlin testified. He said that the department has already had to use more than \$300 million from a fund that had been expected to be carried over to the fiscal 2006 budget, and that as much as \$600 million for planned capital spending will have to be shifted to pay for health care.

At a noon news conference yesterday, Sen. Patty Murray (D-Wash.), a member of the Senate Appropriations subcommittee covering veterans affairs and the lead sponsor of Senate Democratic efforts to add \$1.9 billion to the VA budget, accused the Bush administration of unwillingness "to make the sacrifices necessary to fulfill the promises we have made to our veterans."

In a rare display of bipartisanship on the polarized issue of veterans spending, Craig appeared with Murray at the news conference and said he agreed with many of her comments.

Murray cited an April 5 letter written by Nicholson to the Senate in a bid to defeat her amendment: "I can assure you that VA does not need emergency supplemental funds in FY2005 to continue to provide timely, quality service that is always our goal," he had said.

Mr. DODD. We cannot and should not address veterans' needs on the cheap again. According to some experts, this year, the VA health system is likely to face another shortfall of \$2.6 billion due to the administration's drastically low veterans budget. And for all of the President's rhetoric about supporting

our troops—and I do not in any way doubt he means it when he says it, but I remain concerned that the administration fails to back up the rhetoric with the kind of actions needed to see to it that these troops are going to get the support they deserve.

On the whole, I commend the President for finally proposing an increase of \$1.9 billion in the VA budget for 2007. But as in previous years, the administration's priorities are wholly misplaced. In spite of the proposed increase, the President's 2007 request cuts the VA hospital construction budget by \$576 million. To make matters worse, the administration's proposed budget would impose a doubling of veterans' prescription drug copays and assess a new \$250 enrollment fee for thousands of veterans across our country.

As I mentioned on the floor before, the situation has gotten so dire that now our military personnel and veterans are having to rely on the charity of private citizens to build critical health facilities to meet their needs. According to the Departments of Defense and Veterans Affairs, our military personnel are suffering inordinate numbers of injuries resulting in brain damage, spinal injuries, and amputations. About 20 percent of those injured have suffered major head or spinal injuries and an additional 6 percent are amputees. Without financial support, our veterans are actually having to depend on the charity of private citizens to finance the construction of major rehabilitation centers for the most seriously wounded.

The Bush administration is simply not meeting its obligations to those wounded in Iraq—a war that has returned home amputees at twice the rate of Vietnam. And so, instead, the Intrepid Fallen Heroes Fund is raising \$37 million to build the Intrepid Center at Fort Sam Houston next year. It will be manned and operated by VA and Army personnel, but it is currently not expected to receive a dime from the U.S. Treasury for its construction because the White House would rather dole out scarce resources to the wealthiest of our fellow citizens who have already received so much. What kind of a choice are we making when we do that?

I remind my colleagues that the funding approved by this body—which without the support of this motion I fear will be wiped out in conference—will allow critical facilities such as this one to receive the investments they deserve from our Nation's Government.

Moreover, it will create a trust fund to allow private and State facilities that provide medical treatment to veterans to receive Federal funds as they meet our veterans critical health care needs. In addition to facilities such as the Intrepid Center, it will allow vital hospitals and veterans residences, such

as the Connecticut State veterans home at Rocky Hill, the opportunity to tap into vital Federal resources as they strain to meet the increasing demands of caring for our veterans—young as well as old.

I cannot stress the importance of these programs enough. Our veterans need the critical care provided at our State veterans nursing homes and, regrettably, this administration is choosing to put scarce resources into more high-income tax breaks rather than address our veterans' essential living needs.

As a matter of fact, last year, the President actually proposed cutting off States' access to Federal funds to build and maintain State veterans homes. I did not make that up. That is what they proposed. It took an act of the Congress to reverse the President's budget proposal.

This year, although the Department has a list of 129—I am going to put these in the RECORD, Mr. President; I want my colleagues to see them—although the Department has a list of 129 State veterans projects approved for receiving Federal grants for new construction and improvements, 2006 allocations only provided enough for 13 of these 129 State projects around our country.

I will guarantee my colleagues, every one of your States is included in projects that will not be funded. These are your State veterans facilities, and these are good people out there doing a Herculean job of trying to provide for veterans from your States. Here they are, with 129 requests for projects they need, and only 13 of them will be funded because we are going to provide a huge tax break for people who have received \$125 billion in tax breaks and are now about to get almost \$70 billion more.

I would hope my colleagues would just, on this alone, be willing to support this motion. The proposed 2007 budget would flat-line this program of State construction at \$85 million, providing funding, as I said, for 10 to 13 projects—it may not even be 13—and still leaving over 100 State veterans facilities looking for additional resources.

The funding approved by this body and supported by this motion I am offering this afternoon would address these shortfalls.

Mr. President, I ask unanimous consent that this Priority List of Pending State Home Construction Grant Applications—it lists the State, the facility in your State; and only the top 13 will be approved; maybe 13, maybe 10 next year—I ask unanimous consent that this list be printed in the RECORD so my colleagues can determine whether their State facility is on the list.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## PRIORITY LIST OF PENDING STATE HOME CONSTRUCTION GRANT APPLICATIONS FOR FY 2006

FY 2006 list rank	FAI No.	State (locality)	Description	Priority group (PG) ranking	Est. VA grant cost (000)
<b>Applications Subject to 38 CFR 59 Priority Group 1</b>					
1	31-014	NE (Bellevue)*	L/S 120-Bed NHC/DOM (Repl.)	1, 2	13,658
2	13-008	GA (Milledgeville)	Life Safety/HVAC and Upgrades at the Russell Bldg.	1, 2	991
3	50-008	VT (Bennington)	L/S Geothermal HVAC, Phase 1	1, 4	1,716
4	13-010	GA (Milledgeville)	Life Safety/HVAC at the Vinson Bldg.	1, 4	955
5	44-010	RI (Bristol)	L/S Fire Safety Improvements	1, 4	625
6	36-009	NY (Oxford)**	L/S 242-Bed NHC (Replacement)	1, 5	39,215
7	26-014	MI (Marquette)**	L/S Replace Emergency Gen. And Fire Safety	1, 5	801
8	09-012	CT (Rocky Hill)**	L/S General Renovations—DOM	1, 7	2,990
9	26-013	MI (Grand Rapids)	L/S Code Renovations, etc	1, 7	913
10	47-008	TN (Murfreesboro)	L/S Renovations	1, 7	748
11	33-006	NH (Tilton)	L/S Facility Upgrades—Backup Generator, Fire Alarm	1, 7	1,822
12	09-011	CT (Rocky Hill)**	125-Bed NHC (New)	1, 2	20,300
13	06-044	CA (Greater LA Complex)	520-Bed NHC/DOM (New)	1, 3	125,883
14	06-052	CA (Redding)	150-Bed NHC/DOM (New)	1, 3	17,572
15	06-053	CA (Fresno)	300-Bed NHC/DOM (New)	1, 3	25,864
16	55-025	WI (Union Grove)	Adult Day Healthcare (Renov)	1, 4	586
17	27-018	MN (Minneapolis)	Adult Day Healthcare Renovation—35 Participants	1, 4	1,914
18	27-019	MN (Luverne)	Dementia Unit	1, 4	568
19	08-014	CO (Homelake)	Upgrade Resident Support and Activity Areas	1, 4	3,394
20	44-009	RI (Bristol)**	Nursing Unit Renovation	1, 4	2,287
21	12-013	FL (Daytona Beach)**	Renovation, Phase 1	1, 4	650
22	13-009	GA (Milledgeville)	Renov. & Upgrade Wheeler Bdg	1, 4	269
23	04-004	AZ (Phoenix)	Renovation, Phase 2	1, 4	1,040
24	21-008	KY (Wilmore)	Renov. 3 Nursing Units	1, 4	794
25	23-011	ME (Scarborough)	Renov. Alzheimer's Unit	1, 4	404
26	01-006	AL (Alexander City)	Moisture Remediation, Phase 2	1, 4	1,363
27	37-007	NC (Salisbury)**	Building Code Renov. And Parking Lot	1, 4	784
28	08-013	CO (Rifle)	Upgrade Fire/Safety Renovations	1, 4	1,652
29	06-051	CA (Yountville)	Steam Dist. System Renovations	1, 4	1,729
30	13-006	GA (Milledgeville/Augusta)*	Elevator Renovations (5 Buildings)	1, 4	805
31	13-007	GA (Milledgeville)	HVAC Renov.—Wheeler Bldg.	1, 4	521
32	55-023	WI (King)*	Replace Steam Lines	1, 4	473
33	06-054	CA (Yountville)	Telecommunications & Network	1, 4	1,950
34	36-011	NY (Stony Brook)	Building Sys./Utilities Renov.	1, 4	737
35	27-023	MN (Minneapolis)*	Sewer Pipe Replacement—Building 17	1, 4	463
36	27-026	MN (Silver Bay)**	Roof Replacement	1, 4	1,835
37	27-027	MN (Hastings)**	Renovation, Phase 2	1, 4	4,922
38	27-028	MN (Hastings)**	Renovation, Phase 3	1, 4	5,266
39	25-060	MA (Holyoke)	Masonry Restoration	1, 4	478
40	39-020	OH (Sandusky)	Roof Replacement—Secret Hall	1, 4	552
41	39-021	OH (Sandusky)	Corridor Renovation	1, 4	325
42	39-022	OH (Sandusky)	Mechanical Sys. Upgrade	1, 4	1,560
43	01-004	AL (Alexander City)*	General Renovations	1, 4	355
44	21-007	KY (Wilmore)*	General Renovation, Phase 2	1, 4	839
45	06-055	CA (Yountville)**	General Renovations	1, 4	807
46	55-038	WI (King)*	Domestic Water Pipe Replacement	1, 4	724
47	29-015	MO (St. Louis)	Sprinkler Pipe Replacement	1, 4	775
48	55-039	WI (King)	Replace Windows—Olson Hall	1, 4	267
49	55-041	WI (King)	2nd Water Supply Well	1, 4	860
50	04-005	AZ (Phoenix)	Renovation, Phase 3	1, 4	780
51	29-016	MO (Cape Girardeau)	Replace Roof	1, 4	635
52	36-012	NY (Stony Brook)	Renovate Building Systems & Utilities	1, 4	725
53	06-047	CA (Yountville)	Chapel Renovation	1, 4	1,013
54	06-049	CA (Yountville)	Recreation Building Renovation	1, 4	4,485
55	13-005	GA (Milledgeville)	Dietary Facility	1, 4	715
56	39-023	OH (Sandusky)	Kitchen Upgrade—Secret Hall	1, 4	260
57	32-002	NV (Boulder City)	Dietary Facility Addition	1, 4	1,429
58	23-013	ME (Caribou)	Multipurpose Room Addition	1, 4	354
59	46-011	SD (Hot Springs)	General Renovations	1, 4	802
60	17-027	IL (LaSalle)	Bus and Ambulance Garage	1, 4	566
61	34-025	NJ (Paramus)	Multipurpose Room	1, 4	1,415
62	36-010	NY (St. Albans)	General Renovations	1, 4	4,470
63	55-035	WI (Union Grove)	Aboveground Building Connectors	1, 4	2,217
64	17-030	IL (Manteno)	Construct Storage Building	1, 4	1,610
65	17-033	IL (Manteno)	Convert/Upgrade Courtyards	1, 4	2,320
66	04-003	AZ (Phoenix)	Renovation, Phase 1	1, 4	364
67	46-012	SD (Hot Springs)	Construct Chapel	1, 4	520
68	19-030	IA (Marshalltown)	Renovate Medical Clinic Space	1, 4	520
69	08-015	CO (Walsenburg)	General Renovations	1, 4	1,763
70	23-012	ME (South Paris)	Replace Flooring	1, 4	353
71	48-008	TX (Pending)	160-Bed NHC (New)	1, 5	11,144
72	48-009	TX (Pending)	160-Bed NHC (New)	1, 5	11,144
73	55-032	WI (Union Grove)	24-Bed DOM Addition (New)	1, 6	1,625
74	02-001	AK (Palmer)*	General Renovations to Establish SVH (79-Beds)	1, 6	2,275
75	49-002	UT (Ogden)	120-Bed NHC (New)	1, 6	8,008
76	04-002	AZ (Tucson)	180-Bed NHC (New) and 35 Participant ADHC	1, 6	18,671
77	55-036	WI (Chippewa Falls)	120-Bed NHC/40-Bed DOM (New)	1, 6	15,925
78	51-005	VA (Richmond)	80-Bed DOM (New)	1, 6	5,200
79	48-010	TX (Pending)**1	169-Bed NHC (New)	1, 5	11,144
80	48-011	TX (Pending)**1	160-Bed NHC (New)	1, 5	11,144
Subtotal All Priority Group 1 Applications (Has State Matching Funds):					419,597
<b>Applications Subject to 38 CFR 59 Priority Groups 2-7</b>					
81	20-004	KS (Ft. Dodge)	L/S Back-Up Generators	2, 2	401
82	20-005	KS (Winfield)	L/S Back-Up Generator, Sprinkle DOM, etc.	2, 2	940
83	50-009	VT (Bennington)	L/S Geothermal HVAC, Phase 2	2, 4	2,306
84	50-010	VT (Bennington)	L/S Geothermal HVAC, Phase 3	2, 4	2,207
85	34-028	NJ (Paramus)	L/S Replace Fire Alarm System	2, 5	341
86	34-027	NJ (Vineland)	L/S Install Emergency Generator	2, 7	330
87	39-024	OH (Georgetown)	L/S Security Upgrades, Phase 1	2, 7	331
88	39-025	OH (Georgetown)	L/S Security Upgrades, Phase 2	2, 7	331
89	12-007	FL (Pending)	120-Bed NHC (New)	4	9,286
90	12-008	FL (Pending)	120-Bed NHC (New)	4	9,418
91	12-009	FL (Pending)	240-Bed NHC (New)	4	16,980
92	12-010	FL (Pending)	120-Bed NHC (New)	4	9,857
93	12-011	FL (Pending)	240-Bed NHC (New)	4	17,780
94	19-028	IA (Marshalltown)	General Renovations NHC	5, 2	2,731
95	40-024	OK (Sulphur)	General Renovations	5, 2	7,800
96	12-014	FL (Lake City)	Renovation, Phase 2	5, 2	1,950
97	26-015	MI (Marquette)	Renov. Nursing Unit/Roof Repl	5, 2	557
98	39-027	OH (Sandusky)	Renov. Griffin Hall—First Floor	5, 2	418
99	25-062	MA (Holyoke)	Renov. Resident Toilet/Baths	5, 3	439
100	27-029	MN (Minneapolis)	Renovation, Phase 2	5, 4	8,366
101	17-032	IL (LaSalle)	Replace Roof and Water System	5, 4	273
102	25-061	MA (Holyoke)	Window replacement, Phase 1	5, 4	398

## PRIORITY LIST OF PENDING STATE HOME CONSTRUCTION GRANT APPLICATIONS FOR FY 2006—Continued

FY 2006 list rank	FAI No.	State (locality)	Description	Priority group (PG) ranking	Est. VA grant cost (000)
103	06-056	CA (Yountville)	Central Power Plant Renovation	5, 4	740
104	34-026	NU (Paramus)	HVAC Replacement	5, 4	356
105	55-040	WI (King)	Replace Lock and Key System	5, 4	2,098
106	55-042	WI (King)	Renovate Burns Clemons Hall	5, 4	5,574
107	39-026	OH (Sandusky)	Vets Hall HVAC Upgrades	5, 4	997
108	39-028	OH (Sandusky)	Mech. Sys Upgrades, Phase 2	5, 4	275
109	39-029	OH (Sandusky)	Replace Exterior Lighting, Phase 2	5, 4	368
110	27-020	MN (Minneapolis)	Kitchen/Dining Room Renov.	5, 5	2,844
111	27-021	MN (Silver Bay)	Nursing Care Space	5, 5	499
112	06-058	CA (Chula Vista)	Expand Dining Room	5, 5	585
113	27-030	MN (Hastings)	Water Supply Replacement	5, 6	325
114	72-003	PR (Juana Diaz)	General Renovations	5, 6	970
115	06-057	CA (Yountville)	Administration Building Renov.	5, 6	2,946
116	39-017	OH (Pending)	168-Bed NHC (New)	6	7,800
117	39-018	OH (Pending)	168-Bed NHC (New)	6	7,800
118	37-004	NC (Pending—Eastern)	120-Bed NHC (New)	6	5,358
119	55-021	WI (King)	45-Bed Dom (New)	7	2,294
120	24-005	MD ( Pending—Western)	120-Bed NHC (New)	7	7,684
121	53-030	WA (Orting)	120-Bed NHC (97 Repl, 23 new)	7	8,316
122	27-022	MN (Fergus Falls)	Dementia—Special Care Unit	7	4,799
123	37-005	NC (Pending—Western)	120-Bed NHC (New)	7	5,358
124	17-028	IL (Pending)	200-Bed NHC (New)	7	18,200
125	17-031	IL (LaSalle)	80-Bed NHC Addition	7	4,881
126	47-009	TN (Montgomery County)	120-Bed NHC +20-Bed Alzheimer's Unit (New)	7	11,105
127	47-010	TN (Memphis)	120-Bed NHC +20-Bed Alzheimer's Unit (New)	7	11,533
128	51-006	VA (Hampton)	260-Bed NHC/DOM (New)	7	23,400
129	21-009	KY (Hanson)	90-Bed NHC (Addition)	7	6,000
Subtotal All Priority Groups 2-7 Applications ( No State Matching Funds):					236,514
Total All Pending Applications:					656,111

\*These projects were awarded after August 15, 2005.

\*\*These projects were conditionally approved after August 15, 2005. This provides a 180 day time extension authorized in 38 UCS 8135.

\*\*\*The State of Texas requested FY 2006 funding consideration for two bed-producing projects (FAI 48-008 and FAI 48-009). Projects FAI 48-010 and FAI 48-011 have PG-1 certification of 35% State matching funds. These applications will be funded in FY 2006 in the order which they appear on this list, subject to the availability of Federal funds and compliance with all Federal requirements. Conditionally approved projects have been ranked and will be awarded grants subject to meeting the remaining Federal requirements.

Mr. DODD. The funding approved by this body and supported by this motion would address these shortfalls and allow State homes to tap into a trust fund to provide more funding for construction that has already been approved by the VA.

In light of these facts, I urge my colleagues to consider the consequences of not acting today. Call it Groundhog Day. Call it what you want. But the fact is, we have another chance now to get right what we didn't the other night.

Again, I support and appreciate what my colleague from Iowa did by offering an amendment to provide for these priorities. But we did not provide any funding for them. And there is not a Member of this Chamber who does not know what is going to happen. They did it as basically a political cover, to have an amendment which said: Yes, we agree with you, we should be paying for these priorities. But then, when I offered the amendment to pay for them, of course, I lost.

Today, you will get a second chance, like in the movie "Groundhog Day," to try to get right what we got wrong the other night. You make the choice. If you think \$64.8 billion in tax breaks for the two-tenths of 1 percent of the American population making more than \$1 million a year is a more important priority than providing for State facilities that serve veterans, providing for disability payments and veterans medical care, then you explain that to your constituents. But that is the choice I am going to offer you this evening. Supporting the Senate position on this issue is the very least we can do to show our full backing of America's men and women in uniform. We owe these individuals at least that much.

I will end where I began. I do not think there is another constituency group in America that deserves as much support from the Congress as veterans do. Particularly in this day and age, if you go to Baghdad, if you go to Iraq, as many of my colleagues have, as I have—and I see my colleague, JACK REED, in the Chamber as well, a graduate of West Point and a veteran of the 82nd Airborne. You go there—and I have gone with him—and you meet these young men and women. It is a tough place to be. It is a tough place to be. It is a tough place to come back from, even under the best of circumstances. But if you come back physically broken, with arms and legs lost and scarred and burned, as 16,000 of them have, you deserve better. If you think millionaires deserve better than they do, I could not disagree with you more. And I am going to give you a chance tonight to join me in this effort.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we are next expected to hear from the Senator from Rhode Island, who will have a motion to instruct on defense needs. Thereafter, we expect to hear from the Senator from New York, Mr. SCHUMER, who will have a motion to instruct on the tuition deduction.

To facilitate the consideration of Senator REED's motion, I ask unanimous consent that the pending motions be temporarily set aside so that the Senator from Rhode Island may offer his motion.

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

The Senator from Rhode Island.

## MOTION TO INSTRUCT CONFEREES

Mr. REED. Mr. President, I send a motion to instruct conferees to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

Mr. REED moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to insist on the inclusion in the final conference report of the funding to strengthen America's military contained in title VI of the Senate amendment instead of any extension of the tax cuts for capital gains and dividends, which does not expire until 2009, contained in section 203 of the bill as passed by the House of Representatives.

Mr. REED. Mr. President, I find myself, as I so often do, agreeing with my colleague, the Senator from Connecticut, Mr. DODD. It is exactly about priorities. It is about whether the wealthiest, most affluent people in this country will enjoy a tax break or whether more fundamental needs of our Nation will be served.

Senator DODD pointed to the issue of returning veterans. Again, I was pleased to travel with Senator DODD last October to Iraq to visit with our soldiers: marines, airmen, sailors—all of our outstanding men and women in uniform. When they come home, they need the kind of support that the fund Senator DODD identified would give them. But there is even a more immediate concern to our Armed Forces today: \$50 billion in equipment that has to be rehabilitated, refurbished, brought up to operating conditions, so these men and women can continue their operations on behalf of America.

I can tell you, as someone who had the privilege of commanding a company of paratroopers, the most disconcerting concept, the most disconcerting and troubling aspect, is when your equipment is poorly maintained, will not operate, is inefficient, out of date. That drives morale down as rapidly as anything. We have—not unexpectedly because of the conflict in which we are engaged—seen our equipment stocks become overused, both aviation equipment and ground equipment: trucks, vehicles, humvees—all of them have taken a terrible beating in combat operations in Afghanistan and Iraq.

Just 2 weeks ago, this body agreed with my proposal to spend \$50 billion to refurbish this equipment. But as Senator DODD pointed out, they did not agree with the way we would pay for it. In fact, the proposal was really just oratory. It says: Let's spend \$50 billion which we do not have to help the military refurbish their equipment. We have to do better than that because, as the Senator pointed out, without funding, that is all well-wishes without real results. And we need real results for the men and women of our military forces.

The administration is quick to point out that we are a nation at war. That is true, although in some respects we are simply an Army and a Marine Corps, the Department of Defense, at war because the American people have not been called upon to sacrifice very much, if anything. Here we are making the point—I think it is so obvious—that the wealthiest Americans, those who enjoy the benefits of this great country, I believe would be quite willing to give up their tax break on dividends and capital gains if they knew these funds would be directed to precisely the programs I am talking about: refurbishing military equipment or caring for veterans.

There are many reasons to oppose the extension of the lower tax rates and dividends and capital gains, many macroeconomic reasons, many reasons in terms of our fiscal problems and in terms of our growing deficit. But one of the reasons is just the way it is distributed. Forty-five percent of the tax cut goes to .3 percent of families with incomes of \$1 million or more. Seventy-two percent of the tax cut goes to families with incomes of \$200,000 or more.

Now, in a time when our troops are being sent into the field—at times they are complaining or have complained about inadequate equipment, insufficient equipment—at a time when they are looking around and seeing their equipment stocks being drawn down and being overused, I believe it is time to ask: What is our priority, the protection of our military forces in the field or providing additional benefits to those who have so much in society today?

I think it is more important to direct these funds to our military forces. We have to do it, particularly with respect

to the equipment of the Army and the Marine Corps. As Senator DODD indicated, I had the privilege of traveling with him last October, but I just came back from my seventh trip to Iraq and fourth trip to Afghanistan. Once you are there, you understand the professionalism, skill, valor, fidelity to duty and country of these marvelous men and women. You also understand that the equipment is wearing down. The equipment has to be fixed. Because they depend upon this equipment for their lives, we can't tolerate equipment that won't operate properly.

A recent article in *USA Today* noted that the war in Iraq has taken the biggest toll on military equipment since the Vietnam war. Two weeks ago, the National Security Advisory Group, chaired by former Secretary of Defense William Perry, released a report about the strain and risk to our military.

In their words:

Given the harsh environment of Iraq and Afghanistan, [resetting the force]—

that is, rehabilitating this equipment and repairing it—

is proving more extensive and expensive than in previous operations. Estimates of the costs of rehabilitating Army equipment coming back from operations overseas continues to grow . . . in addition, both the Army and the Marine Corps expect to see increasing costs associated with recapitalizing aging forces and transforming their capabilities for a broader range of 21st century missions.

Gary Motsek, the Army's deputy director for support operations at the U.S. Army Materiel Command, has stated that the Army has to repair virtually everything that goes to Iraq.

Last week, General Schoomacher, the Chief of Staff of the Army, appeared before the Armed Services Committee. When I asked him what the reset and recap cost for the Army was, he replied: \$4 billion per year over the next 6 years. What I have since discovered—and this might be of some confusion in terms of trying to interpret a difficult and complicated budget—is that his reply doesn't cover the whole situation and doesn't provide an entire explanation of what is going on.

First, I believe the Chief of Staff was discussing the repair and replacement cost, which is projected to be \$24 billion over the next 6 years. He did not include recapitalization which is an additional \$12 billion over the next 6 years. So the actual projected cost over 6 years is \$36 billion. Second, this projection assumes a significant drawdown of troops beginning at the start of fiscal 2007 and ending in December 2008, when there are, according to the projections, no troops in Iraq. I believe this assumption is rather unrealistic and, therefore, we must assume that the reset and recapitalization costs will be significantly higher. Again, it is very difficult to parse out all of the different assumptions and other notions that are included in the budget, but the sense is that they are assuming, at least when it comes to maneuver units, that these units will essentially be

drawn down within 2 years. That is a highly problematic assumption, but one that is within the President's budget.

In addition, General Schoomacher's number assumes that we do not leave a single piece of equipment behind for the Iraqis. Yet I have been privy to discussions here in Congress and elsewhere in which there is a notion that we will leave significant equipment behind in Iraq to provide their security forces with the kind of equipment they need to operate. If we do leave equipment for them, the replacement costs, which are an element of reset and recap costs, will increase.

A much more accurate picture of this notion of what we must do to repair and rehabilitate our equipment, or reset and recap, is the actual bill we have for fiscal year 2006, what we are paying for in this fiscal year. The Army has determined that the cost of resetting, recapping, and replacing equipment lost in battle for fiscal year 2006 is \$13.6 billion. As long as we have approximately the same number of troops in Afghanistan and Iraq as we do today, and we have the same tempo of operation, then that \$13.6 billion cost will be an annual occurrence. As troops draw down, that funding level could go down from \$13.6 billion, but significant costs will continue to accrue until 2 years after the end of the conflict. So the annual \$13.6 billion price tag supports the opinion of GEN Paul Kern, who just retired as head of the Army Materiel Command. He stated that fixing and replacing Army equipment alone could run from \$60 to \$100 billion.

If you step back and look at what we are encountering today in terms of costs, it is about \$13 billion. Every year we are in Iraq at this level of operational strength, it will be roughly that. That is a lot more money than this budget anticipates. And so we have a huge unmet need to fund simple recapitalization and reequipment, rehabilitation, whatever term you want to use. But essentially, so that we understand it, it is simply going back and fixing all the equipment we have been using so aggressively in these different theaters. That doesn't buy you a new Army. It doesn't buy you a transformed Army with new, modern equipment. It simply gives you back the equipment you brought into battle in a condition that you can use it in other hostile environments.

This \$13 billion seems to be the kind of level of spending we are going to have to face year in and year out, as long as we are deployed, as we are, in Iraq and Afghanistan. That is the figure we have to react to. As a result, it is only prudent and sensible that for this \$50 billion total we talked about for a 5-year period, that people support the concept of spending that kind of money. But, of course, what they refuse to do is put real assets, real resources to pay the bills. And that is the thrust of my proposal.

I tried previously, in our debate a few days ago, to say that not only must we

spend this money, we have to set priorities. We have to take those funds from the capital gains and dividends taxes and apply them to this fundamental need of our men and women in uniform.

That is the Army I was just talking about. Let's turn to the Marine Corps. Last November, the Marine Corps estimated it would cost \$11.7 billion to repair and replace their equipment over the next 5 years. These are, again, costs that have already been incurred. These costs are not included, as far as we can determine, in the President's budget request. We have also discovered that the Air Force is concerned about the cost of additional flying hours and the wear and tear on their equipment. Again, we could not find explicit recognition of these costs in the President's budget.

Last October, the GAO released a report on military readiness. It assessed the state of 30 pieces of equipment, predominantly tanks, vehicles, helicopters, and aircraft. It made several disturbing observations, stating:

GAO's analysis showed that the reported readiness rates declined between fiscal years 1999 and 2004 for most of these items. The decline in readiness, which occurred more markedly in fiscal years 2003 and 2004, generally resulted from 1. the continued high use of equipment to support current operations and 2. maintenance issues caused by the advancing ages and complexity of the systems. Key equipment items—such as Army and Marine Corps trucks, combat vehicles, and rotary wing aircraft—have been used well beyond normal peacetime use during deployments in support of operations in Iraq and Afghanistan.

The report then goes on to say:

Until the DOD ensures that condition issues for key equipment are addressed, DOD risks a continued decline in readiness trends, which could threaten its ability to continue meeting mission requirements. The military services have not fully identified near and long term program strategies and funding plans to ensure that all of the 30 selected equipment items can meet defense requirements.

I don't think there is anything startling in the sense of their conclusion. They are stating what should be obvious. We have committed our Army and Marine Corps to battle in a very harsh environment, Iraq and Afghanistan. We are operating at robust tempos of operation. This equipment is seeing the results. We have to provide for that. What is disturbing to me is that this readiness trend portends danger in the future. If readiness is declining, if it is not reversed, if we are asking the soldiers and marines to operate equipment that is not 100 percent, that is not fully supported by ample spare parts, that has not been rehailed, overhauled, rehabilitated, then we are putting our troops in a precarious position which we should not.

The response, the answer? This one is relatively straightforward. Give them the money to do the job and give them sufficient resources to do so.

Another GAO report states that more than 101,000 pieces of National Guard equipment, including trucks, radios,

and night vision devices, have been sent to soldiers in operations overseas. This means the Guard does not have the equipment it needs to respond to crises here. This problem was exemplified during Katrina when the Guard stated that its communications equipment had been abroad and, therefore, it was unable to operate effectively in the aftermath of that disaster.

Another impact that we all hear about is the condition of National Guard equipment. Their equipment has been sent overseas and left overseas. Their equipment is also being used intensively in these operations. We have to restore and rehabilitate the National Guard equipment also. They have several missions. One critical mission is not only homeland security but preparedness for natural disasters and consequent management.

This week, Wednesday, the other body will release a report on Katrina. I am interested to see what it will say in terms of the National Guard's ability to respond, their equipment, the fact that they have been tasked to go overseas, personnel and equipment. But we have to remind ourselves that we can't neglect the Guard also. These reports, the GAO reports particularly, should have us thinking seriously about what we must do today. Again, it comes down to priorities. Secretary Rumsfeld is right about the fact that our troops are performing magnificently well. They are superb professionals doing a remarkable job. But in order to keep that edge, they have to have the equipment and the support to be the best they are.

Secretary Rumsfeld says that Perry report and another report by Andy Krepenovich, which the Pentagon paid for, were looking at all material when they found that the military was strained. We are not looking at all material. We are looking today at what we believe, based upon review of the budget, based upon discussions with military personnel, is the condition of this equipment, and the need exists to fix it. We do have the finest fighting force in the world, but we have to make sure it has the finest equipment in the world.

Secretary Perry made the following recommendation at the conclusion of his report:

In order to restore the health of U.S. ground forces in the wake of Iraq, the nation must step up and invest substantial resources to reset, recapitalize, and modernize the force . . . Restoring the health of both services is not a matter of simply returning them to the status quo; it is a matter of that they are organized, trained, equipped, and restored to meet the full range of traditional and nontraditional challenges in the future.

Next year alone the Army needs about \$13.6 billion and the Marine Corps needs about \$7.5 billion for reset and recap, as they call it, of their equipment. This was not included in the President's budget request. If it is not paid for with supplemental funding, the troops will have to go without, which we can all agree is not accept-

able. Nothing makes our troops more vulnerable or lowers morale more rapidly than working with inadequate equipment. If the \$20 billion reset and recap bill for this year alone is paid for with supplemental funding, this will add directly to our deficit. I believe with the growing size of this deficit, we should not add to it, that we should do what we can to try to prevent increased deficits.

This is a time for Americans to come forward to share in the sacrifice of our men and women overseas. Particularly when it comes to a tax proposal that benefits the wealthiest Americans, I think we would be more than willing to do so, knowing that these funds could be used directly for the welfare of our soldiers in the field and for the security of the United States.

Our men and women have volunteered to risk their lives. I believe we have to risk perhaps a little political capital and instead of providing these tax cuts to the very wealthiest Americans, provide a dividend to our soldiers and marines in the form of better equipment. Fifty billion in funding retained from not extending capital gains cuts and dividends cuts could pay for this. That is the essence of my instruction.

It is one thing to stand on this floor as a huge majority and say: We understand our troops need \$50 billion to rehabilitate their equipment. It is something else to stand up and make a tough choice, set a priority, pay for it. My instruction will do that.

I yield the floor.

Mr. BAUCUS. Mr. President, people call Montana the "big sky" State. Standing on the top of Mount Sentinel—the backdrop of the University of Montana—on a clear day, a person can see nearly 50 miles in almost every direction. I might say that at the top of Lone Mountain in Big Sky, MT, you can see the Tetons in Wyoming. Back at Mount Sentinel, which many of us climb from time to time, at the foot of it a professor is studying a horizon that stretches much farther than 50 miles. Professor Dan Reisenfeld is one of the key astrophysicists working on a mission to map and study the edge of the solar system.

Professor Reisenfeld is busy playing a part in the design of the interstellar boundary explorer, or I-BEX, an instrument that uses a large-aperture camera to detect high-energy particles coming from the edge of the solar system.

What does this mean? If I-BEX is successful at gathering information about the boundaries of the solar system, this will help companies that build satellites orbiting the Earth to predict solar storms. Solar storms can disrupt a satellite's operation and even cause irreparable damage.

Here on Earth, that means that emergency communications equipment would be able to function without the fear of interruption. And global communications can be more seamless.

Some of the most important scientific research is being done at universities across Montana and across the country. This research covers the gamut from biotechnology to stem cell research, to cutting-edge computer science. But institutions across the world are catching up.

In January, I visited India's Institute of Technology in Delhi. Eager, young engineering students are plotting for a better tomorrow in their country and the world. India, similar to many other developing countries, has made significant investments in education over the past several years. India produces 12 percent of the total global supply of university graduates. This percentage is increasing. China is now second only to the United States in the number of researchers in its workforce. According to the World Bank's most recent statistics, since 1985, China has seen an almost 400-percent increase in its per capita education spending.

While China, India, and other developing nations may still have a long way to go, they are training workers for a new world.

That takes me back to Professor Reisenfeld at the University of Montana. The University of Montana, similar to most colleges and universities across the country, is a tax-exempt organization. Tax-exempt universities rely in large part on tax deductible charitable contributions from alumni, private foundations, and businesses.

Legislative proposals that encourage more giving to charity help provide scholarships, build science centers, and hire new faculty to do cutting-edge research. In large part, charitable donations from the private sector—business and individuals—help America keep its competitive edge. There is no doubt about that, Mr. President. Our universities are a very key, integral part in America's R&D and in enhancing our country's competitiveness.

The Senate-passed tax reconciliation before us includes several incentives to encourage charitable giving. One of the most important incentives for charitable giving included in the Senate-passed bill is the IRA rollover provision. According to the American Council on Education, the IRA rollover provision is supported by close to 2,000 colleges and universities across the country. The provision promises to be an important tool for planned giving—a staple of university fundraising.

In addition, the IRA rollover represents a significant simplification over current law. Let me explain.

The IRA rollover provision allows older, financially secure donors to seamlessly transfer amounts in their IRA to their favorite charity, without first recognizing the IRA into income.

Under current law, taxpayers who want to donate their IRAs to charity must first take the amount into income. This can cause a huge disincentive to give if the amount of the IRA exceeds the donors' adjusted gross income limitation, for example.

In some cases, donors are forced to incur income for tax purposes for amounts the donor has given to charity. This makes no sense. The law should encourage taxpayers to give to charity.

For example, a taxpayer with an adjusted gross income of \$40,000 and an IRA worth about \$100,000, is forced to take that full \$100,000 into income prior to making a gift to charity.

As a result, this taxpayer is considered to have \$140,000 in income, for tax purposes—even though the taxpayer is giving \$100,000 away.

Because taxpayers are subject to adjusted gross income limitations, even if the donor gives the entire \$100,000 in the IRA away to charity, the taxpayer can only deduct up to half of adjusted gross income—in this example, \$70,000.

In short, under current law, this taxpayer is forced to recognize \$30,000 more in taxable income, even though the IRA is going entirely to charity. We should not penalize charitable giving.

The IRA rollover provision corrects this problem by simply disregarding from income amounts in a donor's IRA given to charity.

This proposal will have a fundamental effect on the amount of money contributed to charity. Currently, there are more than \$2.5 trillion held in IRAs. If 1 percent of the assets currently held in IRAs were donated to charity, that would mean an additional \$25 billion would go to benefit the type of research conducted by Professor Reisenfeld at the University of Montana. And money would also go to scholarships for the students working side by side with Professor Reisenfeld in his classroom.

The House bill does not include these new charitable giving incentives. Mr. President, the upcoming conference will highlight the priorities of each body. We include this provision; the House does not.

It is unclear at this point whether there will be enough revenue to extend capital gains and dividend tax treatment beyond the current law, which we all know doesn't expire until January 1, 2009, and also include the important charitable incentives included in the Senate-passed bill.

I hope that the conference committee makes charities and our future scientists its priority.

Mr. President, I want to discuss the importance of extending the R&D development tax credit for 2 years.

This is one of the key issues for conference. The Senate passed a 2-year extension of the revised and improved R&D credit, but the House only passed 1 year.

I am hopeful that 2 years will be retained in conference, as this tax incentive is essential for U.S. businesses in our global economy. Businesses depend on it. They need to know it is there. Predictability is important.

I have consistently discussed the need for America to maintain its com-

petitive edge. To do that, we must cater to our strength: innovation.

Let me state that during the almost 2 weeks I was in Asia, China, and India in January meeting with business leaders and public officials, one thing became clear; that is, sure, there is a rising Chinese and Indian challenge, just as other countries challenge the United States, but they constantly told us that in the private sector the one advantage America still has is innovation, creativity. Over and over again I heard that. I hope that lasts. I hope it lasts a long time. We know people in other countries are working very hard; they are aggressive and hungry and they are going to do all they can to be as creative—if not more so—as we are in the United States. But that is the one edge we have currently, and we must do our utmost to make sure that lasts.

Foreign direct investment, including research and development, is shifting heavily toward China and India. The competition for qualified researchers has increased markedly.

On my recent trips to China and India, people constantly told me, as I have said, that the one thing they admire most about America is our innovation. We must foster R&D, and extending this vital credit for 2 years would help maintain that focus.

Every morning we hear news of some new product or discovery that promises to make our jobs easier and our lives better. For example, between 2002 and 2003, the annual number of cancer deaths decreased for the first time in 70 years. Unfortunately, for women, it rose slightly, but the annual number of cancer deaths has decreased. One reason for that was better detection and treatment. That is a direct result of American technological innovations, and those result from R&D.

Since 1981, when the research and development credit was first enacted, the Federal Government has been a partner in R&D. And we contribute to this effort as a society because of the benefits to society from additional research spending. It is a societal effort to get a societal benefit.

Congress clearly believes that the R&D credit is an effective policy instrument. One of the major limitations of the credit, however, is its temporary nature.

As the Electronic Industries Association wrote:

An extension of the credit that goes beyond the end of this year will also help diminish the uncertainty for companies regarding the availability of the credit.

The organization goes on to say:

The yearly fight to ensure that the credit is available for costly and high-risk research done in the United States can cause companies to discount the credit's long-term value and reduce its benefit to the economy.

An analysis by the Joint Committee on Taxation found:

A credit of longer duration may more successfully induce additional research that would a temporary credit, even if the temporary credit is periodically renewed.

U.S. workers who engage in R&D activities 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 private wage of about \$35,000 a year. These jobs paid nearly 80 percent more than the average private-sector wage of less than \$20,000 per year during the same time. Many of these jobs would never have been created without the assistance of the R&D credit.

The R&D tax credit is vital to the economic development of our country. It is very important to American businesses. It is very important to American workers. It is important to help America maintain our competitive edge.

I urge my colleagues to support a 2-year extension of the R&D credit. I hope you will join me in pressing our House colleagues to accept this Senate provision.

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. BAUCUS. 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. BAUCUS. Mr. President, what a difference 5 years makes. On March 21, 2001, the Finance Committee conducted a hearing entitled "Budget Surpluses and Debt Reduction." When we held that hearing, the Office of Management and Budget projected a surplus of about \$5.6 trillion over the next 10 years. A lot has changed since then.

At the end of this past December, Treasury Secretary Snow sent us letters asking us to raise the debt ceiling for the fourth time in the last 4 years. The Government is now seeking to raise the debt ceiling by \$781 billion. This is on top of a \$450 billion increase in 2002, a record \$984 billion increase in 2003, and an \$800 billion increase in 2004. With the latest debt limit increase, the Government will have raised the debt ceiling by \$3 trillion in just 4 years. Remember, 5 years ago, OMB projected a surplus of about \$5.6 trillion for the following 10 years.

Something needs to change. We have a serious problem with our Federal budget. For the current year, the administration's budget projects a deficit of \$423 billion. That would be the highest deficit in the history of the country. That deficit would equal 3.2 percent of the entire economy. While that percentage is not a record, it is far too high, with the baby boom generation about to retire just around the corner. The retirement of this large generation will dramatically raise the costs of Social Security, Medicare, and Medicaid. Their retirement will put enormous pressures on the budget.

We should rather be entering this stressful period with a balanced budget. We should be paying down the debt. We should be getting ready. We should not be running record budget deficits. We need to change course. We need to return to the policies and procedures that helped reduce that \$5.6 trillion surplus.

One of those procedures was the pay-as-you-go rule. That rule made it difficult for Congress to enact new spending or tax cuts without paying for them. That simple rule had a powerful effect, but that rule ended a few years ago. Congress replaced it with a newer, toothless version, and we have paid the price in higher deficits and debt. Congress must reinstate the original pay-go rule.

Beginning in 1990, we also enacted policies to reduce deficits and debt. First, following a budget summit, Congress enacted the deficit reduction package of 1990. Then, in 1993, in the first year of the Clinton administration, we narrowly enacted a \$500 billion deficit reduction package. What happened? Long-term interest rates dropped. Economic growth ensued. The deficit came down.

Finally, both parties worked together again in 1997 and enacted another deficit reduction package. That package was intended to balance the budget by 2002.

But economic growth was strong. These years were a part of the longest peacetime economic expansion in American history. The Government balanced its budget in 1998, earlier than expected, and then the Government balanced the budget even without using Social Security surpluses. It is incredible, if you stop and think about it.

That set the stage for the projections of 2001, with a \$5.6 trillion surplus for 10 years. But now we are projecting huge deficits and debt for both the long term and the near term. The time has come for leaders of both parties to work together to achieve another agreement to reduce our deficits. But in order to be successful, we need to put everything on the table, and I mean everything. We need to put all spending, not just entitlement spending, on the table. We need to put all corporate tax loopholes and tax breaks for special interests on the table, and we need to put the \$350 billion yearly tax gap between revenues owed and revenues collected on the table.

I don't know the answers, but I do know we cannot keep on going as we are. Something has to change. We need to come together to reduce Federal deficits. The task is clear, and I can only hope and pray all our leaders will take up the task.

Mr. President, in Proverbs, King Solomon begins by offering words of encouragement to the Israelites to embrace learning:

Let the wise hear and gain in learning, and the discerning acquire skill.

A little later in the passage Solomon admonishes:

Fools despise learning and wisdom.

I hope the upcoming conference committee will take this proverb to heart. It is past time for this country to start taking education seriously again, and be ready to make investments in our children's future now. Delay would be foolish.

The Senate-passed bill takes a step in the right direction by including a provision to eliminate the barriers in the Tax Code to the charitable giving of books to schools, libraries, universities, and literacy programs. Educational institutions and literacy programs are beset by budget cuts and continued challenges to our Nation's commitment to literacy. Two-thirds of American classrooms have fewer than 50 children's books, and almost 60 percent of childcare centers buy less than 1 book per child a year.

This is not just an issue in the classroom. Almost 12 million children living below the poverty level in the United States today are growing up with minimal access to books. According to First Book, a nonprofit that focuses on child literacy, more than 60 percent of low-income families have no children's books in their home, and more than 80 percent of programs serving children in need have no age-appropriate books or other printed materials.

In my home State, as in many other States, there is a real need. In 2003, according to the Montana State Library Association, the Montana State library system was a victim of a 26-percent budget cut. These reductions mean less money for local libraries, and these reductions mean cuts in State subsidies that funded book purchases.

Large-scale book donations are crucial to these libraries, and these donations also greatly assist adult literacy efforts. Programs such as the Montana Adult Basic and Literacy Education, or ABLE, serve adults who lack sufficient mastery of basic skills to function in society, a high school diploma, or basic English skills. ABLE is meeting real needs. According to the State agency in charge of adult literacy in Montana, nearly 75,000 adults in Montana do not have a high school diploma or GED.

Because of the tremendous need for books in Montana and across the country, I filed an amendment in the Finance Committee with Senator HATCH to include incentives for book donations in the Senate-passed bill. Here is how it works.

Current law provides special tax incentives for gifts of property including books to certain organizations. Current law, however, requires the donor to make the gift targeted solely to the ill, the needy, or infants, categorized as children under the age of 18.

Unfortunately, books donated directly to educational programs at public libraries and universities are not eligible for that tax deduction. Why? Because they don't exclusively serve the ill, the needy, or infants.

In addition to the exclusion of those institutions, donations are sometimes



discouraged when the differences in educational and commercial market elude the IRS when valuing the donation. If book donations do not qualify for the enhanced deduction, the value of the deduction for charitable giving is no more than what they would give if they merely threw them away. As a result, it is often more economical for publishers to truck these books to a dump than it is to distribute them to needy schools and libraries, especially given the manpower and postage costs of determining worthy donees and shipping books.

In the Senate-passed bill, we have provided legislative language to ensure that public libraries, universities, and literacy programs are eligible with enhanced deductions that already exist in the Tax Code for other kinds of charitable donations.

To protect against publishers making unwanted donations of dated materials, the provision includes a requirement that organizations certify the materials are suitable and appropriate for their educational programs.

In addition to organizations in Montana such as ABLE, many gulf area government agencies that are in desperate need after Hurricanes Katrina and Rita have written us petitioning for this change. We have heard from the Mississippi Department of Education, Louisiana-Mississippi school and library systems and library associations, as well as the Texas Library Association and Mississippi's Barksdale Reading Institute. Numerous national educational organizations have written us, including the American Library Association, the Education Industry Association, and the Association of Educational Publishers.

The lack of access to books poses the greatest barrier to literacy. We shouldn't allow books to be taken to the landfill because of an unintended obstacle in the Tax Code, particularly when one considers the massive loss of books along the gulf coast.

I might add, I was down at the gulf coast. I was standing next to a library that was obliterated on the gulf. There were books strewn open, and you could see where a cake of mud was left after the water receded and we were standing on ruined books. You won't believe this, but I reached down to pick up a book and look at it to see what it was, and out of all of the books, guess what its title was. "A Perfect Storm." I couldn't believe it. It was pure happenstance, pure coincidence, but I can tell you that having visited the gulf, they need books.

As students and families make the slow return to the gulf and an incredible effort to rebuild their communities, it is necessary to remember that equally important to the rebuilding of these important institutions is the need to restock them with sufficient numbers of books and quality education materials.

As First Lady Laura Bush said on September 24 last year, it is our duty

to "rebuild these schools on the Mississippi coast and in New Orleans and make sure the libraries are built better and stocked even better than they were before."

The book provision in the Senate-passed bill would help restock schools from the gulf to Montana and across the country. As the First Lady admonished, this is our duty. I hope the conference committee agrees.

Mr. President, continuing in a series of statements prefacing the conference and other measures that might be coming up later this year, I wish to spend a moment on health savings accounts.

High-deductible health plans and health savings accounts, otherwise known as HSAs, have become the centerpiece of the administration's effort to reform the health care system. In fact, the proposed budget would spend an additional \$156 billion over 10 years to encourage more Americans to choose these plans and accounts.

I am concerned that high-deductible plans will do more harm than good, and the billions of dollars the President wants to spend on beefing up the limits on HSAs, health savings accounts, will not benefit those who need coverage the most and can least afford it. That is because HSAs favor the healthy and they favor the wealthy. As healthy insureds join these arrangements, the average cost for those remaining in comprehensive plans will increase, and that will make comprehensive plans less affordable for those who need coverage.

Do HSAs favor those who are healthy and can afford something? Let me quote from the High-Deductible Health Plans and Health Savings Accounts Worksheet, found on the Federal Government's Office of Personnel Management Web site. This worksheet is designed to help Federal employees decide whether to use plans such as these which are now part of the Federal employees health benefit plan. Step three of this worksheet reminds us that preventive care is not subject to the high deductible. Then it goes on to say:

Absent other health care needs, if you contribute a higher amount to your HSA, you will get a higher tax deduction plus a higher balance in your HSA to use for future expenses. Since your out-of-pocket costs before plan benefits begin also defines the maximum amount of personal, tax-deductible contributions you can make, contributing a larger amount isn't necessarily bad. If you use a relatively low amount of health care and you can afford to make the maximum contribution, you may be attracted to these aspects of HDHPs with HSAs.

That is high-deductible health plans and the health savings account. This is what it says in the Federal brochure for Federal employees: If you use a relatively low amount of health care and you can afford to make the maximum contribution, you may be attracted to it.

If we enacted the higher HSA contribution limit proposed by the President's budget, the attraction of HSAs for those who are healthy and can afford to contribute the maximum would

only grow stronger. Why? Because that statement was written before the proposal that the administration has before us, to dramatically increase the deductibles and eligibilities of those plans which I think are basically investment vehicles, not health vehicles.

Billie Holiday sang, "Them that's got shall get, them that's not shall lose". That's a pretty good description of the effect of expanding HSAs on our health care system.

Some may argue that this preference of healthy, well-to-do taxpayers for HSAs would not be a problem if we just put everyone into a high-deductible plan and eliminated more comprehensive arrangements. Eliminating choice takes care of adverse selection. If there were no choice, and therefore no adverse selection, would expanding HSAs be a cost-effective solution? Would tax dollars spent on expanding HSAs go to increase coverage and control costs?

Let us say, for the sake of discussion, that we force everyone, healthy or not, into a high-deductible health plan with a \$1,500 deductible. And let's go further, and put \$1,500 into an HSA for everyone, so ability to contribute is not a factor. Wouldn't that address my concern that the President wants to spend money on the healthy and wealthy instead of focusing on those who need help most?

The answer is, no, not as HSAs currently operate. And certainly not with the President's proposed increase in the contribution limit.

To illustrate my concerns, let's consider two taxpayers—Jane and John, both 30 years old. Jane is healthy. John has a chronic condition that requires him to take medications every day and occasionally pay a midnight visit to the emergency room.

Every year, \$1,500 is deposited to Jane and to John's HSA accounts. Each year, John must withdraw his \$1,500 contribution to pay out-of-pocket medical expenses. Jane only has to withdraw about \$500 a year, leaving the other \$1,000 to accumulate for retirement.

Over the next 35 years, if Jane can earn 5 percent investment return, she will accumulate an HSA account balance of more than \$90,000. If the President's higher contribution limits were in place and Jane could afford to contribute the maximum to her HSA, she could have more than \$400,000 in her HSA at retirement. Because he had to use his HSA contributions to pay medical expenses, John will retire with a zero balance in his HSA.

In other words, the President's health tax proposals may or may not expand health coverage and will do little to control costs. But they will definitely create retirement savings for the healthy.

I am all for retirement savings, but using tax dollars to increase retirement savings for individuals with low medical expenses is a strange and ineffective approach to covering the uninsured, and controlling health care costs. Surely we can do better.

Mr. President, I am going to stop speaking pretty soon here. I very much hope Senators come to the floor with motions to instruct because time is passing. Just because I am speaking, it doesn't mean someone can't come to the floor. If anybody comes to the floor, I will stop speaking.

Mr. President, Yale Law School professor Michael Graetz once said:

A tax shelter is a deal done by very smart people, that, absent tax considerations, would be very stupid.

A GAO study estimated that tax shelters cost the American taxpayer up to \$18 billion a year in lost revenue.

There must be a lot of very smart people out there putting together some very stupid deals.

We have all heard about some of these deals.

We know them as the Enron scandal, the KPMG scandal, the German SILO sewer system scandal. The list goes on.

These deals are like the legendary retail scam used by con artists to cheat cashiers out of extra change. It's called the "short count." Like a tax shelter, it involves smart cons and stupid deals.

There are several steps to the cash register scam. First, the con artist buys something that costs less than \$1, and he gives the cashier a \$10 bill to pay for it. When the cashier hands back the change, the con artist offers to give back ten \$1 bills in exchange for the \$10 bill he used to make his original purchase.

Now, the trick is that the con artist must get the cashier to give back the original \$10 bill before he gives up his \$1s. Quickly, before the cashier notices, the con then substitutes the \$10 bill the cashier just handed him for one of the \$1 bills. He hands the cashier nine \$1 bills and one \$10 bill, for a total of \$19.

When the cashier notices the con artist gave her too much money, the con acts surprised.

Because he's such a "nice guy," he offers to give the cashier another \$1 to add to the \$19 so the cashier can just give him back a \$20 bill.

The con then leaves the store with a tidy \$10 profit, while the poor cashier is left holding the bag.

When she tries to reconcile her register at the end of the day, she'll have a gap of \$10. She will probably end up paying the \$10 out of her own pocket.

I don't know if you follow that. It's a little complicated, isn't it? The con artist is a pretty smart guy who took advantage of an unsuspecting cashier. He took a routine transaction and turned it into something complicated and stupid. Yet, all those steps, all that shifting of money back and forth, didn't add one iota of substance to the transaction.

We call the guy who duped the cashier a con artist. But, we call lawyers, accountants and financial advisors who get involved in tax shelters "tax professionals."

We call the victim of the "short count" scam the cashier. But, we call the victims of tax shelters "innocent American taxpayers."

Individuals who invest in tax shelters to avoid paying their fair share of taxes shift their tax burden onto the backs of hard-working Americans who do comply with our tax laws.

The IRS estimates that 85 percent of taxpayers pay the taxes that they owe. Investors in tax shelters are part of the other 15 percent.

Eighty-five percent of American taxpayers are carrying the tax load for the noncompliant 15 percent.

This is not right. This is not fair. We cannot allow this to continue.

We need to finish up the work that we started in the American Jobs Creation Act. That bill beefed up laws against tax shelters. It increased penalties for wrongdoers.

We need to pass legislation that will clarify the economic substance doctrine. Clarifying the economic substance doctrine will put an end to the erratic and inconsistent court decisions that have determined the legitimacy of tax shelters.

The economic substance doctrine is a common-law doctrine that courts use to deny tax benefits on transactions that don't provide a meaningful change to the taxpayer's economic position other than the tax benefit itself.

In other words, the doctrine requires that a transaction must have economic reality and a business purpose apart from the tax consequences.

The proposed change clarifies how the courts should apply this doctrine. But if they do decide to use the economic substance doctrine, the change would give them standardized criteria to use as litmus tests to decide if a transaction has any real economic purpose.

The Senate has passed this proposal several times, most recently in the tax reconciliation bill before us today. But it has never passed in the House.

We need to stop batting this proposal around. We need to make it into law.

The economic substance doctrine exposes transactions that use the Tax Code in an unintended way to avoid paying taxes.

Clever accountants, attorneys, and financial advisers deliberately manipulate the Tax Code to design and sell abusive transactions. At first glance, the deals stand up to scrutiny. At first glance, they appear to comply with the literal language of the Tax Code. They are very complicated. But when you give the deals the smell test, they give off a very bad odor. It is clear this is not what the law basically intended.

You realize that they have no purpose other than to avoid or evade taxes. They have no real business purpose and no economic reality. They shift money and paper around using complex arrangements that have no reason to exist, except to create non-existent losses or false deductions.

They are smoke and mirrors, a cleverly designed illusion, to fool the IRS and to cheat the rest of our Nation's taxpayers, who properly report their income and pay what they owe.

That's where the economic substance doctrine comes in. Its standards of economic benefit and business purpose allow the courts to pierce the facade of legitimacy to determine if a deal has any real economic substance.

The courts have employed the economic substance doctrine countless times. But their decisions have been inconsistent.

This is due, in large part, because they lack a specific framework of guidelines and principles within which to apply the doctrine.

The courts are divided on what to do. Some look only to the form of the transaction. They limit their analysis to the four corners of the Tax Code, no matter how crazy the result.

Others look beyond the form to the substance of the transaction and consider whether the tax result is consistent with congressional intent.

It is the role of Congress to pass legislation clarifying the economic substance doctrine to resolve these inconsistencies and uncertainties. The legitimacy of a tax transaction in California should be evaluated in the same way as a transaction in Florida.

Reliance on isolated and diverse judicial decisions does not lead to effective tax administration. Litigation is expensive both for taxpayers and the IRS. Tax professionals will shop around for the most advantageous court case to justify an egregious position. We all know that there is forum shopping. They are going to go to the judge who is most lenient.

We need to provide clarity and certainty.

Congress's failure to enact this legislation sends an implied message that we don't take abusive transactions seriously. Tax professionals know that we cannot keep all the holes in the dike plugged up by dealing with each abusive scheme on a piecemeal basis.

With our proposed change, we are not reinventing the wheel. We are only improving it. The economic substance doctrine has been part of the fabric of our tax system since the case of *Gregory v. Helvering* in 1935. It has been around. It has to be consistently applied to minimize taking advantage of the Tax Code.

Our proposal merely articulates the way many of the circuits have already applied this longstanding judicial doctrine.

Codification will strengthen this important standard that has been eroded by conflicting and confusing case law and by the greed of many practitioners who are willing to overlook it in exchange for profit.

We must give the courts a reliable and consistent standard to use when considering the economic substance doctrine. Failure to do so protracts the cat-and-mouse game that taxpayers, the IRS and the courts have played for years.

You might ask: If passing a law to clarify the economic substance doctrine will stop this kind of abuse to our

tax system, why hasn't it happened? That's a very good question.

Unfortunately, there are powerful critics against the proposal, including the American Bar Association and the Bush administration.

Our legislation provides a framework of consistent and standardized criteria to apply to the economic substance tests. The courts retain complete autonomy and flexibility to decide whether or not to use the doctrine in the first place.

The critics, however, argue that the courts will "lose flexibility" to evaluate transactions.

They say that "an explicit and comprehensive statutory test" is a bad thing.

In truth, their position would maintain the status quo. Their position would keep the law broad and vague. And their position would perpetuate the same environment that has fostered tax shelters, tax schemes, and other abusive transactions.

Taxpayers have a right to plan their taxes so that they don't pay more than they legitimately owe. This legislation is aimed at those deals that cross the line into manipulation and abuse—not smart tax planning.

The critics say, unfairly, that the Senate proposal is "overbroad" and could cast doubt on "legitimate tax planning." They say that this provision will be "ineffective" because taxpayers will just find a way to work around it by crafting their deals with apparent business purpose and economic substance.

But if the legislation is as "inflexible" and "overbroad" as they say, how can it possibly leave room for taxpayers to work around it?

The proposal that Chairman GRASSLEY and I included in this tax reconciliation package provides standardized principles to use as guidelines to clarify when a transaction is abusive.

It will reduce rogue interpretations of the Tax Code and promote consistency and certainty instead of the existing confusion.

Critics argue that it promotes uncertainty because there is no clear line of demarcation between what passes muster and what doesn't. Ignoring the provision's standardized guidelines, they suggest that the proposal gives the IRS and the courts too much power—that it provides opportunities and incentives to find transactions "abusive at will."

In reality, it does just the opposite.

And that's exactly why some of the opponents of this measure don't like it. They want to keep the power and flexibility to design and sell tax shelters and other transactions that pillage our tax system.

There's an old saying that the best defense is a good offense. That pretty much sums up the opposition to this proposal. Like the tax shelters they peddle, their arguments lack substance.

We should not stand idly by as a few con artists peddle their scheme and

take advantage of honest taxpayers. We should plug this loophole in the law.

We should urge the House to agree to the Senate-passed provision.

I urge my colleagues to work together to get this passed for the benefit of the American taxpayers, most of whom are honest and decent, and they are paying their fair share and do not like at all these con artists making millions and forcing the good, honest, paying taxpayers to subsidize those con artists and those companies taking advantage of it.

I yield the floor. 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. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. KYL. Mr. President, let me respond to the kind invitation of the ranking member of the Finance Committee, on which I sit, to speak to the matter that is before us. I appreciate listening to his remarks about various aspects of the reconciliation tax bill and features thereof. Let me speak to some of those items as well.

There will be a lot of debate, I suspect, over the next several hours—much of which has very little to do with the Senate bill—but I think in anticipation of what is likely to occur in the conference committee when the Senate bill joins up with the House bill and we decide what provisions to take from each of those bills and bring back to our respective bodies.

Clearly, discussion about the capital gains and dividends extension will be part of that discussion. Let me start with that.

I want to begin by noting that the budget resolution which the conference reached in April provides reconciliation protection for \$70 billion in tax reductions over 5 years with the direction that the allocations be used to prevent tax-rate increases during the budget window, which is 2006 to 2010.

Let me repeat that. The instruction that we gave for this budget was to prevent tax-rate increases during this budget window. If we do not take action, there will be tax-rate increases during this budget period.

This, as the President said in his State of the Union speech, would be both unanticipated and very unwelcomed by the American people.

What exactly do we mean by that?

Talking about capital gains and dividends, what we did back in April was send a signal to investors that capital gains and dividend tax rates would be extended through 2010. Investment advisers have been alerting their clients that in their planning they must consider that the tax rates have not yet been extended and may, in fact, expire in 2008.

The conference agreement that comes back to our respective bodies needs to extend these investment tax rates to give these investors certainty and to give businesses certainty about how they raise funds to expand their operations.

When Secretary Snow testified before the Finance Committee a week ago, he said it was his opinion that the investors in the country, those people who helped create jobs by investing in our businesses, had already determined that it was likely these tax rates would be extended.

He said, if we do extend them, which we anticipate doing, that is built into the market right now. But he said if we should fail to do so, we could anticipate that the market would react very negatively to our failure to do so. The reason, of course, is obvious. Investors want to know what the return on their investment will be 3 or 4 years out. That is when they will likely turn the asset that will provide the profit or a deficit for them. They want to know what that return is likely to be, which means they want to know what the tax rate is.

The tax rates that will expire in 2008 do not tell them what they need to know.

We have the opportunity to extend those tax rates through 2010 and prevent an increase from occurring, and that is precisely what we ought to do.

It is interesting that these particular taxes are very important to the majority of taxpayers in the country. These are not the so-called tax cuts for the rich. These are a continuation of existing tax rates for a majority of tax filers.

More than half of all Americans own stocks, either directly or through mutual funds. The 2003 marginal rate cut on investment income worked by giving investors an incentive to put more of their money to work in the markets. At the lower rates, the tax penalty imposed on the additional investment earnings, the reward for taking on additional risk, is smaller than before, and it makes the risk more attractive.

When investors get to keep more of their reward, they are encouraged to invest more. With more investment, businesses have an easier time attracting the capital they need to expand, create new goods and services, and also create new jobs.

It is all part of this additional economic activity that creates this economic growth.

Americans support the extension of these tax rates.

A recent poll by the Pew Research Center, released on January 24, found that "half of Americans support extending reductions in taxes on investment income such as capital gains and profits from stock dividends, while 35 percent believe these tax cuts should not be extended."

I intend, by the way, to support extending the tax cuts by 34 percent, 35 percent. The reason is very apparent—

because it benefits millions of taxpayers.

These lower rates have helped millions more taxpayers than other popular tax provisions; for example, the alternative minimum tax relief that we want to enact as well.

Let me do a comparison between the AMT, which both Senator BAUCUS and I would like to see repealed, how many people would benefit from our relief from the alternative minimum tax versus how many would gain relief from an extension of current rates on capital gains and dividends.

It turns out, of all taxpayers that pay the AMT—these are figures from the 2003 tax year, which is the last year—9.7 percent had adjusted gross incomes under \$100,000. Meanwhile, of all taxpayers reporting capital gains in 2003, 67.5 percent had adjusted gross incomes under \$100,000. Of those reporting dividend income in that year, more than 70 percent had adjusted gross incomes under \$100,000.

Nationwide, fewer than 8 million filers would be helped by the AMT harmless provisions, while nearly 20 million filers would be helped by the dividend relief that we would extend, and just over 7 million filers would be helped by the relief from capital gains.

Here is the bottom line: A lot of Americans—over half—are now invested in the stock market. A lot of people will receive benefits if we continue the current tax rates for dividends and capital gains. Over 20 million of these filers under \$100,000 will have dividend income and over 7 million will have capital gains income. That is compared to those taxpayers whom we will help under the AMT relief that we provide of about 8 million filers.

The bottom line is, other than the wealthy in our country, we are talking about helping people with both kinds of relief, but far more will benefit from the capital gains relief, and especially the dividend relief, than will benefit from the AMT relief. Some of our colleagues understand that and say: We understand in terms of pure numbers there are a lot more taxpayers, especially in the lower income categories, who will benefit from dividends and capital gains relief than AMT relief.

What about the fact that maybe they do not get as much relief, that the dollar amount is not as much? There is a myth floating around that it is actually very low. In fact, there is something being quoted as IRS statistics—and they are not IRS statistics. They are from a report of a group called the Center on Budget and Policy Priorities and also the Brookings Institute Tax Policy Center, which claims IRS data shows the taxpayers with income of \$50,000 or less only receive a benefit of \$11 per return from the lower rates on dividends and capital gains, and the benefit for taxpayers with income under \$75,000 would only be \$77 per return.

That is just plain wrong. First of all, the data is not from IRS. What is the

data from IRS showing? Mr. President, I ask unanimous consent a couple of charts be printed in the RECORD after these remarks to show what I am talking about.

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

(See exhibit 1.)

Mr. KYL. The IRS statistics—and this comes specifically from table 3.6, 2003, of a report called “Individual Income Tax Returns, Returns with Modified Taxable Income: Taxable Income and Tax Classified by Each Rate at which Tax Was Computed and by Marital Status.” If you look under that table, what you will find is that based upon actual IRS data estimated from 2003, the people who had taxable income of less than \$50,000 on a per return basis, saved about \$171 each. In 2008, the tax rate is reduced from 5 percent to zero for these taxpayers. Based upon the same data, that allows the rate to expire, which would result in a \$341 tax increase on each of the almost 10 million taxpayers in these two lowest income tax brackets if we do not extend this tax rate at its current level.

What are we saying? If we do not take action and extend this current rate, what we are going to have for these lower income tax payers, those who make \$50,000 or less, is they will see a \$341 tax increase on each of those almost 10 million taxpayers. That is a far cry from this figure of \$11, which is simply wrong.

The bottom line is, not only will more taxpayers receive relief under the extension of the capital gains and dividends part of what we hope will be the conference report than those who receive AMT relief, it will be substantial relief. If we allow these rates to expire, there is going to be a substantial tax increase on these people in the lowest brackets, those making \$50,000 and below. They will see a \$341 tax increase. I would call that real money. I call that amount of people real people.

I mentioned before the people making \$100,000 or less. What about those making less than that? If you look at those with adjusted gross incomes of \$30,000, for example, with regard to dividends, 19.2 percent of the people reporting dividends were in that income category. With respect to capital gains, likewise, at that lower adjusted gross income of \$30,000, 18.5 percent of those reporting long-term capital gains were in that category.

The bottom line is, whether you are talking about less than \$100,000, less than \$30,000—I mentioned the amount of money received from those making less than \$50,000—whatever category you are looking at, you better extend the current rates or there will be millions and millions of these low-income taxpayers receiving a big hit on their taxes.

Let me be very plain. We are not talking about additional cuts in taxes. What we are talking about is just keeping the existing tax rates. If we do not

extend them, millions of low-income Americans are going to see a huge increase in their tax bill; one that is unanticipated, unappreciated. We cannot afford to allow that to happen.

I hope we could agree, those who agree there should be relief from the alternative minimum tax, that we also need to continue to provide the relief from the dividends in capital gains taxes as well.

In addition to talking about this in terms of American families, it is important to understand what this has done for our economy. The fact is, all taxpayers, all workers in this country, all people who have jobs, all benefit from the economic expansion that has occurred largely as a result of the tax policies the President has proposed and to which Congress has agreed. It would be folly to allow those tax policies to expire.

What kind of impact have these tax policies had on the gross domestic product? Whether you embrace these lower rates or not, you have to acknowledge they have helped our economy, which grew at a 4.1-percent annual rate in the third quarter of last year, the 10th straight quarter in which gross domestic production grew at a rate above 3 percent. It is interesting to compare this with the European economies. For 2005, the Euro area gross domestic production grew at only 1.4 percent. Economists predict for 2006 it will be about 1.9 percent. The United States, by contrast, is expected to grow at 3.6 percent for 2006, according to the CBO.

What does this mean, or how does the gross domestic production actually increase? You have to have business investment, primarily small businesses. Interestingly, business investment fell in the nine consecutive quarters before the 2003 tax rate bill was passed. For nine consecutive quarters, businesses were not investing. Investment was declining. So in 2003 we passed these additional tax rates. What happened was cutting taxes on capital helped reverse the decline. In the 11 consecutive quarters since these tax cuts, business investment measured by nonresidential fixed investment has increased each and every quarter. In fact, business investment has continued to increase even after the expiration of the temporary bonus depreciation for business investments expire.

Interestingly, it has not just been businesses that have seen additional revenue as a result of the investment, but there has been job creation from these tax cuts. But, ironically, these tax cuts—or paradoxically, I could say—have also provided increased revenues to the Federal Treasury. According to a recent report by the CBO, capital gains revenue is 16 times greater than it was forecast to be. Government estimators predicted that the reduction in capital gains rates enacted in 2003 would cost the Federal Government \$27 billion in lost revenues for 2004. CBO's most recent report shows

that the lower rates actually brought in an additional \$26 billion in revenue. Instead of costing \$27 billion, the lower rates actually made \$26 billion for the Treasury.

Why does that happen? It is fairly obvious. You are holding assets, and if you sell them, it will cost you 20 percent in taxes, 20 percent of the gain. That is a pretty stiff tax. You do not want to do that. Congress comes along and says: We will reduce that down to 15 percent. Small businesses, in particular, say: Great; in that event, we will pay less in taxes, 25 percent less. We will go ahead and sell the asset and only pay 15 percent.

So more people do that than were expected to sell assets so even at a lower rate, because of the increase in volume, the Government ends up making a lot more money.

Think of it this way. You are a department store. When you go to the department store and there is a big sale over the week, how can the department store make any money? It is simple. They reduce the price they sell their product for, but there is so much more of the product sold that they more than make up for the reduced cost by the volume of sales.

It is the same thing that occurs here. Lower the rate a little bit, but that attracts people to sell their assets, to take advantage of that lower rate. And that increased volume in sales more than makes up for the reduction in the rate. That is why you have to be a little careful with the CBO projections about the "cost" to the Federal Government of lower taxes. Frequently, the cost ends up not to be a cost at all but an increase in actual revenues. That is precisely what has been occurring here.

It is interesting that according to the same CBO report, the Government took in \$60 billion in capital gains taxes in fiscal year 2004, which is a 20-percent increase from 2003. And it is projected that capital gains taxes coming into the Treasury increased another 25 percent in 2005—up \$75 billion. That is real money no matter how you calculate it.

We cannot say for certain that the lower tax rates will always continue to make revenue for the Treasury in the future, but looking back we can sure conclude that these investment tax rates have thus far been nothing but good news for the Treasury. That means good news for all of us because instead of the Government going further into a deficit situation, this increased revenue is helping us to keep the deficit more under control.

It is interesting that overall revenues are up in 2005. The Treasury collected \$2.15 trillion in revenues, which is the highest level of Federal receipts in history, and it is \$274 billion more than collected in the previous year. Remember, this is with lower tax rates. Yet we still took in \$274 billion more than collected the year before. That is a 14.6-percent increase overall. CBO has projected individual revenues for 2006 will

be up 8.2 percent, greater than they were from 2005, and that corporate receipts will be 8.6 percent higher. Revenues for December 2005, just to take that month, were 12 percent higher than they were for December 2004. Corporate receipts were up about 33 percent, and receipts from individual income tax payments were up about 5 percent.

This is the biggest reason we should not in any sense be accepting arguments that somehow we need to have what some people around here call pay-go, where you take the CBO estimates of how much a tax reduction is going to cost the Treasury, and somehow you make that up in additional revenue. So that net, you are not reducing taxes on the taxpayers at all.

What is the point of a tax reduction if it is not a real tax reduction; if you are just taking money out of one pocket but then you have to add it from the other pocket? It makes no sense. In fact, it is just reversed. We should not be talking about the cost to the Treasury; we should be talking about the cost to the taxpayers. They are the ones who have to pay. It is their hard-earned money. We cannot spend a dime in Congress that somebody did not work very hard to earn to send back to Washington in the form of taxes.

When we talk about increasing taxes or decreasing taxes or keeping the level of the taxes where they are right now, and we calculate the cost to the Federal Treasury, I say forget that. I am worried about the cost on my constituents. They are the ones who will invest. They are the ones who will hire more people if we let them keep more money. And that means more people will have jobs. If people have jobs, they will pay more in taxes and the Government will continue to collect more revenue.

The statistics I have quoted demonstrate that a sensible tax policy, one which doesn't set the rates too high, will actually end up bringing more revenue into the Federal Treasury than one which tries to set the rates too high. That is why since pay-go does nothing about the spending side of the equation, which is what is driving up the deficit—because our big entitlement programs: Medicare, Medicaid, and Social Security are not affected by that. It does nothing to affect them whatsoever. The only thing it does is require if we have a tax reduction we have to have a tax increase somewhere else so it comes out even. That does not do the economy any good at all.

The bottom line is the provisions of the bill before the Senate, as well as those that are likely to come back to the Senate from conference, will be helpful to individual taxpayers in the lower income brackets and helpful to families who create small businesses, who have small businesses that create jobs. They will be helpful to the economy as a whole and even helpful to the Federal Treasury.

I will refer a little bit to this argument made by some, including my good

friend from Montana, that we cannot afford to do both the 1-year fix for AMT; that is to say, have most people not pay the unanticipated taxes under the alternative minimum tax, and also the relief we would provide by continuing the existing tax rates for capital gains and dividends. The fact of the matter is, we can, and we will, do both. Within the next 3 or 4 weeks, we will have done both, and the country will be better off for it.

There is about \$30 billion that is required to provide the so-called fix for the alternative minimum tax to make sure that at least most taxpayers are not going to be stunned by that tax this year. I support that. The AMT is a feature of our Tax Code that has gone awry. As I said, both Senator BAUCUS and I have sponsored legislation to do away with it. Its intended purpose was to make sure very wealthy people could not zero out their tax liability by claiming what are, in fact, legitimate deductions and exemptions and credits. But they were being used to the point that some people paid virtually no taxes or no taxes. Congress decided: Well, everybody has to pay something, everybody except people at the low income.

But because it was not indexed for inflation, and, as it turns out, it is almost impossible to target just the "rich," the AMT has gone awry. It has crept into the middle class. If we do not stop it, before long it is going to affect virtually all taxpayers.

So what the bill provides is an increased exemption for 2006 so that the exemptions do not drop back to pre-2001 levels. It also prevents certain credits from being eroded by the AMT. The net result is that most people should not have to worry about the AMT tax bill for this year.

But the bottom line is, we can do that and also provide the relief for capital gains and dividends, according to the calculation of the "costs" for that relief. In other words, extending for 2 more years the existing rates for capital gains and dividends, that is a little more than \$20 billion.

So when Congress passed the \$70 billion in relief in the budget last April, and asked the committees to come back with their reconciliation in taxes for that amount, we wanted to make sure no one would pay higher taxes during this 5-year budget window. We can do that by extending the same rate for capital gains and dividends—that is about \$20 billion—providing this year of relief from the alternative minimum tax—that is about \$30 billion—and there is still something like \$16 billion or \$20 billion, about \$20 billion left over for other provisions which we also want to take care of.

I am also going to discuss some of these other provisions because I think it is very important for anybody who might think about voting against this bill to appreciate what they would be voting against.

First, they would be voting against the savers' credit. The savers' credit is

a nonrefundable tax credit that encourages low-income taxpayers to make contributions to an employer-provided retirement savings plan or an IRA. This tax reconciliation bill extends that credit through 2009. It is currently scheduled to expire at the end of this year. Nationwide, almost 5.5 million filers take advantage of this tax credit. By the way, almost 100,000 of those filers are in my State of Arizona.

How about small business expensing? Under current law, small businesses can deduct the cost of qualified investments in the first year they are made, up to \$100,000, indexed for inflation. After 2007, this amount will drop back to \$25,000. What our bill does is to extend the increased amount through 2009. Keeping the increased amount enables small businesses to continue to invest and grow.

Now, if you vote against this bill, here is something else you will be voting against: the above-the-line deduction for college tuition expenses. Under current law, the provision that allows a taxpayer to take an above-the-line deduction for college tuition costs expired at the end of 2005. It is done. The full deduction is available for joint filers with income under \$130,000 and is phased down for higher income filers.

The tax reconciliation bill, the bill that is before us, would extend it through 2009. We have to do that this year because it has expired. Above-the-line deductions are important in this case because they are available to non-itemizers, while most deductions, below the line, are only available to those filers who itemize. Nationwide, over 3.6 million filers claimed this deduction in 2004. About 74,000 of those filers, by the way, were in my State of Arizona.

There are some other extenders. The President talked about some of these in his State of the Union speech. For example, the R&D tax credit that is so important to continued research and development in our country. And there is the 15-year depreciation recovery period for restaurant improvements, the 15-year depreciation recovery period for leasehold improvements. This bill also extends the deduction for teachers who pay for some expenses out of their own pocket. This is something I introduced some years ago. In fact, if my recollection serves, the average teacher spends about \$500 a year out of her or his own pocket to bring supplies to school that are not paid for by the schools in order help teach the kids. We provide a deduction for that. Nationwide, there are 3.3 million filers who take advantage of that. And 62,000 of those are in my State of Arizona.

Finally, to mention the sales tax deduction. This is very important. It is not important in my State in particular, but it sure is important in some other States. For 2004 and 2005, taxpayers living in States without income taxes could take an itemized deduction for State and local sales taxes in lieu of the existing deduction for State and local income taxes, from which they get no benefit. The reconciliation bill would extend this option for 2006. Nationwide, 12.3 million families and individuals will benefit from the sales tax deduction this year, 2006.

So the bottom line of all of this is that this bill is not just about the AMT and capital gains and dividends; it is about a lot more. My colleagues who want to help average taxpayers, people who do not even itemize their deductions, teachers, small businesses—all of

these taxpayers are benefited by the bill we have before us. It is important for us to support these taxpayers, by the millions, as I said.

There is a final point; that is, a point that Senator BAUCUS has raised concerning the so-called Byrd rule. This is a very technical, rather arcane point about revenue loss beyond the budget window. The two tax-writing committee chairmen in the House and the Senate are well aware of this requirement and will make certain the conference agreement complies with all rules of the Senate by including any necessary offsets, as the Senate-passed reconciliation bill complies with all rules of the Senate. So I want to assure my colleagues that the problem that has been raised is not going to be a problem by the time we conclude voting on this legislation. They can rest assured of that.

So, Mr. President, I urge my colleagues, as they consider any motions to instruct conferees this evening, that it is all well and good to tell our conferees what we think, but the bottom line is, we need to get this bill into conference so the conference committee can issue a conference report that we will then deal with and our House colleagues will then deal with, that will continue the tax rates that currently exist, that will continue the deductions and exemptions we currently have for all these taxpayers we talk about, that will not allow taxes to increase on our constituents. That is what this bill is all about—nothing more, nothing less—no tax increases.

Thank you, Mr. President.

#### EXHIBIT 1

TABLE 3.6.—2003, INDIVIDUAL INCOME TAX RETURNS WITH MODIFIED TAXABLE INCOME: TAXABLE INCOME AND TAX CLASSIFIED BY EACH RATE AT WHICH TAX WAS COMPUTED AND BY MARITAL STATUS

[All figures are estimates based on samples—money amounts are in thousands of dollars]

Marginal tax rate classes	All returns			Joint returns and returns of surviving spouses			Returns of married persons filing separately		
	Number of returns	Income taxed at rate	Income tax generated at rate	Number of returns	Income taxed at rate	Income tax generated at rate	Number of returns	Income taxed at rate	Income tax generated at rate
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
All tax rates .....	101,386,201	4,206,592,861	780,305,566	44,033,987	2,867,802,099	551,093,751	2,027,382	74,697,606	14,992,353
5 percent .....	9,833,227	33,552,373	1,677,619	5,735,137	21,989,140	1,099,457	109,279	358,270	17,913
8 percent .....	1,058,265	3,780,577	302,446	638,945	2,744,256	219,540	12,762	24,298	1,944
10 percent .....	100,367,644	914,053,162	91,405,316	43,667,544	555,949,302	55,594,930	2,017,756	13,037,057	1,303,706
10 percent (capital gains) .....	1,445,014	3,942,692	394,269	837,753	2,774,756	277,476	12,290	22,530	2,253
10 percent (Form 8814) .....	92,871	62,588	6,267	70,255	48,325	4,837	56	67	7
15 percent .....	74,461,039	1,583,782,894	237,567,434	35,870,035	1,052,826,848	157,924,027	1,721,892	24,754,136	3,713,120
15 percent (capital gains) .....	9,461,124	205,205,659	30,780,849	6,285,159	152,654,959	22,898,244	144,743	5,995,346	899,302
20 percent .....	2,188,286	75,411,601	15,082,320	1,441,471	57,677,194	11,535,439	25,602	2,464,341	492,868
25 percent .....	26,738,916	640,244,673	160,061,168	14,119,838	423,664,278	105,916,069	652,367	9,830,617	2,457,654
25 percent (capital gains) .....	349,114	7,250,430	1,812,607	236,994	5,705,659	1,426,415	4,929	185,917	46,479
28 percent .....	5,459,365	199,378,501	55,825,980	3,635,902	143,892,642	40,289,940	160,274	2,894,980	810,594
28 percent (capital gains) .....	9,600	805,760	225,613	5,868	609,221	170,582	*12	*14,530	*4,068
33 percent .....	2,029,605	170,336,243	56,210,960	1,634,272	140,306,823	46,301,252	59,230	2,399,367	791,791
35 percent .....	752,028	367,903,515	128,766,230	641,635	306,958,696	107,435,544	22,824	12,716,151	4,450,653
Form 8615 .....	100,337	882,194	186,486	.....	.....	.....	.....	.....	.....

\* Estimate should be used with caution because of the small number of sample returns on which it is based.

Note: Detail may not add to totals because of rounding.

Source: IRS, Statistics of Income, Individual Complete Report 2003, Publication 1304, October 2005.

TABLE 3.6.—2003, INDIVIDUAL INCOME TAX RETURNS WITH MODIFIED TAXABLE INCOME: TAXABLE INCOME AND TAX CLASSIFIED BY EACH RATE AT WHICH TAX WAS COMPUTED AND BY MARITAL STATUS—continued

[All figures are estimates based on samples—money amounts are in thousands of dollars]

Marginal tax rate classes	Returns of heads of households			Returns of single persons		
	Number of returns	Income taxed at rate	Income tax generated at rate	Number of returns	Income taxed at rate	Income tax generated at rate
	(10)	(11)	(12)	(13)	(14)	(15)
All tax rates .....	13,218,829	258,524,437	39,251,842	42,106,004	1,005,568,719	174,967,619
5 percent .....	403,159	934,890	46,745	3,585,652	10,270,073	513,504
8 percent .....	34,235	80,776	6,462	372,323	931,248	74,500

TABLE 3.6.—2003, INDIVIDUAL INCOME TAX RETURNS WITH MODIFIED TAXABLE INCOME: TAXABLE INCOME AND TAX CLASSIFIED BY EACH RATE AT WHICH TAX WAS COMPUTED AND BY MARITAL STATUS—continued—Continued

[All figures are estimates based on samples—money amounts are in thousands of dollars]

Marginal tax rate classes	Returns of heads of households			Returns of single persons		
	Number of returns	Income taxed at rate	Income tax generated at rate	Number of returns	Income taxed at rate	Income tax generated at rate
	(10)	(11)	(12)	(13)	(14)	(15)
10 percent .....	13,184,715	102,452,847	10,245,285	41,497,629	242,613,955	24,261,396
10 percent (capital gains) .....	52,205	149,977	14,998	542,765	995,430	99,543
10 percent (Form 8814) .....	19,653	12,773	1,281	*2,907	*1,421	*143
15 percent .....	7,628,714	105,116,730	15,767,510	29,240,398	401,085,180	60,162,777
15 percent (capital gains) .....	254,126	4,043,136	606,470	2,777,097	42,512,217	6,376,833
20 percent .....	48,027	1,325,228	265,046	673,186	13,944,838	2,788,968
25 percent .....	1,450,057	28,069,853	7,017,463	10,516,654	178,679,925	44,669,981
25 percent (capital gains) .....	11,082	188,343	47,086	96,109	1,170,512	292,628
28 percent .....	141,741	4,805,859	1,345,641	1,521,448	47,785,019	13,379,805
28 percent (capital gains) .....	*8	*5,732	*1,605	3,712	176,275	49,357
33 percent .....	50,672	4,107,496	1,355,474	285,431	23,522,557	7,762,444
35 percent .....	15,740	7,230,795	2,530,778	71,829	40,997,872	14,349,255
Form 8615 .....				100,337	882,194	186,486

\*Estimate should be used with caution because of the small number of sample returns on which it is based.

Note: Detail may not add to totals because of rounding.

Source: IRS, Statistics of Income, Individual Complete Report 2003, Publication 1304, October 2005.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the next motion will be a motion by the Senator from Oregon, Mr. WYDEN, on energy. I ask unanimous consent that the pending motions be temporarily laid aside so the Senator from Oregon may offer his motion.

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

The Senator from Oregon.

#### MOTION TO INSTRUCT CONFEREES

Mr. WYDEN. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

Mr. WYDEN moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to insist on a provision that repeals accelerated depreciation for geologic and geophysical costs for oil and gas exploration by the 5 major oil companies for the following reasons:

(1) In April 2005, President Bush stated that "With \$55 oil, we don't need incentives for oil and gas companies to explore." On February 10, 2006, oil futures trading on the New York Mercantile Exchange closed at \$61.84 per barrel.

(2) At a November 9, 2005, joint hearing of the Committee on Energy and Natural Resources and the Committee on Commerce, Science, and Transportation, the Chief Executives of ExxonMobil, ChevronTexaco, ConocoPhillips, BP, and Shell all testified that the new tax breaks in the Energy Policy Act of 2005 were unnecessary for their companies to explore for oil. Accelerated depreciation for geologic and geophysical costs for oil and gas exploration is one of the new tax breaks provided by the Energy Policy Act of 2005.

(3) The Joint Committee on Taxation estimates that this special interest tax break for major oil companies costs the taxpayers and the United States Treasury more than \$100,000,000 over the next 5 years and almost \$300,000,000 over 10 years. The United States taxpayers will have to pay higher taxes to provide this tax break for big oil companies.

(4) In 2005, the 5 major oil companies whose Chief Executives testified before the joint hearing of the Committee on Energy and

Natural Resources and the Committee on Commerce, Science, and Transportation reported net profits of more than \$111,000,000,000.

(5) At a time of record high oil company profits and high Federal budget deficits, hardworking American taxpayers should not have to provide record subsidies to major oil companies. Congress should eliminate this special interest tax break for the largest oil companies that even these oil companies say is not needed.

Mr. WYDEN. Mr. President, I thank, particularly, the distinguished Senator from Montana, who is on the floor, Mr. BAUCUS, and Senator GRASSLEY, for working very closely with me on this issue because I think this illustrates something the Senate is going to have to tackle aggressively in the days ahead. This, at least, makes a modest step in the right direction.

At a time when the oil companies have been making record profits and often charging record prices at the pump, it does not seem, to me, they ought to be receiving record subsidies from the taxpayers.

What this amendment does—and this would mean for the first time in, as far as I can tell, 20 years—the Congress would actually be rolling back a subsidy to the oil industry. This would limit one of the new tax breaks that the major oil companies received in last year's Energy bill.

The reason I feel so strongly about this, colleagues, is we had the major oil companies before the Energy Committee recently, and I asked the CEOs of the five largest oil companies if they agreed with the President's statement—and I quote here—"With \$55 oil, we don't need incentives for oil and gas companies to explore."

The CEOs of ExxonMobil, ChevronTexaco, ConocoPhillips, BP, and Shell all agreed that the new tax breaks for exploration in the Energy bill were unnecessary. In fact, ExxonMobil CEO Lee Raymond said:

When you add it all up that energy legislation is zero in terms of how it affects ExxonMobil.

So what we have is the bizarre situation where the Congress sends billions of dollars of new subsidies to the oil companies when the oil companies ac-

tually show up at congressional hearings and say they do not even need these subsidies that the Congress is sending them.

Now, ExxonMobil recently announced it had posted an all-time record profit of \$36 billion in 2005. That huge amount is not just the highest profit ever for an oil company, it is the highest profit ever for any company. And ExxonMobil is not the only oil company to post a record-high profit in 2005. ConocoPhillips reported its profits shot up 66 percent to \$13.5 billion, while ChevronTexaco's profits jumped to more than \$14 billion. The five largest oil companies in the country had combined profits of more than \$110 billion.

So I would only say to the Senate today, it is one thing to talk about new tax breaks to the oil companies and to look at them, as we are doing today, and to particularly say: Do the oil companies need these tax breaks in order to promote exploration and secure the energy our country needs? What we now have is the situation where the oil companies themselves have come to the Congress and have said, publicly, before the Congress, they do not need these kinds of tax breaks.

At a time when they make record profits and consumers have recently paid record-high prices, the Federal Government simply should not record record-high subsidies to these companies.

The Senate tax reconciliation bill includes an amendment I had the opportunity to work with Chairman GRASSLEY and Senator BAUCUS on to eliminate one of the new tax breaks for the oil companies to explore. This is exactly the type of incentive the major oil company CEOs and President Bush have said they do not need.

The special-interest tax break I was able to see eliminated from the Finance Committee bill would cost taxpayers about \$300 million over 10 years. The taxpayers, in effect, would have to pay higher taxes to provide this big break for major oil companies, when the price of oil is over \$60 per barrel. That is \$7 per barrel higher than the price at which the President said they



do not need incentives. At these high prices, it is my view we ought to take back this unnecessary tax break and save our citizens hard-earned tax dollars.

Now, there are some in the industry who may argue the five major oil companies' CEOs do not speak for the entire industry. They may argue the small producers still need more incentives to explore.

I want to emphasize this amendment does not affect the small producers. This amendment is about the large oil companies, the people who came to the Senate and said they do not need new subsidies.

This amendment is about making sure these major firms don't get a tax break they now have testified they don't need. The fact is, over the past 2 years, oil companies have already increased their drilling operations as the price of oil has skyrocketed from \$45 per barrel to over \$70 per barrel. The number of rigs in operation and the amount of drilling have also been increased by a third since 2003. Most of this increased drilling occurred before the new tax break went into effect.

What it comes down to is Congress should not provide more subsidies to major oil companies that make record profits to do what they are already doing, especially at a time when our consumers are getting hammered at the pump. Unless the Congress accepts this measure that the Finance Committee accepted when I offered it through the support of the chairman and Senator BAUCUS, the major oil companies would be getting a significant new tax break that other major industries don't get.

Instead of having to write off some of their capital costs over a number of years, major companies would get accelerated writeoffs for what is called geological and geophysical exploration costs. According to the Joint Committee on Taxation, the IRS and the Federal courts have ruled that these costs are capital costs which should properly be depreciated over the entire period the oil well is producing, which can be a decade or longer.

The President's budget calls for scaling back this special treatment of oil and gas exploration costs by extending the depreciation period for what are called G&G costs from 2 to 5 years. The Senate bill takes a little different approach by repealing accelerated depreciation of these costs for the biggest oil companies.

I wish to emphasize this, particularly since I see my friend from Mississippi who has discussed the energy issue in a very thoughtful way in committee. The Senator from Mississippi and others have stressed how important these incentives are to the independents and small producers. This is something with which I am sympathetic.

I have indicated to Chairman GRASSLEY and others that I believe we ought to be taking a comprehensive look at the Tax Code as it relates to the energy

field to make sure we can reconfigure these tax breaks so that when they are needed by the small companies and the independents, they can get them, but we don't keep sending them out the door to the big oil companies and then have these big oil companies in effect embarrass the Congress by coming to a hearing and saying: Look, we don't need these breaks.

Tax breaks such as the accelerated writeoffs for these costs also clutter up the Tax Code and distort capital markets. It is not the place to discuss it today, but my Fair Flat Tax Act would give us a bipartisan opportunity to remove some of that clutter from the Tax Code. At least we can make a start at reform today by eliminating the special interest tax break for the oil industry which the companies say they don't need.

Our consumers already pay more at work, they pay more at home, and they pay more as they drive everywhere in between. Let's give them a break in their personal energy bills. We can give them a break by ensuring that those folks who are getting hammered with high energy bills at home won't have to subsidize profitable oil companies when they pay their taxes.

I urge my colleagues to support fiscal responsibility by supporting my motion to urge the conferees to support the Senate position, eliminate this special tax break for the major companies. This does not apply to the small companies. It doesn't apply to the independents. I have worked closely with Chairman GRASSLEY and Senator BAUCUS to ensure that will be the case.

I hope we will be back in this Chamber for a more comprehensive discussion of the Tax Code and energy policy in the days ahead. My own sense is, in the last energy bill, we subsidized an awful lot of people to do the wrong thing. Getting a new energy policy is arguably the most red, white, and blue issue the Congress could possibly take up. I think about our soldiers in Iraq and Afghanistan, these individuals who honor us every day with their courage and valor. I want to make sure their kids and grandkids are not off in the Middle East fighting a war and Congress is still dallying on oil.

This is a step in the right direction. I suspect other colleagues want to discuss this issue. I reserve the remainder of my time.

In fact, how much additional time do I have on this motion?

The PRESIDING OFFICER. The Senator has 18½ minutes.

Mr. LOTT. Mr. President, will the Senator from Oregon yield for a couple questions?

Mr. WYDEN. Absolutely.

Mr. LOTT. I wanted to make sure I understood what the Senator was advocating.

Is the Senator proposing a motion to instruct that would basically say that the Senate should insist on the position it had in our version of this reconciliation tax package in conference?

Mr. WYDEN. The Senator is correct. I am asking that we insist on what we did in the Finance Committee and what Chairman GRASSLEY and Senator BAUCUS have worked closely with me on. It is our feeling that we do need to have a broader and more comprehensive discussion about this down the road, but we took a modest step in the right direction in the Finance Committee. That is what I wish to preserve with this motion.

Mr. LOTT. And that language was retained in the full Senate?

Mr. WYDEN. Right.

Mr. LOTT. Let me just say to the Senator from Oregon that regardless of whether Senators agree or disagree, this is an appropriate motion to instruct. This relates to the bill at hand. Obviously, it is not going to buy any conferees. I hope I will be a conferee. Certainly, it won't buy me. But at least it speaks to the substance of the bill before us. The Senator has his right to do this, and it certainly is appropriate.

Most of these other motions to instruct we are going to be dealing with don't really deal with the bill; they are purely partisan hit amendments or motions to instruct. And what we are going to do on this side is respond in kind. It is the kind of partisan political "gotcha" which has caused this institution to deteriorate to the nadir where we are. It is unfortunate, and I am sad about it. But if that is the way we are going to proceed, I am going to join in the fun and games before the day is done.

At least in the case of the Senator from Oregon, he is dealing with a subject in the bill. I commend him for that. He is very thoughtful in this, as in most subjects. His motion to instruct is an appropriate one.

Mr. WYDEN. Mr. President, to respond briefly, I thank the Senator from Mississippi. I am interested in working with him on the Finance Committee. This discussion does need to be part of a longer debate.

The Senator from Mississippi has drawn an important distinction that a number of us have talked about as to the difference between the small firms and the independents and the big firms. What we tried to do in this bipartisan amendment is to preserve it. Frankly, in a sense, we ought to do this just to prevent the embarrassment of the Senate. When you have these big oil companies show up in broad daylight and say they don't need these tax breaks, and the Congress has just been sending out billions of dollars, that ought to be a wake-up call for both sides of the aisle, Democrats and Republicans, to work together to rethink this. I hope this will be the beginning of such an effort. It is a modest step. It will save \$300 million over 10 years—clearly, not what we need to do to deal with the hemorrhaging of the Federal budget, but at least it is a step in the right direction.

I thank the distinguished Senator from Mississippi and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, parliamentary inquiry: Are we now on the conference report itself so that I could yield myself time off the overall report?

The PRESIDING OFFICER. The time can be yielded from the general debate.

Mr. LOTT. I ask unanimous consent that I be yielded time off of the debate which is scheduled on our side of the aisle.

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

Mr. LOTT. Mr. President, I will be brief. In line with what I was just saying, I have been informed by the staff that the Parliamentarian probably would consider motions to instruct conferees regarding making permanent the changes we have provided in the alternative minimum tax area. If that would be in order, if we start down this trail of motions to instruct, I would be prepared to offer one in this AMT area or defer to the chairman, if he would prefer to do so.

This is an area in which we should act. I remember a few years ago when we got into the discussion of the alternative minimum tax, the desired goal was to make sure that everybody paid some minimum amount of taxes. It was aimed at the wealthy. But as we all have learned, because of the way the Tax Code works, more and more middle-income Americans have been pulled into this AMT web. It has gotten to be a serious problem, so we have proposed to do something in the Senate-passed bill on a temporary basis on the AMT.

My proposal would be, if it is the right thing to do, make it permanent. This is the kind of thing we are playing around with that is inappropriate. Why would we do it for a year or two? If it is the right thing to do, let's make it permanent.

I suspect there are some people in the Senate who will not want to do that for whatever reason. My question is: Why not, if it is the right thing to do? The same thing is true with some of the other proposals which have been considered. If we are going to extend the tax break for some of these families with children so they won't get hit with a tax increase, shouldn't we do it here? Who now wants to stand up and defend the fairness of what is happening with this alternative minimum tax, what it is doing to middle-income workers?

With all the complaints we hear about the AMT on both sides of the aisle, why in the world wouldn't we support a motion to instruct to make it permanent? I would hope that we would. I think that substantively, this is a no-brainer. Yet I understand there is resistance to doing that. Maybe there are some people who don't want to vote on that motion to instruct.

There are 20 million American families affected by this pernicious provi-

sion in the Tax Code which has taken on aspects we never intended. If it is the right thing to do, then the budget should reflect that. This tax reconciliation should reflect that. We ought to make the change in the AMT permanent.

I would hope that we wouldn't get into a long list of motions to instruct. They are irrelevant anyway. But both sides need to know that if we are going to start down that trail, there are going to be some uncomfortable motions to instruct on both sides, and we are going to get a chance to vote on making the changes in the unfairness of the alternative minimum tax that affects all these millions of families permanent.

I yield the floor.

Observing no other Senator wishing to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, I think around 8 we will probably have two votes. It is also my understanding that the other side of the aisle will be offering various motions to instruct which presumably will be voted on, as will motions to instruct on this side of the aisle.

I must say, though, I have glanced at the proposed motions to instruct on the other side, and I find it very curious. Why do I say that? I say that because we in the Senate passed a bill. The House has passed a bill.

We are going to go to conference on the two bills now. Presumably, it is the Senate conferees who are charged to defend the Senate bill. Presumably, the House conferees are charged to defend the House bill. After all, that is what a conference is all about. The Senate passes a bill and goes to conference; the House passes a bill and goes to conference.

These motions that are going to be offered, however, do not defend the Senate bill. Quite to the contrary, they are opposed to the Senate bill. They defend the House-passed bill, the capital gains treatment. I find that very curious. I, frankly, find it very disconcerting, because if this is the case, it will set the precedent basically for a motion to instruct, not to defend the body's views. Most of the motions to instruct from the other side will be motions not to defend the Senate bill, but urge provisions in the House bill. That is nuts.

Most of the motions to instruct by Members on this side are asking the conferees to defend the Senate-passed provisions. I point that out because, as I said, it is curious and disconcerting, and I hope all Members recognize what is going on here; namely, what I just

outlined. I hope this is an aberration and that it doesn't continue. Otherwise, this is another example of the chaos, the virtual free-for-all around here, and disrespect for procedure, for rules, for civility, and for both sides working together. I hope maybe that is an oversight by the other side of the aisle with all the motions that are going to be coming up.

Nevertheless, I have them before me. That is what they seem to say. I point that out for Members; it is an observation before we vote to take into consideration. Most of the instructions I see are with respect to capital gains treatment. There is no provision for extending current law which doesn't expire until January 1, 2009; whereas, there are provisions in the House-passed bill to extend it for 2 more years, even though current law doesn't expire until January 1, 2009.

The motions to be offered are to basically take up and encourage the conferees to pass the House provisions. That is very curious.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, I see the Senator from Illinois, and I ask unanimous consent that the pending motions be temporarily set aside so that the Senator from Illinois may offer a motion.

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

#### MOTION TO INSTRUCT CONFEREES

Mr. OBAMA. Mr. President, I thank the Senator from Montana for the excellent work he has been doing.

I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

Mr. OBAMA moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to insist that any final conference report shall provide tax relief for the most vulnerable members of our society, including the low-income victims of Hurricane Katrina and children in families that are too poor to benefit fully from the refundable child tax credit.

Mr. OBAMA. Mr. President, 2 weeks ago, in a debate on the Senate version of the tax reconciliation bill, I proposed an amendment to provide tax relief for victims of Katrina, paid for by restricting the extension of capital gains and dividend tax cuts only to people with incomes under \$100 million. My amendment would have made all children of working parents in the disaster area eligible for at least a partial credit.

For the convenience of my colleagues, I agreed not to demand a vote on that amendment. But I rise again to urge my colleagues not to forget Katrina and her victims who continue to struggle. In a bill with \$70 billion of tax cuts, surely we can find \$274 million to do something for the most vulnerable members of our society.

In the weeks after Katrina made landfall, President Bush vowed to do what it takes to help the region recover. We wanted to believe him. We had witnessed the devastation caused by the hurricane, and we saw the terror of poor families with their lives turned upside down, homes destroyed, jobs and businesses lost, families separated, and lives permanently changed.

At the time, the President said:

We have a duty to confront this poverty with bold action.

Almost 6 months later, the Government's actions have not matched the President's rhetoric. Evacuees are getting kicked out of their hotel rooms this week because FEMA stopped paying the bill. Thousands of temporary mobile homes ordered by FEMA are sitting empty in nearby Southern States. The Federal response continues to be inadequate to get the families back on their feet.

We can do better for these families. At a time when we are debating \$70 billion of tax cuts, most of which will benefit corporations and people who need help the least, why not set aside a small fraction to help those who need it most?

One way to help those who need help the most is to enhance the refundable portion of the child tax credit. Under current law, families who earn less than \$11,000 get no benefit from the refundable child credit. That means that a child does not get any benefit from the credit even if her parents work full time at the minimum wage. And the child doesn't get the full benefit of the \$1,000 credit until her parents earn close to \$18,000, or even more if the child has siblings. As a result, almost 17 million children get less than the full credit. Wouldn't it make sense to recognize the damage wrought by the hurricane and to eliminate the income threshold that excludes the poorest of children from getting the credit? Wouldn't it make sense to say to the children affected by Katrina that they will no longer be denied at least a partial credit so long as their parents are working?

The cost of this fix is estimated at \$274 million over 2 years. To get a sense of perspective, that is less than one-half of 1 percent of the cost of this entire bill. It is a matter of common sense and fairness—the least we can do when we are cutting taxes for wealthy Americans. If we do this, hundreds of thousands of this country's most disadvantaged children will see an increase in their credit—not as a handout but because their parents work.

I hope we don't forget the images we witnessed in the aftermath of the hur-

ricane—the people, their suffering, and the devastation. We shouldn't forget the daily struggles families right now are going through trying to rebuild their lives. Let us not forget our Government's promise to do what it takes for families along the gulf coast. Let us not forget our duty, as the President put it, to confront poverty with bold action.

I urge my colleagues to join me in instructing the Senate managers to provide tax relief for the most vulnerable members of our society. Together, let us urge them to remember the low-income victims of Katrina and the children and families too poor to benefit fully from the refundable child credit. Obviously, this is a modest piece of legislation. It is a motion to instruct. My suspicion is that even if it passed, other priorities would move to the fore.

Let me say in closing that it is shameful, what is happening in the gulf coast right now. I think all of us recognize the scope of the devastation. All of us were embarrassed at the slow response immediately after the hurricane. It has now been 6 months. We have not shown the sense of urgency that the American people did privately after the hurricane. I would hope that at least we can send some small signal that we are concerned about the kids who are languishing, who have been uprooted, who aren't in the schools they were attending and in the neighborhoods in which they grew up.

This is one way to send that signal, and I urge my colleagues to support my motion.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I strongly support extending the deduction for tuition costs through December 31, 2009, as provided for in the Senate bill.

To compete successfully in the world today, America must make education a priority—not only a priority but a very top priority. Why? I think it is pretty obvious. For one thing, our competitors certainly are.

Let's talk about, for example, training engineers. Engineers develop new jobs and new industries. Yet Japan and Europe train twice as many engineers as we do. China trains three times as many. In fact, I think the statistics are even more alarming than that. We are missing the boat. We are missing the boat.

Let's just stop for a minute. If China, Europe, and Japan train many more times than we, especially China, and add Indians to the mix—Indians are training lots of engineers—just think of what that means for the next 5 or 10 years based only on the size of those countries. If they are training many times more than we—and I think the population of India is close to 1 billion, and China is 1.3 billion. In about 10 years, it is going to be somewhat more than 1 billion. And our population is

about 280 million, 290 million, something like that. I would say we are way behind the eight ball. We need to spend much more time than we are on education.

Congress has responded with a number of income tax benefits for higher education financing. Tax incentives such as the HOPE scholarship and lifetime learning credits, the Coverdell education savings account and prepaid tuition and college savings plans help American families pay for college. The deduction for qualified higher education tuition and related expenses, section 222 of the Tax Code, was first added as part of the 2001 Economic Growth and Tax Relief Reconciliation Act.

Let me explain more. We cannot allow America's workforce to be left behind. To remain the most competitive and innovative country in the world, we need to make education affordable.

Let me state a small anecdote. I was in Bangalore, India, not too long ago, about 3 or 4 weeks ago, and I asked the head of the research center there, the Jack Welch Research Center, which, frankly, is one of the two or three state-of-the-art research centers General Electric has, I asked the manager of it: Why are you here? Why are you here in Bangalore? Guess what he said.

He said: Because this is where the greatest talent pool is.

I asked: Where is the next greatest talent pool for your top-flight scientists and engineers here?

He said: China.

I asked: Well, where is the United States in terms of ranking for the best talent pool?

Frankly, he said it was way down on the bottom. Not the very bottom. He said: You are down there.

So I asked him: What can we do in America to be more competitive than we are today, to make sure we have the best jobs for our kids, and, more importantly, for our kids and grandkids so that we in America can pass on to our kids and grandkids the same standard of living we have today, which our parents gave to us?

His answer: You guys have to spend more on education, and you have to make it less expensive so more students can get the quality education they want and need. Also, you have to lower your education costs. It is too costly in America to get a good education. He said: You also have to lower your health care costs. Your health care costs are way, way too high compared to every other country in the world.

Sure, we have high-quality health care, he said, but we spend twice as much per capita on health care in America as does the next most expensive country.

Are we twice as healthy as the next most expensive country? I doubt it.

But right off the top, the manager of that technology center in Bangalore, India, made it very clear to me that we

Americans have to spend a lot more time boosting our talent pool so we have more scientists and engineers than we currently have in the United States. We have a lot of them, and they are good, but it is also very clear that we are slipping or, to put it differently, other countries are catching up and are going to pass us soon if we don't get our act together.

It costs today almost \$43,000 a year for tuition, fees, and room and board in a 4-year public college. Just think of it: \$43,000 a year; that is a public college. At a 4-year private college, it costs more than \$100,000. That is just ridiculous, that it costs that much for a college education in America today. It is outrageous, and it puts education far out of reach for so many students.

From 1981 to 1995, tuition at a 4-year public college/university increased by 234 percent. That is right. From 1981 to 1995, tuition increased by 234 percent. That is three times the growth in median household income and more than three times the increase in the cost of living over this same period. That is unsustainable, clearly unsustainable. That is wrong. I don't know why this country doesn't start to address that more directly, more frontally, because the earlier we do, the more jobs and the more high-paid jobs we are going to have for Americans.

For tax years 2002 and 2003, taxpayers with adjusted gross incomes of less than \$65,000—or say \$130,000 for married couples filing jointly—are allowed to deduct \$3,000 for qualified higher education tuition and related expenses. Three thousand dollars. Remember how costly education is, the figures I just gave you a moment earlier.

For tax years 2004 and 2005, the maximum deduction is \$4,000 for those same families and \$2,000 for Americans with adjusted gross incomes of \$65,000 to \$80,000 for a single person or from \$130,000 to \$160,000 for married couples filing jointly. Unfortunately, this important deduction expired at the end of 2005.

Critics of extending the deduction for tuition costs ask why we have both this deduction and the HOPE and lifetime learning tax credits. It is true that the current system can be complicated, and it is complicated. Families that qualify for tax credits are sometimes better off with a deduction. Unfortunately, families don't always know which tax choice is best for them. So we are looking at whether the tax incentives for education should be combined or should they be simplified. But until we do, I wish to put the deduction on the same timetable as the tax credits which are in effect until 2010.

Let us look at the House. The House only extends this deduction for 1 year—clearly not enough. Senators on both sides of the aisle have agreed that this deduction is important to working families trying to get their children a good education. We must, therefore, preserve this deduction and, as pro-

posed in the Senate bill, extend this important deduction for 4 years.

If America is going to be competitive in the global economy, it must make education a top priority. Extending the deduction for tuition costs through December 31, 2009, does exactly that by helping provide our children with affordable education. Therefore, I will work hard to ensure the deduction for tuition costs is extended through December 31, 2009, as provided for in the Senate bill, and I urge my colleagues to support this extension.

I may sound like a broken record, but every fiber in me, my bones and my muscles, my blood and whatever is in me, I just know that we have to work a lot harder, a lot more effectively to address American competitiveness, and most of that comes down to education. It is making sure that our kids and we ourselves are educated as best as we possibly can. Education is a lifetime effort; it is not just K through 12. It is lifetime. It also begins at very early ages—Prestart, Head Start, K through 12, college. It also includes votech training for job skills. It is continuing education. It is bringing us more up to date. For those of us who graduated a long time ago, it is making sure we are continuing to be up to date with what is going on and are able to translate new ideas into jobs.

I have traveled a lot overseas and I have seen a lot of countries, especially in Asia. I can tell you, they are on the march. Speaking primarily of the Chinese and the Indians—clearly Japan is a very large country, with the second largest economy in the world, but it will not be long before China is the largest economy in the world. I am guessing by the year 2030 China will be the largest economy in the world. That is not far away. It is only 24 years from now. I may be off by 10 years; it may be 10 later or 10 earlier. But 24 years is now, in terms of the time it takes to get us up to speed, the time it takes to get education programs in place, the time it takes to make sure we are graduating more scientists and engineers and have a tax and health care policy that makes more sense, and an energy policy that makes more sense.

We are a wonderful, big country. We are extremely lucky. We are the luckiest people in the world to be Americans. We don't see people heading for the door to live in other countries. Rather, people want to live in America. They want to come to America because of our values, et cetera.

It is true in the last couple of years our image overseas has been greatly tarnished. The image of America today is not what it was several years ago. That is due, I think, primarily to the foreign policy of this country. But nevertheless, overall most people would rather live in America than some other country. We Americans certainly would. We want that to continue as long as it possibly can, not just for ourselves but, more importantly, for our children and for our grandchildren.

That is the legacy we want to pass on to them.

To do that, you have to have some kind of plan. You can't let these go helter-skelter. Other countries have plans. They definitely have plans. It is clear, China has a plan. I don't know if they are going to be successful, but they have a plan. They know what they want to do. They know that they have to boost and are boosting their science and engineering education. They know they have to develop the interior provinces, not just the eastern coastal provinces. What are they doing about it? They are doing something about it. They have a plan. They are spending a lot of money and building big super-highways out in western China. There is a big, fancy airport in western China. I was in Chunking 4 or 5 weeks ago, at a huge, massive, fancy, wonderful airport in western China. That is government policy.

They have plans to deal with unemployment. They have plans, frankly, to put on what they think will be the world's best Summer Olympics in 2008. I bet they have a plan to win more gold medals than any other country, too. They have plans. You have to take your hat off to them because they are doing what they think they have to do to progress and bring themselves out from the lower living standards they have had for so many years.

It is true many Chinese live in poverty. It is true many Indians live in poverty. That is also true. But they have plans to address that. I remember not too many years ago I was in Shanghai. I was talking to the mayor of Shanghai about all these wonderful, fancy buildings in Shanghai. I said: You must be proud of all you are doing in Shanghai.

The mayor turned to me and said: We have problems.

I said: What do you mean?

We have high unemployment by China's standards. This is what we are doing to retrain people. Some of these jobs are old jobs. As the Chinese Government works to downsize these state-owned enterprises, Government-owned enterprises that are all subsidized, they know as they enter the World Trade Organization they have to get rid of a lot of these state trading enterprises. Man, oh, man, they know as that happens they are going to have huge unemployment problems. So they have details, all they are trying to do, in their plan to address that job loss in China.

Then he pointed to the river there in Shanghai and he said: Pollution; this river is polluted. We have a 10-year plan to clean up this river so it is no longer polluted.

I don't know whether it has been successful or not. That was 5 years ago. I assume the river is probably polluted. But you could tell, talking to him, he had plans to address the problems that we have.

India certainly is the same. When I was in India a couple or 3 weeks ago,

they have plans how they are going to build up India. I went to the subway in Delhi. That is a fancy subway. That makes our subway in Washington, DC—it is comparable. But guess what. In the Indian subways you can use your cell phone because they make sure when they tunnel under they have the radio stations there, the towers, so you can use your cell phones. They are building 18 more subways in India, fancy ones.

Other countries are building them. It is not us. When I was there, I heard constantly from all over India: Where are the Americans? Where are you? Australians are here and Malaysians, other countries are here, Germans and French. The subway was 60 percent Japanese financed. Where are the Americans? They want us there, but we are not there.

What I am saying is things are happening in this world. We have to get with it. Much of that is education. Much of that is learning what is going on. Much of that is forming partnerships where both countries do well. We can't stick our heads in the sand. Things are happening and I think a large part of this is education.

Let me say this again, about that same point. When Tom Friedman's book came out, "The World Is Flat," I took it on myself to travel around the United States by myself and ask CEOs, What do you think of this book? Have you read this book? They all read it, of course.

I said: What do you think? Do you agree? They all agreed. Some said: This is scary. Some said: Yes, this is a challenge.

Then I asked the next set of questions: What do we do about all this? Sure, it is true, largely true. Sure, it is a little scary. Sure, it is a challenge. What do we do about it?

That kind of set them back a little bit. They hadn't thought a lot about solutions; a little bit. But the solution they all tended to gravitate to was education. We Americans have to focus much more on quality education, quality teachers. We are doing a good job. I got a great education when I grew up in Helena, MT, in Missoula, MT. The teachers, I thought, were excellent. They were tough and they were good. Current teachers are good. But all I am saying is whoever we are, we know we have to keep moving and progressing. You know when you tread water you are likely to sink. You can't keep treading water. You have to go ahead.

I am often reminded of the former head of Intel, Andy Grove, who wrote a book, "Only The Paranoid Survive." That is probably true in the semiconductor industry, but I think it is partly true in life. That is not to say we all have to be paranoid. Clearly not. But it is to say you have to be vigilant, and really vigilant.

Frankly, if I were President, what I would do is change this budget around massively. I would put a lot more in this budget for education. I would put

a lot more into making sure we can solve our health care cost problems in this country; more coverage. I would make sure we tackled and made America energy independent. This thing about independent 25 years from now is way too tepid, way too weak. We have to get started now. I suggest developing DARPA for energy. DARPA, in the Defense Department, developed lots of great technologies, military technologies, applicable in the private, civilian sector. We can do the same on energy. That will attract bright minds. It will help us be more energy independent, make us less hostage to events overseas.

It is so clear to me. I may be wrong, but I tell you it is clear to me, anyway, what we need to do. I think in my gut most Americans sense that, this sort of sense we have to get moving here. I think a lot of Members of this body would be surprised, if we were to be much more bold, as to the gratitude Americans would show to Congress for finally taking the lead and doing something.

We have to get organized somewhat, not seen to be prescriptive, not seen to pick winners and losers, but I am saying harness the energy that is in America and help focus it a little more on where we should be going. After all, that is why many of us sought these jobs. We sought these jobs to represent our people in the best way we could. We sought these jobs because we thought, many of us—most of us think we have pretty good judgment and priorities and common sense. If that is the case, I urge us to get out of our little boxes, get out of our little cubbyholes, get out of our daily routines, get out of the stuff that pulls us apart from our real job here, just a little bit—maybe for 30 percent of our time—and work more on long-term strategic measures and do what is right and address the core of some major issues that face us, rather than getting caught up in the routines around here, our series of meetings.

Meetings are good. Seeing constituents is great. We serve our employers back home. But we are also here as a body, 100 of us, and I think it is time for us, working with the other body and the executive branch, to truly put partisan politics aside and get something done that makes some sense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

#### MOTION TO INSTRUCT CONFEREES

Mr. HATCH. Mr. President, I share some of my dear colleague's frustrations about how this body runs and I wish we would work better together. I think it would do a lot of good for our country. I would like to see that happen.

I rise today to offer a motion to instruct the conferees to extend the research credit permanently. I understand one of the motions to instruct filed by one of my colleagues on the other side of the aisle says we should extend the research credit.

Mr. BAUCUS. Mr. President, I don't want to be too picky here, but don't we have to ask consent to put these motions aside? If that is proper, whatever is the routine here, so we have some consistency.

The PRESIDING OFFICER. The Senator is correct. The Chair was not understanding that the Senator was offering a motion.

Mr. HATCH. I wasn't offering it, but I will be happy to move to put it aside when the time comes.

I understand one of the motions to instruct, as I was saying, filed by one of my colleagues on the other side of the aisle, says we should extend the research credit for an additional 2 years. In concept, I certainly agree with this idea. The research credit is vital to America keeping its lead in world innovation. But if we are instructing the conferees as to better tax policy, why should we stop at a 2-year extension? If the research credit is worthy of an extension of an additional 2 years, why is it not worthy of a permanent extension?

Along with the distinguished Senator from Montana, Senator BAUCUS, I have been for many years an advocate of making the research credit permanent. As the lead Republican sponsor of legislation to provide for a permanent research credit, it seems I have come to the floor nearly every year for the past dozen years to either introduce a bill to make the research credit permanent or to offer an amendment to do the same.

I might add that Senator BAUCUS, the distinguished Senator from Montana, has been my partner in this matter—or should I say I have been his partner in this body. We have worked together to try and do this, along with a whole raft of other Senators, usually almost 100 percent.

In 2001, the Senate overwhelmingly passed an amendment to the Economic Growth and Tax Relief Reconciliation Act to make the research credit permanent. Unfortunately, the permanent credit was dropped in conference in favor of yet another temporary extension. That amendment in 2001, however, was not the only time the Senate voted for a permanent extension of the credit. It has happened several times. A very large majority of Senators has voted in favor of a permanent tax credit.

My point is that practically every Senator supports the research credit being made permanent. Despite this wide support, permanence has not yet happened. Instead, we keep extending the credit for a year or two at a time.

Why do we do this? The answer is simple. The artificial budget rules under which we operate prevent us from making the credit permanent because the cost of the permanent extension is determined to be far in excess of the cost of an extension for a year or two.

Another reason that we extend the research credit for a year or two, rather than permanently, is that we all

seem to be stuck in the mind-set that perpetual temporary extensions represent de facto permanence. Why worry about making the credit permanent when there is little or no doubt about it getting extended again? Doing so represents poor tax policy, but it seems to be the way Congress likes to handle this problem.

I will never forget the gap that once occurred between the expiration of the tax credit and our ability in the Congress to get it restarted.

Let's be realistic. We all know that the cost of these temporary extensions is no less than the cost of a permanent extension. If we think we are saving revenue to the Treasury by our current practice of extending the credit a year or two at a time, we are only fooling ourselves.

However, by not making the credit permanent, we are driving down the amount companies are willing to spend on innovative research. Even though we all know that the next extension for a year or two is practically a sure thing, the private sector does not see it that way. They do not, and can not, plan for the credit on a long-term basis if we only extend it for a temporary period.

Thus, we continually engage in a kind of self-defeating behavior—trying to fool ourselves into thinking we are saving taxpayer money by passing these temporary extensions while we tell ourselves it does not matter anyway because we are always going to extend the credit again for a year or two when it comes due. All the while, though, companies are keeping down their R&D spending because of the uncertainty provided by this practice.

Now, we see a Democratic motion to instruct the conferees to insist on another two years of the research credit, but to be paid for by not extending the lower rate on capital gains and dividends, which is in the House bill.

That seems not only extreme, it knocks out a very important set of tax principles that have kept the economy going. I think we ought to have all of these.

Let's face the facts. This motion is nothing more than a weak attempt to embarrass Republicans by forcing us to choose between the research credit and the capital gains and dividends provisions.

However, it does not work for all the reasons I have indicated. The motion presents us with a false choice. Another temporary extension of the research credit in this body, whether for 1 year or for 2 years, is practically a foregone conclusion. Virtually all of us are in favor of it. It is going to happen regardless of this motion to instruct.

My point, and the point of my own motion to instruct, is to ask, if we really believe the research credit is good policy, why not instruct the conferees to push for a permanent credit? It does not cost any more than a series of temporary extensions.

The motion from the other side is not really about the research credit, and

everyone knows it. It is about the lower rates for dividends and capital gains.

I continue to hear claims that Republicans are interested only in giving tax breaks to the rich. This mantra is false and insulting. We do not advocate continuing the lower rates on dividends and capital gains because we want to do a favor for the rich.

We believe that people respond to incentives, and that higher net benefits of investment leads to more saving. There is ample evidence for this, and this concept is not controversial among economists—they might argue how sensitive saving is to the returns on saving, but no one disputes that higher returns affects saving.

Higher saving leads to more investment by firms, which increases productivity and with it, wages and economic growth. Every worker benefits from an increase in saving. Nobel Laureates Robert Lucas and Ed Prescott have stated that reducing the tax on investment income is the closest we can come to a free lunch.

Some of my colleagues would have the American people believe that by supporting an extension of the lower tax rate on capital gains and dividends, Republicans are hurting those with lower incomes. I submit that by increasing saving and investment, we are helping lower income people more than we could in any other way.

Besides, if you look at how many people are now invested in the market, either through pensions or otherwise, or through mutual funds or otherwise, a good 50 percent of all taxpayers in America are now in the stock market.

Frankly, they all benefit from having these lower rates that we have been talking about.

Incentives lead to more saving. More saving leads to more investment. More investment leads to higher productivity and higher economic growth. Productivity and economic growth lead to more and better jobs for everyone. It is time for us to stop playing political games and get to work helping Americans realize their highest potential. We can start by appointing the conferees to the tax bill.

That is something that in the past we never had difficulties with, but in the last few years we have.

I send this motion to instruct conferees to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending motion is set aside.

The clerk will report the motion.

The legislative clerk read as follows:

Mr. HATCH moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to insist on the inclusion in the final conference report of a permanent extension of the credit for increasing research activities (based on section 108 of the amendment

passed by the Senate), in order to improve American competitiveness.

Mr. HATCH. Mr. President, I understand that will be placed in the proper order and to be considered in the next few days.

The PRESIDING OFFICER. The Senator should know that it is now pending.

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I first commend my friend and colleague from Utah. I agree with him. I think it should be permanent. I urge my colleagues to support the motion to instruct making it permanent. We will have a little more certainty and help in research and development in our country. It helps us be more competitive. I compliment him for offering that motion to instruct.

I also speak in favor of the Stabenow motion to instruct with respect to the R&D tax credit which will be coming up shortly, essentially because we have to move ever more aggressively to invest more in research and development in our country. And the current temporary nature of the credit just makes no sense.

The Senate-passed bill is a credit extension for 2 years. I remind my colleagues that the current credit is expired. It expired at the end of last year. We are now in February. The Senate bill extends it for calendar years 2006 and 2007, and the House bill just has 1 year, 2006.

I am for more predictability, more certainty, especially with respect to the R&D tax credit.

I also received a letter from the R&D Credit Coalition, a group representing 85 trade associations and more than 1,000 small, medium, and large companies. In the manufacturing sector alone, which performs nearly 60 percent of all private and industrialized R&D in the United States, there are 14 million manufacturing employees who get the benefit of this credit.

The coalition in their letter said:

The Coalition believes the Senate-passed provision will help make the credit a more powerful incentive to undertake long-term, high-risk R&D projects in the United States. Consistent with the provision you and 45 of your Senate colleagues have taken as sponsors of a permanent and strengthened R&D credit, extending this credit for an additional year will better enable the intended incentive effect of the tax credit to be realized.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

R&D CREDIT COALITION,  
Washington, DC, February 13, 2006.

Hon. CHARLES GRASSLEY,  
Chairman, Committee on Finance, U.S. Senate,  
Washington, DC.

Hon. MAX BAUCUS,  
Ranking Democrat, Committee on Finance, U.S. Senate,  
Washington, DC.

DEAR CHAIRMAN GRASSLEY AND RANKING MEMBER BAUCUS: On behalf of the members



of the R&D Credit Coalition, we thank you for your leadership in amending the Tax Relief Act of 2005 to include a two-year extension of a strengthened research tax credit (the "R&D" tax credit). It is critical that the credit be extended and strengthened and the additional length of the proposed extension will provide needed certainty to businesses that are making investment and hiring decisions.

The Coalition believes the Senate-passed provision will help make the credit a more powerful incentive to undertake long-term, high-risk R&D projects in the United States. Consistent with the position you and 45 of your Senate colleagues have taken as sponsors of a permanent and strengthened R&D credit, extending this credit for an additional year will better enable the intended incentive effect of the tax credit to be realized. The best incentive is one on which businesses can rely and one that applies broadly to all research-intensive companies. The members of the R&D Credit Coalition applaud your efforts to strengthen this credit and to lengthen its extension period. We look forward to working with you on this issue.

Sincerely,

BILL SAMPLE,  
*Microsoft Corporation,  
Chair, R&D Credit  
Coalition.*

DONNA SISS GLEASON,  
*The Boeing Company,  
Vice Chair, R&D  
Credit Coalition.*

KEITH H. SMITH,  
*United Technologies  
Corporation, Co-  
chair, R&D Credit  
Coalition, Govern-  
ment Affairs Com-  
mittee.*

KAREN MYERS,  
*CA, Cochair, R&D  
Credit Coalition,  
Government Affairs  
Committee.*

MONICA M. MCGUIRE,  
*National Association  
of Manufacturers,  
Executive Secretary,  
R&D Credit Coal-  
ition.*

Mr. BAUCUS. Mr. President, spending for R&D will increase in 2006, but America has challenges to face, such as major increases in the funding of off-shore operations. The total amount of foreign direct investment, including R&D, is shifting heavily towards India and China, and competition for qualified researchers will increase markedly over a short period of time.

Most important is to keep American jobs. Keep them here, keep them at home. R&D has some of the most highly paid and intellectually stimulating jobs. With offshore operations and foreign R&D investment shifting to India and China, jobs for U.S. workers will decrease in this area.

I strongly urge support of both the motion to instruct by Senator HATCH and also the motion to instruct that will be presented later, I assume, by the Senator from Michigan, Ms. STABENOW.

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. BAUCUS. 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. BAUCUS. I yield such time as the Senator from Arkansas may use.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. I thank my colleague from Montana, Senator BAUCUS, who, as always, does a tremendous job in helping the entire Senate stay focused on what is important, helping us to reflect on where our values lie as Americans, and certainly for us as leaders of this great Nation.

I come to the Senate today to once again discuss an issue that is near and dear to my heart, an issue that is of great importance to all working families across this country. As we look now at what working families are going through—astronomically high fuel prices, what it is costing them to heat their homes; the cost of health care; the cost of educating their children and saving for higher education, which is going to increase again this year and years to come; trying to be competitive in their jobs and the global economy—in looking at these issues, I and many other Senators have recognized how tough it is for working families across this country.

In 2001, and again in 2003, Senator SNOWE of Maine and I worked together, with the help of our chairman on the Committee on Finance, Senator GRASSLEY, and our ranking member, Senator BAUCUS, to ensure that low-income working families with children receive the benefit of the child tax credit. It is so important to remind ourselves: we know how near and dear our children are to us; other people's children are just as near and dear to them, regardless of their income level.

As the chairman said earlier today, I, too, feel a bit as though I am trapped in that movie "Groundhog Day," although for a different reason. I feel that I am trapped in "Groundhog Day" life. I have been in this instance time and time again, and I come to the Senate today to again ask my colleagues to help me ensure that low-income working families are not forgotten as we discuss tax relief. It is absolutely essential we put ourselves in the shoes of other working Americans, the working families who are the fabric of this great Nation, and say: We believe your children are just as important as our children to the future of this country.

I applaud the action taken in the Senate the week before last. I was pleased we affirmed that the permanency of the child tax credit is a priority of the Senate and should be addressed during conference on this tax reconciliation bill. Even though I applaud that effort, I still say it is not enough. It is not enough to not look further and see those working Americans who are still not going to be helped. It is not enough because the credit in its current form does not

work for all low-income working families.

We can and should take one additional step. As some may be aware, to be eligible for the refundable child tax credit, working families must meet an income threshold. If they do not earn enough, they do not qualify for the child credit. The problem is, some of our parents are working full time every week of the year. Yet they still do not earn enough to meet the income threshold to qualify for the credit, much less to receive a meaningful refund.

Heaven forbid we look at what they are making. Is it enough to safely and adequately raise their children? We have an obligation to make sure those people, those hard-working Americans who were willing to play by the rules to get a job, to work hard, to perform things that are important to our quality of life, too, that they have the same opportunity to love and nurture their children and work hard to provide their children a better opportunity than they may have had.

I will say this again because it is right and it is important people know. I will say it again to make sure the point is not missed. We have full-time working parents who do not qualify for the child tax credit because their incomes are simply too low. Again, people playing by the rules, working hard so our lives might be a little bit better, yet under minimum wage, they do not make enough.

If we are talking about American values, if we are talking about family values, if we want to reinforce the aspect of work instead of handouts, if we want to reinforce caring for all of America's children because we know all of America's children are part of our future, our future leaders, if what we want to do is reinforce working, caring for our children, taking the responsibility of our families—that does not mean just my children or just a few children; it means all children—are we not then going to step up to the plate and say to those hard-working Americans that your children are just as important as my children?

In 2003, the income threshold was set at \$10,500. The threshold is indexed for inflation and thus has increased the last 2 years. It was \$10,750 in 2004 and \$11,000 in 2005. And, yes, it will go up again in 2006.

Unfortunately, the low-income worker's wage is not increasing at the same pace, or even at all, for that matter, as we look at the low-income working wages that exist in this country. A single working mother or father in the State of Arkansas or across this Nation perhaps, who makes minimum wage, is going to get \$5.15, working a 40-hour week, every week of the year. That is not taking a vacation, taking their family to the beach, going to Disney World or anything else. It is working a 40-hour week, every week of the year, 52 weeks out of the year, with an income of only \$10,712 a year. That came



in under the threshold, both in 2004 and 2005; it will, most definitely, come in below the threshold this year, in 2006.

It is wrong—it is absolutely wrong—to provide this credit to some hard-working Americans while leaving others behind. The single, working parent who is stocking the shelves in your local grocery store is every bit as deserving as the teacher or accountant or insurance salesman who qualifies for the credit in its current form. And, yes, they love their children just as much as you and I love our children and want for them all of the great things that are available to young American children when they can be nurtured and cared for and encouraged and taken care of in their families.

We must address this inequity, and we must ensure our Tax Code works for all Americans, especially those working parents forced to get by on minimum wage.

Senator SNOWE and I have proposed a solution to this horrible inequity. If we were to simply de-index the income threshold and set it at a reasonable level, such as \$10,000, all full-time working parents, including those making minimum wage, would qualify.

We talk day in and day out about how important our children are. We talk about making them a priority in this country and recognizing how they weave the fabric of this great Nation and the future. We understand, as parents, it is not easy. It is not easy to raise children in this environment, with everything from Internet security to making sure education is available, and health care, including simple nutritional needs. We have 600,000 Arkansans living with food insecurity, the majority of which are children.

Why is it we cannot take the extra step to make sure that, again, those who are playing by the rules, those who are willing to work, to work to care for their children and their families—we are not going to give them the same benefit of that Tax Code?

This is a simple, easy solution Senator SNOWE and I have offered to a very serious problem. I will not rest until we get it done. As we prepare to enter conference with the House on this tax reconciliation bill, I encourage my colleagues to support Senator SNOWE and me in our efforts to fix this inequity.

As many of you may recall, the last time Senator SNOWE and I went to work to improve the child tax credit, back during the debate of the President's tax package in 2003, tax relief for low-income families was left behind in the conference. I hope we have changed. I hope we have refocused ourselves and our priorities. I hope we do recognize all working American families are struggling today with high gas prices, the cost of health care, and higher education—education at all—that all working families are struggling to heat and cool their homes with high energy costs and are struggling to keep the jobs they have in their globally competitive companies.

Please, let's not repeat this mistake again. If the opportunity arises to take action on the child tax credit in this conference, we must not only extend it, we must ensure that it works for all of America's working families.

We should always remember that budgets reflect priorities, the priorities of those who put those budgets together. We know priorities create choices. The choices we make in budgets and in decisions on the floor of the Senate and in conferences over such critical issues—our choices—have real and substantive consequences, not just to those working families out there who so desperately want success for their child, but it has consequences for our Nation. If we set our priorities so low that we leave behind the children of hard-working American families, the consequences for our Nation will be great.

I thank you, Mr. President, and again encourage my colleagues to support the efforts not only of a child tax credit but also making sure it is fair to all working families of our Nation.

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. DEWINE. 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. DEWINE. Mr. President, I ask unanimous consent that the pending motion be set aside.

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

#### MOTION TO INSTRUCT CONFEREES

Mr. DEWINE. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Mr. DEWINE moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to accept the veterans' mortgage bonds expansion provisions contained in section 303 of the bill as passed by the House of Representatives with such revisions as are necessary to provide veterans in all 50 States with access to lower-rate mortgages.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, this proposal would instruct the conferees to accept the House provision that expands the qualified veterans mortgage bond program. The qualified veterans mortgage bond program allows States to issue tax-exempt bonds that are used to fund mortgages for our veterans. Because the States borrow this money at low, tax-exempt interest rates, they are able to pass that lower rate on to veterans for home mortgages. This means veterans are able to finance a home at a lower interest rate

than they otherwise would have been able to.

The program in place today is limited to veterans who served before 1977. Mr. President, this motion will instruct the conferees to accept the House provision eliminating that limit. By doing so, we can offer to all the brave men and women who have served and are serving our Nation the important benefits of this program.

The current program is also limited to veterans who settle in Alaska, California, Oregon, Texas, and Wisconsin. This motion instructs the conferees to bring back a provision that would permit veterans of all States to have access to these lower rate mortgages.

This is the right thing to do for our veterans. We owe a great debt of gratitude to the men and women who have served our country in the armed services. These brave men and women, with their honor and courage, have kept our Nation secure and our future bright. They deserve the assistance that we can provide with this mortgage bond program. It is simple to do and it will have a profound impact on many military families. I strongly encourage my colleagues in the Senate to support it.

Mr. President, while Senators cannot cosponsor motions to instruct, Senators SANTORUM, GRASSLEY, BURNS, and CHAFEE have expressed their support of this motion.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the pending matter before the Senate be set aside so I can offer a motion on behalf of Senator MENENDEZ.

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

#### MOTION TO INSTRUCT CONFEREES

Mr. REID. Mr. President, on behalf of the junior Senator from New Jersey, Mr. MENENDEZ, I offer the following motion to instruct the conferees on tax reconciliation.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

Mr. MENENDEZ moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to report a conference report that includes the Senate-passed "hold-harmless" relief from the individual alternative minimum tax (AMT) in 2006, and does not include the extension of lower tax rates on capital gains and dividends.

Mr. REID. Mr. President, this motion is to instruct the conferees to insist on relief from the alternative minimum

tax—known as AMT—in the final bill they report back from the conference committee.

It reaffirms the Senate's position that AMT relief should take priority over extending tax cuts for capital gains and dividends.

If the conference agreement fails to include relief from the AMT, 15 million taxpayers will face higher tax bills this year.

The Senate has expressed its support for AMT relief two times as this legislation has made its way through the legislative process.

First, the Finance Committee included AMT relief in the bill that it reported to the Senate floor.

Then, during floor consideration the Senate overwhelmingly approved the amendment offered by Senators MENENDEZ, SCHUMER, KERRY, FEINSTEIN and others that expressed the Senate's desire that AMT relief take priority over tax cuts for capital gains and dividends.

That amendment was approved by the Senate by a vote of 73 to 24.

The conferees for the Senate should respect the Senate's instructions and include AMT relief in the final bill.

There are two reasons that the Senate conferees should insist on including AMT relief in the final bill and reject tax cuts for capital gains and dividends. First, AMT relief is needed to protect taxpayers this year. Married couples with children are most affected by the AMT.

Absent any relief for next year, nearly three-quarters of married couples with two or more kids and income between \$75,000 and \$100,000 will be subject to the AMT.

In contrast, almost 50 percent of the benefits of a reduction in the tax rates on capital gain and dividend income goes to taxpayers with \$1 million or more, which is .3 percent of all taxpayers. The average tax cut for these taxpayers will be about \$32,000.

The higher AMT exemption levels that were enacted in 2003 expired at the end of last year. Without this provision, middle-class taxpayers will be hit with higher AMT liabilities when they file their 2006 returns. The lower tax rates for capital gains and dividends do not expire until 2009.

Second, extending lower tax rates on capital gains and dividends reflects misplaced priorities. The benefits of lower taxes on capital gains and dividends go disproportionately to wealthy taxpayers.

According to an analysis by the non-partisan Tax Policy Center, jointly run by the Urban Institute and the Brookings Institution, about 50 percent of the benefits of lowering taxes on capital gains and dividend income goes to taxpayers with \$1 million or more of income.

In 2005, the average tax cut for millionaires was nearly \$38,000. In contrast, 92 percent of taxpayers received a tax cut of less than \$100 as a result of the reduced tax rates on capital gains and dividends.

At a time when we face record budget deficits, Congress should not consider tax cuts whose benefits so clearly go to the most well off in our country.

Mr. KERRY. Mr. President, less than 2 weeks ago we debated the importance of addressing the individual alternative minimum tax, AMT. Without congressional action, this year 17 million families will be impacted by the AMT. And this problem is growing. Without a permanent solution to the AMT, as many as 30 million families will be impacted by it in 2010.

We all seem to agree that the alternative minimum tax needs to be addressed, but we differ on how big a priority it should be. Very recently, 73 Members of this body voted to address the AMT before addressing tax cuts that do not expire until the end of 2008. This sense of the Senate specifically stated 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."

Some of my colleagues believe we can address both the AMT and extend the capital gains and dividends tax cut, but I am concerned this will be difficult to do within the confines of a \$70 billion tax bill. The House has made their position clear that they would rather address AMT outside the reconciliation tax bill. This is troubling because it would likely result in a total of over \$100 billion in tax relief that is not paid for. We cannot afford another costly debt-financed tax cut. The Senate-passed bill does include some revenue offsets, but I do not expect the conference report to include any revenue offsets.

Not less than a week after we debated the alternative minimum tax, the administration's budget submitted to Congress for fiscal year 2007 failed to adequately address the AMT. Once again, the budget makes the 2001 and 2003 tax cuts permanent but ignores the looming problem of the AMT.

The President only chose to address the AMT for 1 year—2006. He chose not to address it for fiscal year 2007. In addition, the relief provided in the budget for 2006 is not as generous as the AMT relief in the Senate-passed bill. Under the budget proposal, an additional 1.2 million families would be impacted by the AMT. The Senate-passed bill prevents additional taxpayers from being impacted by the AMT. The budget deliberately leaves out a more permanent solution for the AMT for two reasons. First, the AMT would add additional costs to the budget. Second, the AMT masks the true costs of the 2001 and 2003 tax cuts.

Back during the debate on the Economic Growth and Tax Relief Reconciliation Act of 2001, I offered an amendment that would have exempted taxpayers with incomes of \$100,000 or less from the AMT. The reason I offered this amendment was that I was concerned about the impact of the

AMT on families who were never meant to be affected by it.

In 1998, we began to notice that something was happening that was unintended—the AMT was beginning to encroach on middle class taxpayers. At that time, the AMT was expected to impact over 17 million taxpayers in 2010. The AMT problem resulted because the regular tax system is indexed for inflation, while the personal exemptions, standard, deduction, and AMT are not. Under the AMT, exemption amounts and the tax brackets remain constant. This has the perverse consequence of punishing taxpayers for the mere fact that their incomes rose due to inflation.

The AMT has another perverse consequence. It punishes families for having children. The more children a family has, the lower the income necessary to trigger the AMT. For example, if no action is taken in 2006, a family with four children with an income of \$58,500 would be subject to the AMT while a family with one child would have to make \$72,000 to be affected.

As we debated the Economic Growth and Tax Relief Reconciliation Act of 2001, I stressed the fact that the legislation would result in more individuals being impacted by the AMT and that not addressing the AMT hid the real cost of the tax cuts. This holds true today. Revenue estimates show us that it would be cheaper to address the AMT if the tax cuts were repealed than if the tax cuts were made permanent.

A choice was made in 2001 to provide more tax cuts to those with incomes of over a million dollars rather than addressing a looming tax problem for the middle class. The Economic Growth and Tax Relief Reconciliation Act of 2001 did include a small adjustment to the AMT, but it was not enough. We knew at the time that the number of taxpayers subject to the AMT would continue to rise steadily. The combination of lower tax cuts and a minor adjustment to the AMT would cause the AMT to explode.

The amendment that I offered would have simply exempted those with incomes of less than \$100,000 from the AMT and it was offset by decreasing the amount that the top rate would be reduced. It would have reduced the top rate to 37 percent instead of 35 percent. This amendment was not a panacea to the AMT, but we would not be in the situation that we are today because the amendment would have countered the interaction between the tax cuts and the AMT by exempting middle class taxpayers. The Joint Committee on Taxation estimated that the amendment would have prevented 18 million taxpayers from being impacted by the AMT.

Each year that we wait to address the AMT, more taxpayers are impacted and the cost of addressing it increases. We missed an opportunity in 2001 to address the AMT. Repeatedly, the AMT has been pushed aside to give priority to making the tax cuts for the wealthiest Americans permanent. So often we

hear that the bulk of the tax cuts assist the average American family. This is ironic because by 2010, the AMT will take back 21.5 percent of the promised tax breaks for individuals making between \$75,000 and \$100,000 per year and 47 percent from individuals making between \$100,000 and \$200,000. However, households with annual income over \$1,000,000 will only lose 9.2 percent of the tax cuts.

Once again today, we have the opportunity to choose to help hard-working families or very wealthy investors. We can choose to protect 17 million middle class families by voting for the motion offered by my colleague, Senator MENENDEZ. Not addressing the AMT this year would result in tax increases as large as \$3,640. The other choice is to extend the capital gains and dividends rate cuts that go to households with income over \$1 million. Over 50 percent of the benefit goes to these households that make up only 0.2 percent of all households. These tax cuts do not expire until the end of 2008.

Last week, the Senate Finance Committee heard from Treasury Secretary Snow that the capital gains and dividends tax cut helps individuals with income of less than \$50,000. I believe that he was trying to make the argument that more middle class taxpayers would benefit from the capital gains tax relief than from AMT relief. I disagree. The important statistics to look at are the percentage of income that is capital gains and dividends and the amount of the tax cut. In 2009, those making over \$1 million would receive an average tax cut of \$32,000 and those with incomes below \$50,000 would receive an average tax cut of \$11. IRS income tax data for 2003, which is the most recent data, shows that capital gains and dividends income accounts for nearly one-third of all income for millionaires. For those making less than \$100,000, capital gains and dividends income accounts for 1.4 percent of total income and it is even less for those with incomes of \$50,000.

I urge my colleagues to choose hard-working families. We can reexamine the issue of capital gains and dividends tax cuts once we have our fiscal house in order. The budget that was sent to Congress last week projects the largest deficit in history for fiscal year 2006. In times of deficits, we have to carefully choose our priorities. It is time for Congress to address the AMT which has turned into the family tax.

Mr. BAUCUS. Mr. President, I ask any motions be set aside so the Senator from Michigan can offer a motion to instruct.

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

The Senator from Michigan.

#### MOTION TO INSTRUCT CONFEREES

Ms. STABENOW. Mr. President, I thank our leader on the Committee on Finance, Mr. BAUCUS, for his leadership on so many different issues.

I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

Ms. STABENOW moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to insist on the inclusion in the final conference report of a permanent extension of the credit for increasing research activities and to reject any extension of the tax rate for capital gains and dividends which does not expire until 2009.

Ms. STABENOW. Mr. President, I rise this evening to introduce a motion to instruct conferees to extend the R&D tax credit permanently and offset costs related to that by striking capital gains and dividends provisions of the House bill in the conference committee. I realize my colleague from Utah has introduced something similar to extend the R&D tax credit permanently, which I support, but I believe the most responsible approach is to provide as much of an offset as possible so we are not extending the national debt which is already the largest in our Nation's history.

This is a very difficult time for Michigan families. Michigan lost 11,000 manufacturing jobs since 2000. Last week, GM announced more bad news. Plant closings and job losses are becoming a common headline in our newspaper. There needs to be a sense of urgency in Washington about helping to protect and maintain these good-paying jobs and the way of life these jobs have offered for Americans. Our middle-class way of life is truly at risk. We are still not seeing any action from this administration. I was so disappointed to see the President did not mention the word "manufacturing," in his State of the Union Address, despite all that is happening and all that needs to be done on behalf of Michigan families, Michigan businesses, and those across the country that are affected.

People in my State are worried about their jobs, they are worried about the fact that they might lose their pension that they worked for, for 30 years. Who would have thought, in the United States of America, people would have to worry about paying into a pension system and possibly not having that when they retire? That is immoral.

They see their health care premiums continuing to skyrocket every year, they are struggling to fill their gas tank and pay their home heating bill and are feeling squeezed on all sides. We need to take that seriously because there are things we can do to help turn that around.

What does the House bill dealing with taxes propose to do to help middle-class families? Absolutely nothing. Instead, it gives more tax cuts to the wealthiest few.

We can do better. We must do better for the people we represent. Hard-working families should be able to have a good-paying job, send their kids to col-

lege, retire with dignity, including health care and a pension and Social Security. We need to lower health care costs which are hurting American manufacturers and promote new health IT technologies that can save billions in health care costs. I was pleased to see the President mention that in the State of the Union.

Senator SNOWE and I have legislation, working with colleagues on both sides of the aisle. We can get this done and save hundreds of billions of dollars that can go back into lowering health care costs and paying for access to health care for our families.

We need to protect people's pensions and uphold the fundamental principle that if you work hard and pay into a retirement fund, you get every cent you have earned and you deserve.

We must also investigate and enforce our trade laws. Countries such as China and Japan should be required to play by the rules, stop manipulating their currency. This is what we should be voting on now. How to save and strengthen our middle class, our way of life.

One answer that would be extremely positive would be to make the R&D tax credit permanent, to help continue to spur innovation into the future. As we all know, the way to profitability for struggling manufacturers is through innovation and education.

The House bill only budgets a 1-year extension of the R&D tax credit, leaving businesses to worry about whether longer term projects will be terminated. A 1-year extension undermines our commitment to innovation and economic prosperity. Instead, the House bill provides \$50 billion in tax breaks for the wealthy few who do not have to worry about losing their jobs or pensions tomorrow or struggling to pay their bills.

We need to be investing in our manufacturers and our workers to prepare for the future by planting seeds for the next innovative idea. I am very proud that in Michigan we have been the heart of so much innovation. We create ideas. We build great products, not just automobiles but furniture and all kinds of products. And we are on the cutting edge today of new innovations.

But it is time to reinvest in what has led our country to economic prosperity and to support these on-going efforts. We have the best colleges and the brightest minds in the world. We know American workers can compete with any workers from any country if we make it a priority to invest in education and innovation—and, by the way, if we enforce our trade laws so other countries are not cheating—and change the way we fund health care. That is the prescription for success, for maintaining our way of life as Americans.

Countries such as Japan and China have been doubling and tripling their investments in R&D over the last decade. Japan, which has always invested in R&D, increased their funding by 25

percent. Korea has doubled their R&D. China has tripled their R&D. In China, engineering professors and graduate students even receive bonuses every time they are published in an international journal.

Our Federal Government must be a strong partner with American manufacturers, American businesses, and American workers, and support innovation in this country for the next generation of workers.

My home State of Michigan invests over \$20 billion in R&D expenditures—the second highest of any State, according to the National Science Foundation. Although Federal investments in R&D only contribute 17 percent of total investments, these Federal funds are used to attract even more research dollars from businesses. It is a great investment for us.

It makes perfect sense for us in the Federal Government to help spur this innovation by being partners with the private sector. In total, about \$25 billion is provided by the Federal Government and over \$200 billion by businesses. This partnership in innovation is at the center of American companies competing in the global marketplace. Everyone knows that to stay ahead, we need to invest in the future. That means education. That means innovation.

I might say, it does not mean accepting the cuts the President has proposed—the largest cuts in the 26-year history of the Department of Education—over \$2 billion in cuts proposed in this budget. That certainly is going in the wrong direction. But permanently extending the R&D tax credit goes in the right direction, and helping to pay for that also goes in the right direction of fiscal responsibility.

As I indicated before, the distinguished Senator from Utah, Mr. HATCH, has offered a motion to instruct on a permanent extension of the R&D tax credit without an offset—in other words, without paying for that. I would suggest there is a more fiscally responsible approach and that we are not providing a long-term incentive for investment by just extending the credit for a year at a time or by not paying for it. I believe we need to have a permanent extension of the R&D tax credit, but we need to do that in a way which is fiscally responsible.

This debate this evening is really about our values and about our priorities and who will benefit from the tax bill. Are we going to give another \$50 billion in tax cuts to those who are most blessed and extend the capital gains tax cut which is not even going to expire for 2 years or are we going to help people who are trying to create jobs and working men and women right now, manufacturers who right now need some support as they move into the future to compete internationally and businesses that right now need our support, by extending the R&D tax credit so they have the partnership they need, the support they need for

those new ideas which will allow them to compete on into the future?

This is about what is happening to families right now. In Michigan, people are asking the President and asking us to look at what is happening to families at this moment and to take action now.

Let's stop China and Japan from cheating by stealing our patents or by counterfeiting—counterfeit autoparts, for example, is a \$12 billion industry which has cost over 200,000 jobs in this country—or by manipulating their currency. Let's force them to play by the rules and have a level playing field, but turn around and look at what they are doing on R&D and education. While they are cheating and stealing our ideas, they are educating more engineers and more scientists and those who will be competing with our workers. We need to turn that around, make them play by the rules, change the way we fund health care in our country, protect our pensions, and then aggressively invest in education and innovation.

To see the kind of bold, aggressive investment we need means we need to extend the R&D tax credit. We need to send a strong message to businesses around this country that this is a permanent tax credit, the R&D tax credit. We also need to send a message that we are going to choose, when choices have to be made, between those who need the support right now to keep jobs here in America and those who down the road may be interested in having an additional tax cut on top of those they have already received. I believe it is about the future of our country, which approach will create opportunity, which approach will create jobs for the future.

My vote is with our manufacturers who are deciding, maybe at this very moment, whether to lay off more people in Michigan or around the country, who need this tax credit to invest in the future of their companies. That is my priority, not a few, most blessed in this country who have a capital gains tax cut in place until 2008—it does not even expire until 2008—those who are not worried today about whether that pension is going to be there or whether they can pay their heating bill or whether they can send their kids to college or whether they are going to have a job tomorrow. They have a tax cut in place which does not even stop until 2008.

We can do better than the bill that was certainly passed by the House of Representatives. I hope the conference committee will do better. I urge support for my motion to instruct, with a clear message. This is about bold innovation for the future, permanently extending the R&D tax credit. It is about fiscal responsibility. And it is about making the right choices and values that say we are going to focus on those today, we are going to pay for this by focusing on those right now, those businesses right now which need our

help, and make those families a priority for us.

It is about our way of life in this country. It is a fight we can win if we are serious about it. And I believe innovation is an important part of our future. I urge the support of my colleagues for this motion to instruct.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise for the purpose of offering some motions to instruct for myself and my colleagues.

#### MOTION TO INSTRUCT CONFEREES

Mr. GRASSLEY. I send the first motion to the desk and ask for its consideration.

The PRESIDING OFFICER. Without objection, the pending motion is set aside.

The clerk will report.

The legislative clerk read as follows:

Mr. GRASSLEY moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to insist on the inclusion in the final conference report of the funding to support the health needs of America's veterans and military personnel contained in section 315 of the Senate amendment and the funding to strengthen America's military contained in title VI of the Senate amendment.

Mr. GRASSLEY. Mr. President, in explaining the rationale for my motion to instruct, I will be referring to other motions to instruct that two Senators on the other side have put in place, Senator DODD of Connecticut and Senator REED of Rhode Island.

The Dodd motion to instruct is yet another episode in the tale of the "groundhogization" of this tax relief reconciliation bill, a long journey. The Senate adopted the alternative to the Dodd amendment, a Grassley amendment, that passed, including the following Budget Act waiver language:

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 consideration of an amendment between Houses.

That is what we added back on February 2 to S. 2020. The Dodd motion instructs conferees to proceed by ignoring this waiver language. You see, the waiver language only applies for the purposes of our action in the Senate. If Senator DODD were to prevail, the conferees could not follow his directive without violating the Budget Act. It is because the Dodd motion deals with outlays. We can't do outlays in a budget reconciliation package. I might add that the Reed motion that we expect to vote on tomorrow suffers from the same defect. The conferees, even if they were inclined, can't return from conference with a provision that contains outlays.

We all know this is a political season. If you look at this motion, and if you look at the Reed motion, both cannot

be adopted and followed. You can draw your own conclusion, then, why they are adopted, unless the Members don't know that this is a parliamentary situation. I can't believe they don't know what that parliamentary situation is.

While we are at it, I am going to offer a motion to clarify what the Dodd and Reed motions are all about. Basically, if you support the principles of providing more health care for veterans, the supposed purpose of the Dodd amendment, and, secondly, assisting our troops with body armor, the supposed purpose of the Reed amendment, then vote for the Grassley motion. If you support these two principles but don't support a tax increase on America's seniors, at a higher cost of capital for American business, support the Grassley motion. If you just want an increase, then vote for the Dodd motion.

I will summarize it this way: I appreciate Senator DODD's attention to the issue of our veterans health care needs. This issue is of utmost importance to the Members of the Senate, as evidenced by the fact that we appropriated a massive amount of extra money last fall for the fiscal year we are in now to meet the needs of veterans, particularly those who were not recognized, people returning wounded from Iraq. But my colleagues suggest that in order to provide this support, we should give up the important economic tax policy of reduced capital gains and dividends tax, the present tax policy, just continue it for 2 more years so that people have a long-term view of what the tax policy is so that they know what they are going to invest.

The Dodd motion claims to be paid for by capital gains, but capital gains offsets don't even come into play until the year 2009. I have offered a motion that supports military health care facilities, but we don't tie it up with an offset that is 3 long years down the road.

You will remember that the Senate debated this issue on Groundhog Day and voted to accept my amendment that provides the same benefits but does not raise taxes to pay for it. I urge my colleagues to vote against Senator DODD's motion and to support my motion to instruct the conferees on the amendment we have already passed.

In regard to what Senator REED is trying to do with his motion to instruct, this is the issue of funding for our military. Proper funding for those serving our country is not a controversial issue. The method of providing this funding for our military is, on the other hand, being made into an unnecessarily controversial issue. My colleague suggests that in order to provide for this funding, we eliminate a tax benefit that doesn't even arise until the year 2009, similar to the same issue in the Dodd amendment. I ask how this would provide the funds so badly needed this very day to ensure that we meet the operational needs of

our courageous military service personnel.

I offered an amendment that supports the operational needs of our military without tying it to an offset that is 3 long years down the road.

Again, in an effort not to sound repetitive, you will remember that the Senate debated this issue also on Groundhog Day and voted to accept my amendment that provides the same benefits but does not raise taxes to pay for them. So I urge my colleagues to vote against Senator REED's motion and to support my motion to instruct conferees on the amendment we have already passed.

To sum up, if you are against a tax increase but for veterans health care and properly equipping our military, vote for the Grassley motion. If you are for a tax increase, then look elsewhere to our colleagues who are offering their version of it.

#### MOTION TO INSTRUCT CONFEREES

Mr. GRASSLEY. Mr. President, I am sending several motions to the desk now. I ask that these be taken up together. I ask that the clerk would read each one at a time because I want to speak to each one. I would ask the clerk to read the first one.

The PRESIDING OFFICER. Without objection, the pending motion is set aside.

The clerk will report.

The legislative clerk read as follows:

Mr. GRASSLEY moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to report a final conference report that includes the "hold-harmless" relief from the individual alternative minimum tax in 2006 (sections 106 and 107 of the amendment passed by the Senate) to protect middle class families and includes an extension of lower tax rates on capital gains and dividends (based on section 203 of the bill passed by the House of Representatives) to protect tax cuts for middle class families.

Mr. GRASSLEY. Mr. President, the motion to instruct that was just read is mine. Simply stated, this is a motion that says there are sufficient funds to do both alternative minimum tax and capital gains and dividends and that we should do both—in other words, as an instruction to conferees.

#### MOTION TO INSTRUCT CONFEREES

Mr. GRASSLEY. Mr. President, I ask the clerk to read the motion that I am introducing for Senator LOTT, listed as No. 3.

The PRESIDING OFFICER. Without objection, the pending motion is laid aside and the clerk will report the motion.

The legislative clerk read as follows:

Mr. LOTT moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to report a final conference report that includes

the repeal of the individual alternative minimum tax (based on sections 106 and 107 of the amendment passed by the Senate.)

Mr. GRASSLEY. Mr. President, as I said, I am doing that for Senator LOTT of Mississippi. I think it is self explanatory. Just to reiterate, this motion, on behalf of Senator LOTT, calls for full and permanent repeal of the alternative minimum tax.

#### MOTION TO INSTRUCT CONFEREES

Mr. GRASSLEY. Mr. President, I now go to motion No. 4, which is for Senator HUTCHISON.

The PRESIDING OFFICER. Without objection, the pending motion will be set aside, and the clerk will report the motion.

The legislative clerk read as follows:

Mrs. HUTCHISON moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendments to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to insist on the inclusion in the final conference report of a permanent extension of the election to deduct State and local general sales taxes (based on section 105 of the amendment passed by the Senate).

Mr. GRASSLEY. Mr. President, this is repetitive, but I will state this for Senator HUTCHISON. This resolution of instruction calls for a permanent deduction of State and local general sales tax.

#### MOTION TO INSTRUCT CONFEREES

Mr. GRASSLEY. Mr. President, I offer motion No. 5 for Senator SANTORUM.

The PRESIDING OFFICER. Without objection, the pending motion is set aside.

The clerk will report.

The legislative clerk read as follows:

Mr. SANTORUM moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to report a final conference report that includes a permanent extension of the above-the-line deduction for tuition and fees (based on section 103 of the amendment passed by the Senate).

Mr. GRASSLEY. Mr. President, this motion I offer on behalf of Senator SANTORUM of Pennsylvania would make permanent the above-the-line deduction for tuition and fees for college.

Mr. SANTORUM. Mr. President, I offer this motion to instruct with regard to the college tuition deduction. As I have noted on other occasions, this bill is really a "tax increase prevention" bill. One of the many important elements is the college tuition deduction. This provision was established in the 2001 tax relief bill and provides an above-the-line deduction for higher education expenses, commonly called the "college tuition deduction." The eligibility for the deduction is limited based on income and is aimed at helping middle-class American families that are struggling to meet the rising

cost of college tuition. It benefits students and their families at all types of institutions—from community colleges to 4-year schools, and both public and private institutions.

However, because we have had to slow-walk this bill with some foot-dragging across the aisle, this deduction expired on December 31, 2005. Nonetheless, it is important that we not only extend this provision, but make it permanent. The college tuition deduction is an important and popular education tax benefit, particularly for the middle class. It is not available to taxpayers with income above \$80,000—\$160,000 in the case of joint returns.

In 2003—the last year for which official data are available—more than 3 1/2 million Americans benefited from the tuition deduction, with nearly \$7 billion in college tuition costs covered by the deduction—an increase of nearly 9 percent from the previous year. Tax incentives for college tuition helped nearly 11 million Americans realize the dream of a college degree. This represents more than two-thirds of all college students. In the Commonwealth of Pennsylvania, over 150,000 families and students took advantage of this deduction. The tuition deduction is a crucial part of our education tax incentives and must be made permanent. We should send the message to parents of high school students that this deduction will be there when their students begin college.

I urge my colleagues to support this motion and support these families and students striving for a college education.

#### MOTION TO INSTRUCT CONFEREES

Mr. GRASSLEY. Mr. President, I turn to motion No. 6, which is my own. I ask for the reading of it.

The PRESIDING OFFICER. Without objection, the pending motion will be laid aside, and the clerk will report.

The legislative clerk read as follows:

Mr. GRASSLEY moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4297 be instructed to report a reconciliation conference report ensuring that in 2009 and 2010, the international competitiveness of the United States in attracting capital investment, and therefore job creation, is not weakened further by a higher combined corporate and individual income tax rate on corporate and capital income as a result of a higher dividend tax rate, based on the following:

(1) In 2005, the combined maximum corporate tax rate and individual dividend tax rate in the United States was 50.8 percent. This rate was the eighth highest rate in the thirty-nation Organization for Economic Cooperation and Development, taking into account both national and subnational taxes.

(2) If the top federal tax rate on dividend income would have been thirty-five percent, instead of fifteen percent, the combined tax rate would have been 62.9 percent, and would have been the second highest combined corporate and individual tax rate on corporate income in the OECD, behind only Japan.

Mr. GRASSLEY. Mr. President, I offer this motion instructing conferees

that in the years 2009 and 2010, the international competitiveness of the United States in attracting capital investment, and therefore job creation, is not weakened further by higher combined corporate and individual increased tax rates on corporate and capital income as a result of the higher dividend rate.

#### MOTION TO INSTRUCT CONFEREES

Mr. GRASSLEY. Mr. President, I send a motion to the desk that I am going to file and not discuss at this point.

The PRESIDING OFFICER. Without objection, the pending motion is laid aside, and the clerk will report.

The legislative clerk read as follows:

Mr. GRASSLEY moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendments to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to insist on the inclusion in the final conference report of a permanent extension of the modifications 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.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that at 8 p.m. tonight, the Senate proceed to a vote in relation to the Grassley motion on veterans, to be followed by a vote in relation to the Dodd motion on veterans, with no amendments in order on either motion.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask that the pending motions be set aside so the Senator from New Jersey can offer his motion. Obviously, under the rules, he has at least a half hour, maybe even longer. Senator SCHUMER from New York is coming over. Under the rules, he would have the same length of time. We are going to vote about 8 o'clock, but, of course, that can slip a little to accommodate the Senators from New Jersey and New York. I counsel my friends from New Jersey and New York to not use all of their time unless they really want to. I admire the Senator from New Jersey. He is concise and to the point in his presentation.

#### MOTION TO INSTRUCT CONFEREES

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the pending motion be set aside, and I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending motion will be set aside. The clerk will report.

The legislative clerk read as follows:

Mr. LAUTENBERG moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297

(to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to report a final conference report that does not increase the national debt of the United States.

Mr. LAUTENBERG. Mr. President, I want to discuss this motion to instruct conferees that I bring to this bill. You see here a display of a credit card. It is drawn on the "Bank of our Children's Future." My amendment is simple. It asks the conferees, please, do not increase our national debt.

A lot of what we do around here is hidden and complicated Federal budget rhetoric. But to put matters simply, this bill allows President Bush to charge another \$50 billion on the credit card of the United States of America. But when he leaves office, who is going to pay the debt that is left behind? Certainly, it will not be their rich or infamous friends. They are guaranteed to be safe from the bill collector. The reality is that the President is going to leave repayment of this credit card debt to our kids and our grandchildren. I don't want to have that burden on my grandchildren or my children. They work hard and they pay their debts and they pay their taxes—my children, I am talking about; my grandchildren are too young. They are willing to pay their taxes and they are proud of this country of ours.

The Democrats want to pay for these tax cuts by ending giveaways to rich special interests. But the Republican side said: No, no, don't persecute millionaires.

I had a very successful business career. It happened because I live in America and America responds to ingenuity and hard work. I don't mind paying my taxes. I want to pay my taxes to be sure that America is strong internally, not just on the weapons front but strong in character, strong in mission.

My colleagues on the other side, all good folks, will not admit they are passing this burden on to future generations. They claim they are going to cut spending to make up the difference.

Are they? As President Bush insists, are they willing to cut Medicare and make health care more expensive for seniors? Are they, as President Bush insists, willing to cut student loans? Isn't tuition expensive enough for the average family in America? Are they, our colleagues on the other side, as President Bush insists, going to eliminate the Safe and Drug-Free Schools Program? Are they willing to cut the Head Start Program for children who don't have the benefit of being in a home where they can learn, who don't have the benefit of guidance from parents often? Those children often get their only nutritional meal in a facility that is supported by the Federal Government. We are now only serving 800,000 out of 1.6 million children who would qualify.

Even if we do all these things, we are still going to be in the hole with massive deficits because of the President's



insistence on irresponsible tax cuts, and I use the word advisedly.

I know something about balancing budgets. I was a senior Democrat on the Senate Budget Committee that produced the first balanced budget in 30 years. We did such a good job that when President Bush took the oath of office, he was presented with a rosy financial picture like no President in the history of our country has ever seen.

We had budget surpluses as far as the eye could see. In 2000, we had a budget surplus of \$236 billion. In 2001, President Bush enjoyed a surplus of \$128 billion. We were ready to pay off our national debt by the end of President Bush's last term. We were in the middle of the longest economic expansion in the history of our country. But the Republicans plunged into massive tax breaks for the wealthy and the special interests, tax breaks that will cost \$3.4 trillion to make them permanent over the next decade. One-third of that, more than \$1 trillion, will go to the richest 1 percent of our population.

So here is how the Republican tax cuts translate. If you make \$1 million a year, you get an average tax cut of \$136,000, but if you make less than \$20,000 a year, you get a whopping \$19. To what end? Instead of paying off our national credit card bill, President Bush and the Republican majority are set to double our national debt. If we continue on this path, our national debt will be more than \$12 trillion by 2011.

With this bill, we are being asked to approve another \$50 billion charge on our credit card. The most tragic thing is that there is no reason to charge these tax cuts to the national credit card.

When we were considering this bill a few weeks ago, our senior colleague on the Budget Committee, Senator CONRAD, offered a way to pay for these tax cuts by closing corporate loopholes. Closing these loopholes would have shut down abusive foreign tax shelters. I don't understand why we should give cover to abusive foreign tax shelters. It would have made polluters pay to clean up the damage they cause to our environment, it would have required tax withholding on payments to Federal contractors, such as Halliburton, just like every American has on their paycheck. Every Member on this side of the aisle voted for budget discipline, and every Member of the other party voted for budget recklessness.

We still have a chance to put a stop to this. We can adopt my motion. It is simple. It says to the conferees: Don't increase our national debt. Is that too much to ask, don't increase our national debt?

Of course, we could go ahead and get a second mortgage on the White House or this Capitol Building or the Pentagon. Every day people across America will take a second mortgage in a similar situation. "Similar situation" means when your debt exceeds your

ability to pay it down. The administration is willing to do that.

So if my colleagues think we should saddle our children and grandchildren with more debt, then I suggest they oppose my motion, but if they think it is wrong to run up our Nation's debt so special interests, such as Halliburton and polluters, can get off scot-free, then vote for my motion.

Every American's share of the national debt now is \$27,529. This bill raises that debt another \$170 per adult and child in this country. By voting for my motion, we say no to debt for our kids.

I urge my colleagues to support this motion and show that they want some fiscal responsibility put into place.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I see several Senators on the floor. I believe—and perhaps someone can correct me—the Senator from New York was here earlier.

#### MOTION TO INSTRUCT CONFEREES

Mr. SCHUMER. Mr. President, I wish to offer a motion.

Mr. BAUCUS. Mr. President, I ask that the pending motions be set aside.

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

The clerk will report the motion.

The legislative clerk read as follows:

Mr. SCHUMER moves that the managers on the part of the Senate at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 4297 (to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to report a conference report that includes the Senate-passed provision to extend the above-the-line deduction for tuition and fees through December 31, 2009 (section 103), before it includes the House-passed extension of lower tax rates on capital gains and dividends (section 203) given budget constraints, noting that a conference report which maintains the tuition deduction will provide needed tax relief to more than 4,000,000 American families each year that are struggling to keep pace with rising tuition costs.

Mr. SCHUMER. Mr. President, in the Senate-passed tax reconciliation bill, we have recognized the importance of the tax deduction for college tuition, and the bill we are sending to conference extends it for 4 additional years, through 2009. Unless extended by the 109th Congress, the deduction will not be available to taxpayers filing 2006 returns. It is urgent that the provision be extended in this bill, so families can plan for their kids' education.

The House bill, in sharp contrast with the bill that the Senate passed with 66 votes, extends this commonsense, middle-class tax relief for only 1 year. Given that we face choices and budget limitations, and we can't do it all, this motion instructs the Senate conferees to insist that the conference report should include the Senate-passed 4-year extension of the tuition deduction, rather than extending the tax cuts for dividends and capital gains that will not expire for nearly 3 years.

That is the gist of my motion. We simply do not need to take action on dividends and capital gains today, but on issues such as the college tuition deduction and the alternative minimum tax, Congress must act now. If we can not do it all under the reconciliation limits, then the tax cuts for the middle class that have already expired should take priority.

The supply-siders who insist that cutting taxes for millionaires in 2009 is more important than cutting taxes for middle-class families this year argue that low tax rates on investments are central to our economic well-being.

Like many of my colleagues, I agree that lower taxes are generally preferable to higher taxes. That is not a controversial position. The question is, when we have large budget deficits, what are our highest priorities?

We have to make choices. And in today's information-driven economy, a college degree is no longer a luxury, it is a necessity.

In terms of long-term economic growth and developing this country's human capital—which is ultimately the true source of innovation and competitive advantage—we could make few better investments than ensuring that future generations have access to an affordable college education.

And talk about a tax cut that pays for itself over time. According to the Census Bureau, workers 18 and over with a bachelor's degree earn an average of \$51,206 a year, while those with a high school diploma earn \$27,915, and the disparity has been growing over time. College graduates make more money, and they will pay more in taxes as a result. Making college easier to afford is a real investment, and you don't need so-called dynamic scoring to make the case.

The challenge for American families is that the cost of college tuition has increased faster than any other major consumer item, including health care, over the last 20 years. It has skyrocketed from \$5,156 in 1981 to \$29,026 in 2005, an increase of 462 percent.

Even in real, inflation-adjusted dollars, the price of a 4-year public or private college education has almost doubled over the past two decades.

While many of my colleagues talk about lower taxes on investment, when a family spends money on college tuition, they are investing too. These families may not have a lot of money in taxable financial investments—more than three-quarters of U.S. households earn less than \$1,000 in taxable income from investments, such as capital gains and dividends—but they are investing a lot in their kids' education.

In today's global, interconnected world, who is to say that these investments in human capital are not just as important, if not more so, than the buying and selling of stocks?

I urge each of my colleagues to think about how quickly tuition costs are rising in their States and consider whether the majority of taxpaying



families in their States really need an extension of capital gains relief or whether they really need relief from the AMT and college tuition costs.

Here are just a few examples from my State:

At Adelphi University on Long Island, tuition cost \$5,114 in 1983 and \$17,800 in 2003–2004, a more than three-fold increase.

At SUNY Purchase in Westchester County, tuition increased from \$1,005 in 1980 to \$4,079 in 2003–2004, or 4 times as much.

At Niagara University outside Buffalo, tuition has nearly quadrupled, from \$3,300 in 1983 to \$17,380 in 2003–2004.

I am sure each of us has similar stories to tell. I urge my colleagues to support my motion, and keep the college tuition deduction in place for at least 4 more years.

The skyrocketing rise of college tuition is not the only trap ensnaring an unsuspecting, and undeserving, American middle class. The individual Alternative Minimum tax is another, and I would like to speak for a moment on the motion to be offered by the minority leader.

Unless we act, the alternative minimum tax's crushing burden will be felt by 17 million more middle- and upper-middle income taxpayers this year than in 2005, and millions more in the years to come. AMT relief is a critical part of the Senate's version of this bill and we all must do everything we can to ensure that this tax—which affects middle- and upper-middle class taxpayers—is addressed this year.

It would be nearly impossible to overstate the AMT issue in its importance and urgency. By the end of the decade, the AMT will ensnare more than 30 million taxpayers, the majority of which will have incomes below \$100,000, and the National Taxpayer Advocate at the IRS has identified the alternative minimum tax as the most serious problem facing individual taxpayers.

Here are a few statistics I want to reinforce for my colleagues, which I mentioned on the floor earlier this month:

The year 2006 is the tipping point for the AMT, as the number of taxpayers affected nationally will explode from 3.6 million to more than 20 million, if the Congress fails to act;

A family with two children will become subject to the AMT at about \$67,500 of income in 2006; and a family with five children will start owing AMT at about \$54,000 of income this year, if the Congress fails to act;

In 2004, only 6.2 percent of families earning \$100,000 to \$200,000 a year were subject to the AMT, and that number will explode to nearly 50 percent this year, if the Congress fails to act; and

Starting in 2008, the average married couple with two 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 AMT, if the Congress fails to act.

If AMT 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. In New York and many other States, particularly in or near major cities, a combined income of \$100,000 or \$150,000 does not make you rich.

Contrast this with the tax relief for dividends and capital gains, where more than half of the total benefit goes to families with income over \$1 million. This is more than 50 percent of the benefit going to less than one-half of one percent of all taxpayers in the country.

It was for these reasons that 73 Senators voted earlier this month to support a sense-of-the-Senate resolution that AMT relief should be a higher priority for this Congress than a dividend and capital gains tax cut. The American people now expect us, and our conferees, to follow through on that pledge.

When you consider the statistics I mentioned, about who will become subject to the AMT this year if we fail to act, it becomes pretty obvious that addressing the AMT problem—or extending the college tuition tax cut—should be far more important than extending a tax cut on investment income that doesn't expire for nearly 3 more years. That is common sense, and it is an entirely separate question from who benefits from which tax cut, or what your ideology may be.

In conclusion, we need a bill back from conference that mirrors the previous Senate versions of reconciliation. We passed a bipartisan bill that excluded the dividends and capital gains cuts and provided generous AMT relief for 2006. That bill passed the Senate with 64 votes. Two weeks ago, a modified version of the bill received 66 votes. I strongly encourage our conferees to bring a similarly bipartisan bill back from conference.

Mr. BAUCUS. Mr. President, even though the hour of 8 is about to arrive, I yield whatever time the Senator from Texas requires.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, when the hour of 8 o'clock arrives, I ask to be notified. I wish to speak on the motion made on my behalf by Senator GRASSLEY earlier to instruct conferees to make the sales tax deduction permanent.

This is very important to the States that have a sales tax but no income tax. There are seven States that have no income tax. Yet the citizens of all the other States of our country are able to deduct the income taxes they pay at the State level from their Federal income taxes. Two years ago, we enacted the law that would bring sales-tax States into equity so that every State would be treated the same. We are now faced with another 2-year extension, or we will have this inequity

continue because the sales tax deduction that was enacted by Congress lapsed at the end of last year. We have to make this deduction permanent.

I ask that our conferees be instructed to make it permanent so that every person in America can deduct their State taxes, whatever kind of tax that may be, from their Federal income taxes. This is a matter of equity. It is only fair that sales-tax States be treated the same as income-tax States.

I urge my colleagues to vote to make sales tax deductions permanent. Give people a choice. That is the right thing to do.

I yield the floor.

MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. Under the previous order, the vote now occurs on the motion to instruct conferees offered by the Senator from Iowa, Mr. GRASSLEY, relating to veterans.

Mr. BAUCUS. Mr. President, I ask unanimous consent that 2 minutes be allocated to explaining these motions and that 2 minutes be equally divided.

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

Who yields time?

Mr. BAUCUS. Mr. President, I will yield my time.

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

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

Mr. GRASSLEY. Mr. President, I rise for the purpose of asking unanimous consent to change the names of the sponsors of a motion that I filed.

I ask unanimous consent that the Grassley motion regarding the permanence of the child tax credit be identified as Grassley for TALENT and SNOWE.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there further debate?

Mr. STEVENS. Mr. President, 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 North Carolina (Mrs. DOLE), the Senator from Montana (Mr. BURNS), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from North Carolina (Mrs. DOLE) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Vermont (Mr. JEFFORDS), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—92

Akaka	Dorgan	McConnell
Alexander	Durbin	Murkowski
Allard	Ensign	Murray
Allen	Enzi	Nelson (FL)
Baucus	Feingold	Nelson (NE)
Bennett	Feinstein	Obama
Bingaman	Frist	Pryor
Bond	Graham	Reed
Boxer	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burr	Harkin	Salazar
Byrd	Hatch	Santorum
Cantwell	Hutchison	Sarbanes
Carper	Inhofe	Schumer
Chafee	Inouye	Sessions
Chambliss	Isakson	Shelby
Clinton	Johnson	Smith
Coburn	Kennedy	Snowe
Cochran	Kerry	Specter
Coleman	Kohl	Stabenow
Collins	Kyl	Stevens
Conrad	Landrieu	Sununu
Cornyn	Lautenberg	Talent
Craig	Leahy	Thomas
Crapo	Levin	Thune
Dayton	Lieberman	Vitter
DeMint	Lincoln	Voinovich
DeWine	Lott	Warner
Dodd	Lugar	Wyden
Domenici	Martinez	

NOT VOTING—8

Bayh	Dole	Menendez
Biden	Jeffords	Mikulski
Burns	McCain	

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes equally divided on the Dodd motion to instruct.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Grassley motion for Senators TALENT and SNOWE be the Grassley amendment for TALENT, SNOWE, and LINCOLN.

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

The Senator from Connecticut.

Mr. DODD. Mr. President, parliamentary inquiry: How long did that last vote require?

The PRESIDING OFFICER. Approximately 37 minutes.

Mr. DODD. I thank the Chair.

Let me briefly explain to my colleagues the distinction between the vote you just took and the motion I offer. Very simply put, it is whether we are going to pay for the language we just adopted with the motion of the chairman of the Finance Committee to have \$19.9 billion for veterans and then not provide the resources to achieve that goal. Everyone in this Chamber knows what will happen. That amendment will be dropped before this bill even gets out the door. If you adopt the motion I offer, you will support taking the \$19.9 billion out of the \$64.8 billion that the House of Representatives proposes to spend on the two-tenths of 1 percent of American taxpayers who make incomes of more than \$1 million a year. For that small amount, we can pay the veterans who desperately need the kind of services all of us know they

need. If you want to do something for the Grassley amendment, then adopt this motion which will provide the resources we have not adopted with the Grassley provision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the words "paid for" also mean tax increase. The difference between these motions is, the Grassley motion does not contain the tax increase. The Dodd motion asks the conferees to raise taxes.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

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

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Montana (Mr. BURNS) and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Vermont (Mr. JEFFORDS), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 40, nays 53, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—40

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

NAYS—53

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

NOT VOTING—7

Bayh	Jeffords	Mikulski
Biden	McCain	
Burns	Menendez	

The motion was rejected.

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

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

UNANIMOUS-CONSENT AGREEMENT—MOTIONS TO INSTRUCT

Mr. FRIST. Mr. President, I ask unanimous consent that the only motions to instruct be those currently pending and that no other motions be in order; I further ask consent that no amendments be in order to the motions; provided further that when the Senate adjourns this evening, all remaining debate time under the statute be considered as having expired; further that when the Senate convenes tomorrow, the Senate begin to vote in relation to the motions, with the Republican alternatives occurring prior to the votes in relation to the Democratic amendments; and I send a list to the desk with the order of votes; further that prior to the Kennedy motion and the Grassley motion on capital gains/dividends, there be 2 minutes per side for debate prior to the votes on each, with debate before all other votes limited to 2 minutes equally divided and all votes after the first vote in the sequence be limited to 10 minutes each.

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

FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2005—Resumed

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now return to the consideration of the asbestos bill.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 852) to create a fair and efficient system to resolve claims for victims of bodily injury caused by asbestos exposure, and for other purposes.

Pending:

Frist (for Specter/Leahy) amendment No. 2746, in the nature of a substitute.

Specter Modified amendment No. 2747 (to amendment No. 2746), to provide guidelines in determining which defendant participants may receive inequity adjustments the Administrator shall give preference.

Kyl amendment No. 2754 (to amendment No. 2746), to reduce the impact of the trust fund on smaller companies and to expand hardship adjustments.

Ensign point of order that the pending bill and the pending amendment in the nature of a substitute (Frist (for Specter/Leahy)) amendment No. 2746 (listed above) violate section 407 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2006.

Specter motion to waive the point of order (listed above).

CLOTURE MOTION

Mr. FRIST. I now send a cloture motion to the substitute to the desk.

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute amendment to Calendar No. 131, S. 852: a bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

Bill Frist, Arlen Specter, Lisa Murkowski, John Thune, Mel Martinez, Johnny Isakson, David Vitter, George Allen, Pat Roberts, Richard Shelby, Richard Burr, James Talent, Jeff Sessions, Mitch McConnell, Ted Stevens, Rick Santorum, Kay Bailey Hutchison.

#### CLOTURE MOTION

Mr. FRIST. I now send a cloture motion to the bill to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 131, S. 852: A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

Bill Frist, Arlen Specter, Lisa Murkowski, John Thune, Mel Martinez, Johnny Isakson, David Vitter, George Allen, Pat Roberts, Richard Shelby, Richard Burr, James Talent, Jeff Sessions, Mitch McConnell, Ted Stevens, Rick Santorum, Kay Bailey Hutchison.

#### MORNING BUSINESS

Mr. FRIST. Mr. President, these votes would occur on Wednesday. We are still working on the time during Tuesday's session for the vote on the motion to waive. We will announce that when it is locked in.

I ask that there be a period for morning business.

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

#### LEAVE NO ONE BEHIND

Mr. FRIST. Mr. President, today, I would briefly like to recount the details of a troubling series of events that resulted in the capture of four Americans, one of whom was executed, in the jungles of Colombia. I recently received word of this story from a special operations officer with intimate knowledge of these and subsequent events.

Three years ago today, a contract surveillance plane operated by four American Defense Department contractors and one Colombian military sergeant, was flying in support of our joint counternarcotics efforts in Colombia. Engine troubles forced the

crew to crash land the aircraft in the Colombian jungle south of the capital Bogota.

While there was a small window of opportunity to mount a search and rescue effort, the launch of the rescue team was never authorized. All five crew members were captured by the Revolutionary Armed Forces of Colombia.

FARC is a known terrorist organization that has terrorized Colombian civilians and political figures for decades. It has kidnapped and killed numerous American citizens and poses a serious threat to U.S. interests in Colombia. FARC is also very actively involved in drug trafficking and extortion.

FARC immediately executed the lone Colombian serviceman and one of the Americans and moved the other hostages farther south, deeper into the Colombian jungle. In the 3 years since their abduction, there has been only one serious attempt to rescue the three remaining American contractors. This took place in late August and early September of last year.

Their names are Keith Stansell, Thomas Howes, and Marc Gonsalves. These three Americans and their families here at home deserve more.

Our military, in coordination with its Colombian counterparts, needs to take more assertive action to rescue the captive Americans. In order to carry out this mission, American personnel on the ground need access to better, more reliable, and more actionable intelligence.

They have a better chance of uncovering the location and well-being of the hostages by increasing contacts with Colombian troops patrolling the jungles and interrogating captured FARC members.

It is also important to seek tips from the local population that might have information as to the whereabouts of these soldiers. But there must be incentives for these civilians, who must also endure FARC violence and intimidation, to come forward. For example, radio broadcasts in the surrounding areas could inform local civilians of the situation and offer rewards that the locals will truly value. Access to land and livestock could prove to be a great incentive for those with any information on the hostages to come forward.

We also need to increase our coordination with Colombian intelligence personnel. They have the most intimate knowledge of their country and are likely to have more access to contacts with information. Greater coordination and stronger links with these Colombian intelligence units will give our military a better opportunity to act when relevant information becomes available.

For 3 years, three brave American civilian contractors have been held hostage by a ruthless terrorist organization deep in the Colombian jungle. Though rescue attempts can be dan-

gerous and entail numerous risks to both the hostages and the rescuers, the failure to launch more than one serious rescue attempt is a disservice to those men and to their families here at home. We can only imagine the anguish, uncertainty, and doubt they have endured for those 3 long years.

I urge the administration to redouble its efforts to rescue these three Americans. A more assertive response is required. We owe it to these men and to their families to make a more serious effort to rescue them.

#### HONORING OUR ARMED FORCES

##### LANCE CORPORAL WESLEY DAVIDS

Mr. DEWINE. Mr. President, I rise today to honor the life of a brave young man, who was known for his incredible spirit and selflessness. Marine LCpl Wesley Davids, from Dublin, OH, was killed by an explosion in Iraq on May 11, 2005—exactly one day after his 20th birthday.

Ronald Reagan once said that “some people spend an entire lifetime wondering if they’ve made a difference. The Marines don’t have that problem!” Indeed, all of our U.S. Marines are making a difference each and every day, and Marine LCpl Wesley Davids was no exception.

Wesley was born to loving parents Michael and Jody Davids. Even from the time he was a little boy, he loved anything that moved fast. When he got older, he loved driving fast cars and fast boats. He owned a Mustang GTS and two other cars. He also worked at a National Tire & Battery store on the North side of Columbus.

Wesley's friends at Dublin Scioto High School, from which he graduated in 2003, describe him as having boundless energy and that between working on his cars and going off-roading, Wesley lived a very active, very full life.

He loved a challenge and testing his own limits. Wesley was a stand-out member of his high school's crew team. According to his coach, Russ Merritt, “Wesley was just a very impressive, strong young man. You just had no doubt that he would give 100 percent.”

Amy Speck, who rowed with Wesley, wrote the following about her teammate in a posting on an Internet tribute site dedicated to Wesley:

I had the privilege to be Wes's coxswain in his crew boat his sophomore year and my senior year. Wes helped lead us to winning the Midwest Championships. He always led by example and was a fighter with a courageous spirit from the beginning.

It was that courageous spirit and strong sense of leadership that prompted Wesley to join the Marine Corps after the September 11 terrorist attacks. His mother, though concerned about Wesley's safety, came to accept his choice to enlist and respected the passion he brought to his decision. Jody knew that her son's determination in this pursuit was strong, and she was very proud of him.

She said that the same passion that defined Wesley in the boat when he

rowed for the crew team, defined him as a Marine. "He wanted the camaraderie—the team spirit—of being part of something bigger than he was."

During their last phone conversation, Jody said that Wesley sounded very happy and enthusiastic. She said, "Wes, you sound really great. Are you having a good time?" Wesley replied to his mother, "I'm having a great time. I love the guys I'm serving with. I love what I'm doing. We're really well-trained. The mission is worth it."

One of Wesley's very good friends and high school classmates, Brian Fry, addressed the crowd at Wesley's funeral. He greeted Wesley in a way that I am sure he would have loved. Brian said this:

Wes, we know you're in Heaven. And your Heaven is probably one big mud pit! We'd just like to say, take a ride for us, and we'll see you soon.

During the funeral, Wesley's Uncle Brian read a prayer he wrote titled *Twenty Years and a Day*. He asked God to tell his nephew that he missed and loved him and to thank him for the memories he left behind. Brian concluded the poem by saying:

Thank you for sending this wonderful gift to us—even if it was for just 20 years and a day.

An Air Force chaplain who had known Wesley well read from a poem titled *Dash*, which refers to the mark between the birth and death dates on a tombstone:

He never made it to mid-dash. But he lived, and paid the ultimate sacrifice for people he didn't even know. And, that—that is love.

This past Veterans Day held special meaning for Wesley's family and friends. As his mom Jody said:

Previously, Veterans Day was a day; it could just slip by even though my dad is a veteran and my husband's father is a veteran. This year, it has new and intense meaning for us.

She went on to say:

To stand up for what they believed in, to stand up for their country, to show their love for their families and their country and show pride to be an American citizen and do something about it, we have to appreciate all of them for that. While Wesley's death is a tragic loss, he died doing something he felt passionately about. He was the best that this country had to offer.

Wesley once said, "I don't want to die, but I understand it is a responsibility, and I'm willing to accept that risk." Wesley Davids was a brave, model Marine. Did he make a difference in his all-too-brief lifetime? Absolutely. He made a difference, and this statement demonstrates a maturity level and selfless spirit well beyond his 20 years and a day. As Reverend Charles Kuck said so well, "Wesley Davids saw more life than most of us see in an entire lifetime."

Indeed, he did, Mr. President, indeed he did.

My wife Fran and I continue to keep Wesley's parents and his brother Steven in our thoughts and prayers.

PRIVATE FIRST CLASS CHRISTOPHER DIXON

Mr. President, I rise today to honor the life of a fellow Ohioan—Marine

PFC Christopher Dixon—who was killed on May 11, 2005, when his amphibious assault vehicle struck an explosive device while conducting combat operations against enemy forces in Iraq. Christopher was only 18 years old at the time of his death, making him the youngest service member from Ohio to be killed in Iraq.

Franklin Delano Roosevelt, in paying tribute to the sacrifices young men like Christopher Dixon make during times of war, said the following:

In all of the operations of our Armed Forces, the toughest job has been performed by the average easy-going, hard-fighting young American who carries the weight of battle on his own young shoulders. It is to him that we and all future generations must pay grateful tribute.

And so today, I pay tribute to Christopher, a hard-fighting young American, who carried the weight of battle on his own young shoulders.

Christopher—Chris to his family and friends—was a fun-loving young man, who took great joy in making others laugh. Friends remember Chris as both a daredevil and as a handsome ladies' man. Chris didn't have a girlfriend, but his friends describe him as a charmer, with blue eyes and light brown hair that bleached to blonde in the summertime. His mother said that when it came to girls, "He liked them all."

Not afraid of anything, Chris was a true adventurer. He loved to fish, hunt, and ride his dirt bike, while standing on the seat, going full speed into Wayne National Forest. An avid bowler, Chris would show off bowling tricks at Rainbow Lanes on South High Street in his hometown of Obetz, OH.

He worked in the bowling alley before joining the marines and liked to impress his friends by knocking down pins after facing backwards and rolling a ball through his legs. As friend Michele Hatfield remembers:

He'd do it just to show off. Anything to get a laugh out of people.

Chris graduated from Hamilton Township High School in 2004, and joined the marines a week later. According to his mom, Chris dreamed of becoming a marine since the start of high school. He was assigned to Lima Company, which is part of the 3rd Battalion, 25th Marine Regiment out of Columbus. When he was sent to serve in Operation Iraqi Freedom, his unit was attached to Regimental Combat Team 2, 2nd Marine Division, 2nd Marine Expeditionary Force.

On May 22 of this year, I had the honor of meeting Chris Dixon's family and friends at the calling hours following his death. I saw pictures of Chris and talked with his mom and his dad, Beckie and David Dixon, and his older brother Chad. Beckie said that after she learned of Chris's death, she put up 18 flags, one for each year of his all too brief life.

Chris's closely knit town of Obetz was devastated by the young marine's death and the community grieved together. Allen Lantrip, 17 at the time,

said Chris was among the best the town had to offer. Chris was one of the first people who welcomed Allen to Hamilton Township High School last year. The two talked before Chris departed for Iraq. Allen said Chris was very optimistic about going on the mission and coming home safe.

Another friend, Jordan Wall, also said Chris never worried about the possibility of not coming home. She had known him for 7 years, as he had lived one street over from her. Jordan said Chris wasn't scared at all and that he was happy to be in the marines. She said Chris was always trying to help somebody. He knew he would be helping people in the marines by serving his country.

At Chris's memorial service, Reverend William L. Snider said:

While Chris's death at such a young age is devastating, he did not waste his youth and he died living his dream of protecting his country as a marine. He gave his best for what he believed in. He gave his best for the best.

Several of Chris's friends paid their respects to his life through postings on an Internet tribute site. Chris's friend Danielle from Columbus wrote the following:

Chris, my good friend, I miss you so, but I could not be any more proud with how you lived your life. You are a true hero, and now, my guardian angel. I will never forget all our phone conversations and how beautiful that smile of yours was. You lived out your dream and I know you are so happy right now in heaven. I know I will see you again. Your mark and your heart will be forever with me.

Chris Dixon epitomizes everything a good friend should be. People adored this young man and deeply respected his commitment to serving our country. He was a good person, a good person who loved what he was doing and was proud to be helping to protect America and help rebuild the lives of the people in Iraq.

I wish to conclude my remarks with something that Chris's friends Danielle and Nick from Obetz wrote in tribute to him:

Chris, you are someone who will be in our hearts forever. We think of you daily and talk about our precious memories, laughing about the crazy things you did. I'll always remember going on double dates with you and your girlfriends, going to the zoo, or trying to find a haunted house on my first date with Nick. I am blessed that I got the pleasure of knowing you. Spending the precious time you spent with Nick before you left are some of the fondest memories he has of you, and believe he, he couldn't be happier having all of those memories—hanging out in the hot tub, playing pool and Ping-Pong and, most of all, all the long talks. You were always someone Nick could talk to no matter what it concerned and he will never forget that.

We are proud of you. We knew you would do something great with your life. You died for us at home so we could live free and be safe. You made a sacrifice that no one will ever forget. You are truly our hometown hero. We love you, Chris.

My wife Fran and I continue to keep Christopher Dixon's family in our thoughts and in our prayers.

LIEUTENANT COMMANDER WITTWER

Mrs. BOXER. Mr. President, I rise to honor the memory of the late LCDR Frank Carl Wittwer. Lieutenant Commander Wittwer, a longtime Hanford resident, perished when his F/A-18C Hornet went down during a training mission near Naval Air Facility El Centro on January 18, 2006. He was 35 years old.

A 1994 graduate of the U.S. Naval Academy, Lieutenant Commander Wittwer was fondly remembered as a friendly and active student who participated in a number of activities such as music and youth ministries at his church. Upon receiving his bachelor of science degree in systems engineering, he began his successful active-duty career as a surface warfare officer aboard the USS *California* and the USS *McFaul*.

In recognition of his considerable talents, Lieutenant Commander Wittwer was assigned to the Hornet Program with VFA-137 in 2001. Subsequently, he received postings at Strike Fighter Wing Pacific Fleet as safety officer and a follow-on assignment with the VFA-97 Warhawks. Throughout his years of service, Lieutenant Commander Wittwer was known as a dedicated and honorable serviceman who embodied the best qualities and ideals of the U.S. Navy.

In his personal life, Lieutenant Commander Wittwer demonstrated a genuine commitment to improving the lives of others. A popular figure in the community and an elder in the First Presbyterian Church in Hanford, he had a passion in working with kindergartners and grade school students. A man of many talents, Lieutenant Commander Wittwer recently completed the executive MBA program at the California State University, Fresno's Craig School of Business.

Lieutenant Commander Wittwer will be remembered by those whose lives he touched as a devoted family man, a loyal friend and an outstanding member of the U.S. Navy. He is survived by his wife Mendi; daughters Erin and Abbie; son Jack; sister Patti; nephew Josh; and his grandfather Hurdis Haris.

#### STOP COUNTERFEITING IN MANUFACTURED GOODS ACT

Mr. SPECTER. Mr. President, I will to take a moment to speak about H.R. 32, the Stop Counterfeiting in Manufactured Goods Act of 2005, sponsored by Representative KNOLLENBERG and 59 House cosponsors. The counterfeiting of goods bearing American held trademarks is an important problem that I am committed to fighting, as reflected by my sponsoring S. 1699, the Senate companion bill to H.R. 32, earlier this year with Senator LEAHY and Senators ALEXANDER, BAYH, BROWNBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW, and VOINOVICH.

H.R. 32, the Stop Counterfeiting in Manufactured Goods Act of 2005, addresses a problem that has reached epidemic proportions as a result of a loophole in our Criminal Code: the trafficking in counterfeit labels. Criminal law currently prohibits the trafficking in counterfeit trademarks "on or in connection with goods or services." However, it does not prohibit the trafficking in the counterfeit marks themselves. As such, there is nothing in current law to prohibit an individual from selling counterfeit labels bearing otherwise protected trademarks within the United States.

This loophole was exposed by the Tenth Circuit Court of Appeals in *United States v. Giles*, 213 F.3d 1247, 10th Cir. 2000. In this case, the United States prosecuted the defendant for manufacturing and selling counterfeit Dooney & Bourke labels that third parties could later affix to generic purses. Examining title 18, section 2320, of the United States Code, the Tenth Circuit held that persons who sell counterfeit trademarks that are not actually attached to any "goods or services" do not violate the Federal criminal trademark infringement statute. Since the defendant did not attach counterfeit the marks to "goods or services," the court found that the defendant did not run afoul of the criminal statute as a matter of law. Thus, someone caught redhanded with counterfeit trademarks walked free.

H.R. 32 closes this loophole by amending title 18, section 2320 of the United States Code to criminally prohibit the trafficking, or attempt to traffic, in "labels, patches, stickers" and generally any item to which a counterfeit mark has been applied. In so doing, H.R. 32 provides U.S. Department of Justice prosecutors with the means not only to prosecute individuals trafficking in counterfeit goods or services but also individuals trafficking in labels, patches, and the like that are later applied to goods.

Congress must act expeditiously to protect U.S. held trademarks to the fullest extent of the law. The recent 10-count indictment of 4 Massachusetts residents of conspiracy to traffic in approximately \$1.4 million of counterfeit luxury goods in the case of *U.S. v. Luong et al.*, 2005 D. Mass., underscores the need for this legislation. According to the indictment, law enforcement officers raided self-storage units earlier this year and found the units to hold approximately 12,231 counterfeit handbags; 7,651 counterfeit wallets; more than 17,000 generic handbags and wallets; and enough counterfeit labels and medallions to turn more than 50,000 generic handbags and wallets into counterfeits. Although the U.S. Attorney's Office was able to pursue charges of trafficking and attempting to traffic in counterfeit handbags and wallets, they could not able to bring charges for trafficking and attempting to traffic in the more than 50,000 counterfeit labels and medallions. As such, these defendants

will escape prosecution that would have otherwise been illegal if they had only been attached to an otherwise generic bag. This simply does not make sense and had the Stop Counterfeiting in Manufactured Goods Act of 2005 been in effect at the time of indictment, U.S. prosecutors would have been able to bring charges against the defendants for trafficking and attempting to traffic in not only counterfeit goods but also counterfeit labels.

As Assistant Attorney General Alice Fisher said, "Those who manufacture and sell counterfeit goods steal business from honest merchants, confuse or defraud honest consumers, and illegally profit on the backs of honest American workers and entrepreneurs." This point is underscored by the Bureau of Customs and Border Protection estimate that trafficking in counterfeit goods costs the United States approximately \$200-\$250 million annually. With each passing year, the United States loses millions of dollars in tax revenues to the sale of counterfeit goods. Further, each counterfeit item that is manufactured overseas and distributed in the United States costs American workers tens of thousands of jobs. With counterfeit goods making up a growing 5 to 7 percent of world trade, this is a problem that we can no longer ignore.

To be sure, counterfeiting is not limited to the popular designer goods that we have all seen sold on corners of just about every major metropolitan city in the United States. Counterfeiting has a devastating impact on a broad range of industries. In fact, for almost every legitimate product manufactured and sold within the United States, there is a parallel counterfeit product being sold for no more than half the price. These counterfeit products range from children's toys to clothing to Christmas tree lights. More frightening are the thousands of counterfeit automobile parts, batteries, and electrical equipment that are being manufactured and placed into the stream of commerce with each passing day. I am told that the level of sophistication in counterfeiting has reached the point that you can no longer distinguish between the real and the counterfeit good or label with the naked eye. However, just because these products look the same does not mean that they have the same quality characteristics. The counterfeit products are not subject to the same quality controls of legitimate products, resulting in items that are lower in quality and likely to fall apart. In fact, counterfeit products could potentially kill unsuspecting American consumers.

In addition to closing the "counterfeit label loophole," the Stop Counterfeiting in Manufactured Goods Act strengthens the Criminal Code and provides heightened penalties for those trafficking in counterfeit marks. Current law does not provide for the seizure and forfeiture of counterfeit trademarks, whether they are attached to

goods or not. Therefore, many times such counterfeit goods are seized one day, only to be returned and sold to an unsuspecting public. To ensure that individuals engaging in the practice of trafficking in counterfeit marks cannot reopen their doors, H.R. 32 establishes procedures for the mandatory seizure, forfeiture, and destruction of counterfeit marks prior to a conviction. Further, it provides for procedures for the mandatory forfeiture and destruction of property derived from or used to engage in the trafficking of counterfeit marks.

When this legislation was sent over to the Senate from the House, concerns were raised to Senator LEAHY and myself about the language in Section 2(b)(1)(B) of this bill pertaining to the forfeiture authority of the U.S. Department of Justice. In focusing our attention to this section, we discussed the scope of the facilitation language, which parallels the drug and money laundering forfeiture language in 21 U.S.C. 853 and 18 U.S.C. 982, respectively, and how it might relate to Internet marketplace companies, search engines, and ISPs. Specifically, we were aware of concerns regarding the potential misapplication of the facilitation language in section 2(b)(1)(B) to pursue forfeiture and seizure proceedings against responsible Internet marketplace companies that serve as third party intermediaries to online transactions.

Mr. LEAHY. Section 2(b)(1)(B) authorizes U.S. attorneys to pursue civil in rem forfeiture proceedings against "any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a)." The intent of this language is to provide attorneys and prosecutors with the authority to bring a civil forfeiture action against the property of bad actors who are facilitating trafficking or attempts to traffic in counterfeit marks. The forfeiture authority in section 2(b)(1)(B) cannot be used to pursue forfeiture and seizure proceedings against the computer equipment, Web site, or network of responsible Internet marketplace companies, which serve solely as a third-party to transactions and do not tailor their services or their facilities to the furtherance of trafficking or attempts to traffic in counterfeit marks. However, these Internet marketplace companies must make demonstrable good faith efforts to combat the use of their systems and services to traffic in counterfeit marks. Companies must establish and implement procedures to take down postings that contain or offer to sell goods, services, labels, and the like in violation of this act upon being made aware of the illegal nature of these items or services.

It is the irresponsible culprits that must be held accountable. Those who profit from another's innovation have proved their creativity only at escaping responsibility for their actions. As legislators, it is important that we pro-

vide law enforcement with the tools needed to capture these thieves.

Senator SPECTER, it is also my understanding that the U.S. Sentencing Commission recently promulgated new Federal sentencing guidelines to account for the changes in how intellectual property crimes are committed. Could you clarify for the record why we have authorized the U.S. Sentencing Commission to further amend the Federal sentencing guidelines and policy statements for crimes committed in violation of title 18, section 2318 or 2320, of the United States Code?

Mr. SPECTER. As Senator LEAHY is aware, periodically the Sentencing Commission has sought to update the Federal sentencing guidelines upon the periodic directive of Congress to reflect and account for changes in the manner in which intellectual property offenses are committed. The recent amendments to which you refer were promulgated by the Sentencing Commission pursuant to the authorization in the Family Entertainment and Copyright Act of 2005, also known as FECA. These amendments to the Federal sentencing guidelines, which took effect on October 24, 2005, address changes in penalties and definitions for intellectual property rights crimes, particularly those involving copyrighted prerelease works and issues surrounding "uploading." For example, these guidelines provide for a 25 percent increase in sentences for offenses involving prerelease works. In addition, the Commission revised its definition of "uploading" to ensure that the guidelines are keeping up with technological advances in this area.

I would like to make it clear for the record that the directive to the Sentencing Commission in section 3 of H.R. 32 is not meant as disapproval of the Commission's recent actions in response to FECA. Rather, section 3 covers other intellectual property rights crimes that Congress believes it is time for the Commission to revisit. Specifically, section 3 directs the Commission to review the guidelines, and particularly the definition of "infringement amount," to ensure that offenses involving low-cost items like labels, patches, medallions, or packaging that are used to make counterfeit goods that are much more expensive are properly punished. It also directs the Commission to ensure that the penalty provisions for offenses involving all counterfeit goods or services or devices used to facilitate counterfeiting are properly addressed by the guidelines. As it did in response to the No Electronic Theft Act of 1997 and FECA, I am confident that the Commission will ensure that the Federal sentencing guidelines provide adequate punishment and deterrence for these very serious offenses, and I look forward to the Commission's response to this directive.

Mr. LEAHY. Senator SPECTER, thank you for that clarification. As you are aware, there has been overwhelming

support for this legislation. It has been very heartening to see such overwhelming support for this important bill. Counterfeiting is a threat to America. It wreaks real harm on our economy, our workers, and our consumers. This bill is a tough bill that will give law enforcement improved tools to fight this form of theft. The bill is short and straightforward, but its impact should be profound and far-reaching.

Mr. SPECTER. At this point, I would like to take this opportunity to thank like to thank Representative JIM SENBRENNER, Chairman of the House Judiciary Committee, and Representative JOE KNOLLENBERG for their leadership in the House with regard to H.R. 32. In January of 2005, Representative KNOLLENBERG introduced H.R. 32 in the House. When the bill was in Committee, he fostered negotiations between the Department of Justice, the U.S. Chamber of Commerce, and the International Trademark Association to ensure that it passed the House. I would also like to thank my colleague Senator LEAHY, ranking member of the Senate Judiciary Committee, and Senators ALEXANDER, BAYH, BROWBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW, and VOINOVICH for their cosponsorship of S. 1699, the companion legislation to H.R. 32. It is through the hard work of all of these Members that we were able to achieve truly bipartisan support for language that will ensure the protection of American-held trademarks.

Mr. LEAHY. Some of our most important legislation is produced not only when we reach across the aisle in the name of bipartisanship but when we work across chambers and reach true consensus. I would also like to thank Senators ALEXANDER, BAYH, BROWBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW and VOINOVICH for their cosponsorship of the Senate companion legislation. Counterfeiting is a serious problem that does not lend itself to a quick and easy solution. This legislation is an important step toward fighting counterfeiting. I hope we can build on the success of this law.

#### PRINCIPLES OF TELECOM REFORM

Mr. NELSON of Nebraska. Mr. President, when the last major telecommunications bill was passed in 1996, fewer than half of American households owned a computer, only one out of four owned a cell phone or had Internet access, almost no one had residential broadband Internet access, and Internet commerce was in its infancy. Regulations were based on the assumption that telephone networks only offered voice service, cable television networks only offered video service, and the Internet only offered data service. Today, however, many cable systems offer Internet access and phone service,



telephone networks support Internet access and will soon offer video, and the Internet supports an amazing variety of applications.

I believe reform to our telecommunications laws is needed, and we should make reform a priority. It is time to tear down regulatory barriers between telephone, wireless, video, and the Internet to unleash innovation and encourage private investment.

I applaud the leadership of Senators STEVENS and INOUE on the Senate Commerce Committee in scheduling an ambitious slate of hearings to address telecom reform. As the hearings begin, I want to outline some basic principles I would like to see embodied in any reform legislation that moves forward out of committee.

In order to tap the infinite potential technology has to improve the way we communicate, I believe we should do the following:

No. 1, eliminate regulatory barriers that hinder innovation and encourage private investment in new telecommunications facilities and services; No. 2, streamline video franchising requirements to facilitate greater consumer choice of video providers, while allowing municipalities to protect community interests; No. 3, encourage a favorable regulatory environment for robust competition among communications providers, while protecting consumers' access to content and services; No. 4, allow for the development of uniform consumer protection standards, while recognizing the importance of State and local regulators in addressing consumer concerns; and No. 5, use the public spectrum to promote development of new wireless communications services such as broadband Internet.

Any telecom reform must address the needs of every American consumer regardless of where they live. Rural areas like Nebraska cannot be left behind. I believe that technology holds enormous economic promise to rural America, and innovation and competition must be encouraged in even the most remote areas of our country. Therefore I advocate that reform legislation do the following:

No. 1, ensure the stability of the Universal Service Fund in order to preserve affordable telephone service in rural areas, and for all Americans, as well as to continue support for schools, libraries and rural health care providers; No. 2, promote private investment in and deployment of broadband Internet and other advanced telecommunications services, in rural America; and No. 3, encourage increased wireless coverage and introduction of new wireless services to rural America.

In order for the United States to be a leader in the global economy, we must modernize our telecommunications laws to ensure we are fostering investment, innovation, and competition and not impeding progress. We also must ensure that everyone—regardless of

where they live—benefits from modernization of our telecom laws.

I believe we must act now to protect our place in the world as a leader in communications, and I look forward to the debate on this very important issue.

#### CELEBRATING BLACK HISTORY MONTH

Mr. FEINGOLD. Mr. President, this year, as we celebrate Black History Month, we also mourn the loss of two great civil rights leaders: Rosa Parks and Coretta Scott King.

These women were both pivotal figures in the civil rights movement, leaders who inspired all of us with their commitment, their dignity, and their incredible courage.

Both dedicated their lives to the cause of freedom—to ridding the South of the cruelty of segregation and ridding our society of the scourge of racism.

Both lived to see tremendous progress in America and both lived to see how much is still left undone.

As we mourn the passing of these heroic figures of the civil rights movement, we must ensure that the cause of justice for which they worked so hard, and sacrificed so much—marches on.

As we mourn these great leaders, and celebrate their lives, we must also ask ourselves what we can do to honor the contributions they made, and the way they worked to transform our Nation. I am reminded of something Rosa Parks once said about Dr. King. She was concerned that, while the birthday of Dr. King had become a national holiday, he was being depicted as merely, “a dreamer.” As I remember him,” she said, “he was more than a dreamer. He was an activist who believed in acting as well as speaking out against oppression.”

Once again, Rosa Parks was right: It is not only Dr. King's dream that endures, although it does endure, and has given strength to so many. It is the actions of Dr. King, and Coretta Scott King, and Rosa Parks, and the actions of so many millions of others, that have brought us forward in an inexorable march to freedom.

Dr. King said it himself, in a different way, when he spoke about the Montgomery Bus Boycott: “We came to see that, in the long run, it is more honorable to walk in dignity than ride in humiliation. So, in a quite dignified manner, we decided to substitute tired feet for tired souls, and walk the streets of Montgomery.”

They met injustice with action. They walked in dignity, for 381 days, until they met with victory. And today we, too, must move forward on the civil rights issues that press us to action—on racial profiling, on voting rights, on the death penalty; and also on access to good education and good health care, on addressing the HIV/AIDS crisis, and all the issues where inequality still plagues our Nation.

Dr. King, Coretta Scott King, Rosa Parks—they, and so many others, would rather have tired feet than tired souls, and so must we.

During Black History Month, as we pay tribute to their accomplishments, and as we rededicate ourselves to the goals we have yet to achieve, we know that those great Americans would never be complacent, would never tire, would never be satisfied with anything less than justice. And neither must anyone in this body, or in this country.

We must commit to walk on together in that march for equality in this country, and justice in this world, resolving that we, too, may have tired feet but never a tired soul.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO PACCAR, INC.

• Ms. CANTWELL. Mr. President, I rise today to celebrate a great American innovator.

It is a special pleasure to recognize an exceptional company which today has earned the prestigious National Medal of Technology, the highest honor given in our Nation for technological innovation. PACCAR Incorporated is a model of success and a Washington State institution. In 2005, the company celebrated its 100th year in business. You might not recognize the PACCAR name, but perhaps you have heard of some of PACCAR's finest brands: Kenworth and Peterbilt trucks.

PACCAR is one of our Nation's top truck manufacturers and today they are cited for: “pioneering efforts and industry leadership in the development and commercialization of aerodynamic, lightweight trucks that have dramatically reduced fuel consumption and increased the productivity of U.S. freight transportation.”

This National Medal is a distinct honor bestowed by the President since 1985. It was first mandated by Congress in 1980, established to recognize the significant contributions that America's leading innovators have made to the Nation's economic strength and standard of living. The award is given annually to individuals, teams, and/or companies or divisions whose work has made a lasting impact on our lives through the development and commercialization of groundbreaking technology in our Nation.

Past recipients include leaders in our Nation's cutting-edge science and high-tech communities—companies such as Dow, Dupont, and Corning or individuals such as those who have performed the first human heart transplant and invented the first whole-body CT scanner. The National Medal serves to honor the legacy of innovation that has made our Nation a technological leader for more than two centuries. And it seeks also to inspire the future generations of innovators who will keep our Nation strong for years to come.

This year, PACCAR, a Bellevue, WA company has earned this special recognition. But what, you may ask, do a lot of big rigs have to do with science and innovation?

Well, PACCAR has time and again led the industry in the design and manufacture of fuel efficient and lightweight trucks. They were the first to use a diesel engine in a heavy-duty truck. They were the first to introduce a truly aerodynamic truck design. And they were the first to use lightweight composites and aluminum in truck suspensions on a large scale. It would be difficult to name a single innovation in the recent history of truck design without finding a PACCAR product at its foundation.

These advances have required both significant investment and no small amount of risk. But PACCAR's faith has paid serious dividends to the truck buyer, the consumer, the economy, and the environment. For too long, heavy-duty trucks couldn't improve beyond a weak 10-mile-per-gallon fuel efficiency ceiling. But today, thanks to Peterbilt's and Kenworth's transformation, they have soared above and beyond that mark, significantly altering the economic and environmental forces at play in the market.

PACCAR's example has shown that it makes sense to support and advance fuel efficient technology, not only to protect our precious natural resources and reduce our dangerous reliance on foreign oil but also to help our economy thrive and grow. We would be wise to note PACCAR's model as we develop a comprehensive strategy for thoughtful investment in our energy future.

Day and night in all 50 States, PACCAR's trucks travel our Nation's highways—roads that have no end, constantly curving, folding and merging into one another. In our complex world of commerce and the vast transportation system on which that world relies, change is great and inevitable. PACCAR recognizes this beautiful evolution, embraces it, and seizes the opportunities it creates.

I rise to congratulate PACCAR Incorporated. It has made Washington State proud, it has made our Nation strong. The National Medal of Technology they receive today is well deserved.●

#### THE 100TH ANNIVERSARY OF THE SAN FRANCISCO EARTHQUAKE AND FIRE: IN COMMEMORATION

● Mrs. BOXER. Mr. President, I rise to recognize the 100th anniversary of one of the most significant disasters in California history, San Francisco's Great Earthquake and Fire of 1906.

One hundred years ago, the city of San Francisco experienced this horrific tragedy when the city shook for almost 60 seconds and communities from as far away as Oregon, Los Angeles, and Nevada felt the tremors. The Richter scale was not yet in existence in 1906, but seismologists today estimate this earthquake had a magnitude of 7.7 to 8.0.

Following the earthquake, fires broke out across the city and raged for 3 days. In fact, the fires did more damage than the earthquake. As a result of this disaster, over 3,000 people were killed, 300,000 people became homeless, and the city suffered about \$500 million worth of damage. Telegraph and telephone services were destroyed as well as the municipal railway and all government buildings.

The 100th anniversary of this historic tragedy provides an opportunity to reflect on what we have learned and how to better prepare for a similar event. We now know that residents must be prepared to be self-sufficient for 72 hours following a disaster. And the city of San Francisco has done a great deal to make the community safer.

San Francisco Mayor Gavin Newsom has spearheaded an updated citywide emergency plan—the first time it has been done in 10 years. The San Francisco Fire Department offers training in disaster and emergency response for residents. Over 11,000 San Francisco residents have completed the course in the past 15 years. San Francisco has also invested \$2.5 million in leading the development of a regional response plan with seven other bay area counties. This is one of the first regional response plans in the country. I commend the city and county of San Francisco on its efforts to ensure the city is ready to respond to a disaster.

Having witnessed the slow response to Hurricane Katrina in the Gulf States, I wrote to the Federal Emergency Management Agency, FEMA, in September asking for a copy of their disaster response plan for a serious earthquake in California. I am still waiting to receive their plan. Without the plan in hand, I remain very concerned that FEMA is not prepared should a major earthquake or natural disaster occur in California.

It is very important that the State of California and its residents are working to prepare themselves for a major disaster. I have created a "Getting Ready" guide on my Senate Web site to help my constituents prepare their homes and families for a disaster. This guide is organized in easy-to-follow steps and provides links to other preparedness sites—[www.boxer.senate.gov/quake.cfm](http://www.boxer.senate.gov/quake.cfm).

On the 100th anniversary of the Great San Francisco Earthquake and Fire, I rise to honor the memory of those who lost their lives during this disaster. I also pause to reflect on the tragedy that befell this great city and its citizens. The community came together to repair and restore the city, and today, San Francisco is one of the United States' top tourist destinations and a dynamic urban center.

I also commemorate this anniversary by encouraging all of us to look forward and ensure our families are prepared for a major earthquake or similar disaster. I will continue fighting to ensure the Federal Government is taking the steps necessary to help our

local communities in disaster response.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### ECONOMIC REPORT OF THE PRESIDENT DATED FEBRUARY 2006 WITH THE ANNUAL REPORT OF THE COUNCIL OF ECONOMIC ADVISERS FOR 2006—PM 39

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Joint Economic Committee:

*To the Congress of the United States:*

The United States economy continues to demonstrate remarkable resilience, flexibility, and growth. Having previously endured a stock market collapse, recession, terrorist attacks, and corporate scandals, this year the economy showed strong growth and robust job creation in the face of higher energy prices and devastating natural disasters. This is the result of the hard work of America's workers, supported by pro-growth tax policies.

In 2005, the Nation's real gross domestic product (GDP) grew 3.5 percent for the year, above the historical average. About 2 million payroll jobs were added in 2005, and the unemployment rate dropped to 4.7 percent last month, well below the averages of the 1970s, 1980s, and 1990s. Real disposable personal income increased, and real household net worth reached an all-time high. This growth comes on top of an already strong expansion. More than 4.7 million payroll jobs have been added since August 2003.

Compared with the performance of other nations' economies, our economic growth is especially impressive. The United States has added more jobs in the past two-and-a-half years than Japan and the European Union combined. Real GDP growth in the United States has been faster than in any other major industrialized country since 2001, and America is forecasted to continue as the fastest-growing country over the next two years.

Our economy's fundamental strength comes from the ingenuity and hard work of our workers. Productivity—how much workers produce per hour—

has accelerated since 2000. In the past five years, productivity has grown faster than in any other five-year period since the mid-1960s. The productivity of the United States is increasing faster than any other major industrialized country.

Productivity growth raises our standard of living and plays a central role in our competitiveness in the worldwide economy. Productivity growth will be even more important as new technologies accelerate global economic integration and as the American population ages.

We must now build on this fundamental strength by making robust investments in physical sciences, improving private incentives for research and development, and boosting math and science education and worker training. The American Competitiveness Initiative will help us remain a world leader in science and technology, which means good high-paying jobs for the American people.

We must also continue to pursue pro-growth economic policies and foster a culture of entrepreneurship. To adopt innovations effectively, our companies and workers need the incentives and flexibility that support a thriving free-market economy.

Maintaining a low tax burden is essential for our economic growth and competitiveness. Tax relief has helped our economy, and raising taxes will increase the burden on our families and small businesses. To keep our economy growing, Congress needs to make the tax relief permanent.

Two years ago, I called for cutting the budget deficit in half by 2009 by restraining spending and spurring economic growth. Every year of my presidency, we have reduced the growth of non-security discretionary spending, and last year Congress passed bills that cut this spending. This year, my budget will cut it again, and it will reduce or eliminate more than 140 programs that are performing poorly or not fulfilling essential priorities. By passing these reforms, we will save the American taxpayer another \$14 billion next year, and we will stay on track to cut the deficit in half by 2009.

Controlling discretionary spending alone is not enough, however. We have recently passed significant savings in mandatory spending programs. We need to do more because the only way to solve our Nation's fiscal challenges is to address the explosions in growth of entitlement programs like Social Security, Medicare, and Medicaid. I have called for a bipartisan commission to examine the full impact of the Baby Boom retirement and help us come up with bipartisan answers. The longer Congress waits to act, the more difficult the choices will become.

Working together, we accomplished other significant pro-growth reforms that will help our Nation's economy grow stronger and create more jobs. More remains to be done.

Growth in spending on health care has been more rapid than general infla-

tion, straining consumers, employers, and government budgets. Two years ago, we created Health Savings Accounts (HSAs) to help give patients more control over their health care decisions and to make health care more available and affordable. This year, I am proposing to enhance HSAs to make them more widely available, valuable to consumers, and attractive to small businesses—and to make it easier for people to keep their insurance policies when they change jobs. Last year, we worked with Congress to pass a patient safety bill that will help reduce medical errors. Getting doctors and patients the information they need on the quality, cost, and effectiveness of different treatments will help Americans get the highest quality and highest value care. This year, my Administration will push to make more information about price and quality available to consumers, and move forward on these and other policies to lower the cost of health care.

Our Nation's liability laws allow too many frivolous lawsuits and raise costs for consumers and businesses. A year ago, we worked with Congress to pass bipartisan class action reform to help curb lawsuit abuse. I urge Congress in the coming year to pass other essential legal reforms, including asbestos and medical liability reforms.

Energy prices have risen in the last year, but the underlying causes of high prices are long-standing. Last year, we passed the first major energy bill in over a decade. It encourages new technologies and updates government regulations. Over time, the new law will help increase the reliability of our energy supply and the efficient use of the energy we have. We must continue to find new ways to diversify our sources of energy. I have proposed the Advanced Energy Initiative to help increase research in alternative energy sources and technology and to make America less dependent on foreign sources of energy.

Because 95 percent of the world's customers live outside of our borders, opening international markets to our goods and services is critical for our economy. My Administration will continue to work tirelessly to open markets and knock down barriers to free and fair trade so that American farmers and workers can compete on a level playing field worldwide.

These and other issues are discussed in the 2006 Annual Report of the Council of Economic Advisers. This report is prepared by CEA to help policymakers understand the economic context of a variety of issues and trends as our Government makes decisions regarding our economic future. By adopting sound economic policies that build on our strengths, we will keep our economy moving forward and extend prosperity for all Americans.

GEORGE W. BUSH.  
THE WHITE HOUSE, February 2006.

## MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2271. A bill to clarify that individuals who receive FISA orders can challenge non-disclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

S. 2273. A bill to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Act of 1981 program for fiscal year 2006, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5695. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, reports (3) relative to vacancy announcements within the Agency; to the Committee on Environment and Public Works.

EC-5696. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, the URL address of a report entitled "Initial Distribution System Evaluation Guide for Systems Serving <10,000 for Final Stage 2 Disinfectants and Disinfection Byproducts Rule and the Initial Distribution System Evaluation Guidance Manual for Final Stage 2 Disinfectants and Disinfection Byproducts" received on February 8, 2006; to the Committee on Environment and Public Works.

EC-5697. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Utah; Rule Recodification" (FRL No. 8027-4) received on February 8, 2006; to the Committee on Environment and Public Works.

EC-5698. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revised Compliance Dates for National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines for Concentrated Animal Feeding Operations" (FRL No. 8031-3) received on February 8, 2006; to the Committee on Environment and Public Works.

EC-5699. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan; San Joaquin Valley Unified Air Pollution Control District" (FRL No. 8029-4) received on February 8, 2006; to the Committee on Environment and Public Works.

EC-5700. A communication from the Assistant General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Federal Election Activity" (11 CFR Part 100) received on February 8, 2006; to the Committee on Rules and Administration.

EC-5701. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Definition of Federal Election Activity" (11 CFR Part 100) received on February 8, 2005; to the Committee on Rules and Administration.

EC-5702. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Revisions to FHA Credit Watch Termination Initiative" (RIN2502-AH60)(FR-4625-F-03)) received on February 8, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC-5703. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Governance, Conflict of Interest, Compensation Disclosure, and Audit Committee Standards" (RIN3052-AC19) received on February 8, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5704. A communication from the Secretary, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Eligibility for Health Care Benefits for Certain Filipino Veterans in the United States" (RIN2900-AM03) received on February 8, 2006; to the Committee on Veterans' Affairs.

EC-5705. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 45 Credit Offset" (Revenue Ruling 2006-9) received on February 8, 2006; to the Committee on Finance.

EC-5706. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Semiannual Report of the Office of Inspector General for the period ending September 30, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-5707. A communication from the Acting Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, a report entitled "Comprehensive Inventory of U.S. OCS Oil and Natural Gas Resources"; to the Committee on Energy and Natural Resources.

EC-5708. A communication from the Assistant Secretary of Defense (Homeland Defense), transmitting, pursuant to law, a report on Department of Defense assistance provided for essential security and safety for civilian sporting events during calendar year 2005; to the Committee on Armed Services.

EC-5709. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Quarterly Excise Tax Filing for Small Alcohol Excise Taxpayers" (RIN1513-AB17)(T.D. TTB-41)) received on February 8, 2006; to the Committee on the Judiciary.

EC-5710. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to Executive Order 13346 of July 8, 2004, the annual certification of the effectiveness of the Australia Group; to the Committee on Foreign Relations.

EC-5711. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 06-21-06-34); to the Committee on Foreign Relations.

EC-5712. A communication from the White House Liaison, Department of Education,

transmitting, pursuant to law, (6) reports relative to vacancy announcements within the Department; to the Committee on Health, Education, Labor, and Pensions.

EC-5713. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, a report entitled "Justification of Budget Estimates for Fiscal Year 2007"; to the Committee on Health, Education, Labor, and Pensions.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself, Mr. DORGAN, Mr. JOHNSON, and Mr. LAUTENBERG):

S. 2277. A bill to promote accountability and prevent fraud in Federal contracting; to the Committee on Homeland Security and Governmental Affairs.

By Mr. COCHRAN (for himself, Mr. FRIST, and Mr. LEAHY):

S.J. Res. 29. A joint resolution providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. COCHRAN (for himself, Mr. FRIST, and Mr. LEAHY):

S.J. Res. 30. A joint resolution providing for the appointment of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

## ADDITIONAL COSPONSORS

S. 345

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 345, a bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare program.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 1082

At the request of Mrs. HUTCHISON, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 1082, a bill to restore Second Amendment rights in the District of Columbia.

S. 1272

At the request of Mr. NELSON of Nebraska, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1799

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1799, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds \$1,200, adjusted for inflation.

S. 1800

At the request of Ms. SNOWE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1800, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit.

S. 1881

At the request of Mrs. FEINSTEIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1881, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco otherwise known as the "Granite Lady", and for other purposes.

S. 1934

At the request of Mr. SPECTER, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1934, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 1956

At the request of Mr. BROWNBACK, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1956, a bill to amend the Federal Food, Drug, and Cosmetic Act to create a new three-tiered approval system for drugs, biological products, and devices that is responsive to the needs of seriously ill patients, and for other purposes.

S. 2253

At the request of Mr. DOMENICI, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2253, a bill to require the Secretary of the Interior to offer the 181 Area of the Gulf of Mexico for oil and gas leasing.

S. 2255

At the request of Mrs. FEINSTEIN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2255, a bill to amend title XVIII of the Social Security Act to prohibit removal of covered part D drugs from a prescription drug plan formulary during the plan year once an individual has enrolled in the plan.

S. 2258

At the request of Mr. ISAKSON, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 2258, a bill to amend the Tennessee Valley Authority Act of 1933 to

increase the membership of the Board of Directors and require that each State in the service area of the Tennessee Valley Authority be represented by at least 1 member.

S. 2273

At the request of Ms. SNOWE, the names of the Senator from New Hampshire (Mr. SUNUNU), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Vermont (Mr. LEAHY), the Senator from New York (Mr. SCHUMER), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2273, a bill to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Act of 1981 program for fiscal year 2006, and for other purposes.

S.J. RES. 28

At the request of Mr. STEVENS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S.J. Res. 28, a joint resolution approving the location of the commemorative work in the District of Columbia honoring former President Dwight D. Eisenhower.

S. CON. RES. 71

At the request of Mr. DEWINE, his name was added as a cosponsor of S. Con. Res. 71, a concurrent resolution expressing the sense of Congress that States should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual.

S. RES. 313

At the request of Ms. CANTWELL, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mr. DORGAN, Mr. JOHNSON, and Mr. LAUTENBERG):

S. 2277. A bill to promote accountability and prevent fraud in Federal contracting; to the Committee on Homeland Security and Governmental Affairs.

Mr. DURBIN. Mr. President, this week marks five months since President Bush stood in Jackson Square in New Orleans and promised, "Through-out the area hit by the hurricane, we will do what it takes, we will stay as long as it takes, to help citizens rebuild their communities and their lives."

America must keep that promise, and we must do so responsibly. So today, I am introducing a proposal to ensure

that from here on out, federal reconstruction dollars needed to rebuild the Katrina-ravaged Gulf Coast—and Iraq—are not awarded to companies with histories of cheating American taxpayers.

My bill, the Reconstruction Accountability and Anti-Fraud Act, will promote accountability and prevent fraud in two of the largest reconstruction projects ever undertaken by the United States.

Under my proposal, firms that have cheated American taxpayers by overcharging, improperly billing or defrauding the government of more than \$10 million over the last five years will be ineligible to compete for reconstruction work in either the Gulf Coast or Iraq.

Katrina is a national tragedy and rebuilding Iraq is a national responsibility, and neither should be an opportunity for profiteering.

Firms that have misused Iraq construction funds should be held accountable—not rewarded with no-bid contracts to rebuild the Gulf Coast.

Sadly, we've already seen examples of just that sort of misuse of taxpayer dollars.

New Orleans was still waist-deep in flood waters when Halliburton and its subsidiary, Kellogg, Brown & Root, were awarded some of the first multi-billion dollar no-bid contracts for Katrina reconstruction work. The companies received those contracts despite repeatedly overcharging the government for work in Iraq.

Listen to these abuses: In 2004, Halliburton was found to have overcharged the Defense Department by \$167 million to import gasoline into Iraq from Kuwait.

A year later, a Pentagon audit revealed another \$108 million in overcharges by KBR, a Halliburton subsidiary, for delivering gasoline to Iraq.

In 2003, KBR overcharged the government \$27.4 million over 9 months for meals at five military bases in Iraq and Kuwait, where they billed the government for an average of 42,000 meals a day but served only 14,000 meals a day.

Last month, former KBR employees testified at a Senate Democratic Policy Committee hearing that water provided by KBR to thousands of U.S. troops in Iraq contained twice as much fecal coliform and other harmful bacteria as untreated water from the Euphrates River.

Yet incredibly, instead of banning Halliburton and KBR from competing from Katrina reconstruction work, the Bush administration awarded these same companies multibillion dollar no-bid contracts for Katrina work.

Not only that, many of the contracting practices blamed for wasteful spending in Iraq—including the "cost-plus" provisions that guarantee profits to contractors no matter how much they charge, or how well or poorly they perform—are being used in the Gulf Coast.

American taxpayers and the people of the Gulf Coast can't afford reconstruction

based on the Halliburton business model of waste, fraud, and abuse. We must increase oversight and accountability in Iraq, and we must demand the same accountability here at home.

A growing number of reports demonstrate why this bill is needed.

Since November 2003, Congress has appropriated \$21 billion for Iraq reconstruction and relief. On a bipartisan basis, this Congress has given the President everything he has asked for to support his ambitious plans to rebuild Iraq.

Earlier this week, Stuart Bowen, the Special Inspector General for Iraq Reconstruction, told the Senate Armed Services Readiness Subcommittee that nearly all of that money is either spent or obligated, and what remains, "will not permit completion of all projects that were envisioned."

We know how dangerous Iraq has become, not only for our troops but also for everyone involved in reconstruction. Dangerous conditions there have caused many setbacks and delays, and they have forced USAID, the Department of State, and others to devote increasing amounts of money to security, rather than reconstruction. Security is and will remain a serious problem, but it is by no means the only reason that the United States Government has spent billions of dollars for Iraqi reconstruction—and Iraq still struggles to rebuild.

The reports of the Special Inspector General for Iraqi Reconstruction fully address the serious security challenges our men and women in Iraq face today, and every day, but they also paint a grim picture of conditions in Iraq, and of poor planning, execution, and oversight of reconstruction efforts by the administration.

Let me be very clear: These failings are not the fault of our troops or of the men and women of USAID, of the Department of State, and other agencies that are risking their lives and working heroically to help the Iraqi people rebuild their shattered nation and create a better future, and they deserve our thanks and respect.

The Special Inspector General found that the CPA—the Coalition Provisional Authority—burned through nearly \$100 million in Development Fund for Iraq money with few records to show for how that money was spent. In many instances, the money simply vanished. That is simply inexcusable.

In the town of Hillah, for example, the Special Inspector General found that the CPA left \$7 million worth of projects uncompleted. The money allocated for these projects is missing.

Thanks to the good work of Special Inspector General Bowen, the American criminal justice system is going to hold at least a few people accountable.

Unfortunately, because of poor recordkeeping, there may be no way now to trace and recover all of the billions of dollars that have disappeared in Iraq.

But where we can track fraud and overbilling to specific companies, why would we give more money to these same offenders?

This week, the President sent Congress a budget proposal for next year that cuts Medicare, Medicaid, student loans, veterans' health, and many other vital programs America depends on.

I am deeply concerned about the deficits that have built up under this President. In 5 years, we've gone from a \$5 trillion projected surplus to multi-trillion dollar projected deficits as far as the eye can see. We must restore fiscal sanity to the Federal budget. But before we cut health care for seniors and veterans or student loans, we should cut out the waste, fraud, and abuse in Federal reconstruction contracts.

We must ensure that reconstruction dollars meant to help Katrina victims rebuild their lives are not diverted to irresponsible contractors seeking to pad their bottom lines. Whether the work is done in Iraq or in Louisiana, Alabama, or Mississippi, there must be honesty, transparency, and accountability.

General John Abizaid, the commander of the U.S. Central Command, has said that the key to military success in Iraq "is whether we can learn from our mistakes."

Five months ago, when the President addressed the Nation from Jackson Square in New Orleans, he said, "Americans have every right to expect a more effective response in a time of emergency. When the federal government fails to meet such an obligation, I, as President, am responsible for the problem, and for the solution. This government will learn the lessons of Hurricane Katrina."

This is the test. If we are serious about correcting mistakes, there must be accountability. We cannot reward companies that have cheated the American people with even more taxpayer dollars, with little or no oversight. Our troops who are risking their lives deserve better. Our fellow American citizens who are struggling to rebuild their lives and communities in the gulf coast deserve better. And the American taxpayers who are paying the bills deserve better.

We have the biggest economy in the world. We don't need to rely on just a few privileged firms to do America's work. We don't need over-billers, underperformers, chiselers, and cheats to do America's work.

America's work and American taxpayer dollars should go to companies that believe in accountability, responsibility, and honest work for an honest dollar.

There are countless firms that fit that bill—in the gulf coast region, in Illinois, and across America. By weeding out companies that have cheated taxpayers, my bill will assure that those hard-working firms have a fair shot to compete for Federal reconstruction dollars in Iraq and at home.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2277

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Reconstruction Accountability and Fraud Prevention Act of 2005".

#### SEC. 2. ACCOUNTABILITY IN FEDERAL CONTRACTING.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds appropriated or otherwise made available by the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109-61), by the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109-62), or through the Iraq Relief and Reconstruction Fund may be obligated or expended in connection with a contract or covered task order entered into after the date of the enactment of this Act with a contractor that, during the previous 5 years—

(1) has been found by an executive agency or any Inspector General to have overcharged or improperly billed the Federal Government by a total of at least \$10,000,000 through one or more overcharges;

(2) has been found by an executive agency or any Inspector General to have committed one or more fraudulent acts resulting in total costs or losses to the Federal Government of at least \$10,000,000; or

(3) has been suspended or debarred for a period of at least one year under the Federal suspension and debarment regulations.

(b) NATIONAL SECURITY WAIVER.—The President may waive the restrictions under subsection (a) on a case-by-case basis if the President determines that such waiver is in the national security interest of the United States and submits to the appropriate congressional authorities a report describing the reasons for such determination.

(c) DEFINITIONS.—In this Act:

(1) APPROPRIATE CONGRESSIONAL AUTHORITIES.—The term "appropriate congressional authorities" means—

(A) the Majority Leader and the Minority Leader of the Senate;

(B) the Speaker of the House of Representatives and the Minority Leader of the House of Representatives; and

(C) the Committees on Appropriations of the Senate and the House of Representatives.

(2) COVERED TASK ORDER.—The term "covered task order" means a task order valued at more than \$10,000,000 entered into pursuant to a contract entered into before the date of the enactment of this Act.

(3) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

By Mr. COCHRAN (for himself,  
Mr. FRIST, and Mr. LEAHY):

S.J. Res. 29. A joint resolution providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. COCHRAN (for himself,  
Mr. FRIST, and Mr. LEAHY):

S.J. Res. 30. A joint resolution providing for the appointment of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

Mr. COCHRAN. Mr. President, I am pleased to introduce two joint resolutions appointing two individuals to the Smithsonian Board of Regents. The joint resolutions are cosponsored by Senators FRIST and LEAHY. Alan Spoon and Phillip Frost have been approved and recommended for appointment by the Smithsonian Board of Regents. I ask unanimous consent that the text of the resolutions and the biographies of both gentlemen be printed in the RECORD. I ask the Senate to approve the resolutions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Alan G. Spoon, Appointed 2000, Executive Committee, Chair, Finance and Investment Committee.

Alan G. Spoon, of Massachusetts, is Managing Partner of Polaris Venture Partners, which invests in Internet-related businesses, networking, biotechnology, and medical technology. He was previously President of the Washington Post Company, having served 18 years in various leadership roles. He maintains leadership and advisory roles with numerous companies and organizations in the technology, communications, and financial industries.

S.J. RES. 29

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with section 5581 of the Revised Statutes (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Alan G. Spoon of Massachusetts, is filled by reappointment of the incumbent for a term of 6 years. The reappointment shall take effect on the date of enactment of this joint resolution.

Phillip Frost

*Chairman of the Board and CEO, Ivax Corporation, Miami Beach, FL*

Nationally recognized for his creative enterprise, business and marketing acumen, and generous support of education and the arts, Phillip Frost has held leadership positions with numerous corporations and organizations. Born in Philadelphia, where his family lived above his father's shoe store, Dr. Frost worked at a brother's hardware store before heading to the University of Pennsylvania. There Dr. Frost majored in French literature and spent one year studying at the University of Paris, a seminal period that led to Dr. Frost's life-long commitment to the arts. He and his wife, Patricia, who is chair of the Smithsonian National Board, are renowned collectors who gave their 113-piece collection of American abstract art to the Smithsonian in 1986; they also have stated their interest in exploring the possibility of providing significant support for a major exhibition on medical history at the National Museum of American History.

After receiving his B.A. from the University of Pennsylvania in 1957 and his M.D. from the Albert Einstein College of Medicine in New York in 1961, Dr. Frost completed his internship at New York's Montefiore Hospital and his residency in dermatology at the



Hospital of the University of Pennsylvania. He then served as a lieutenant commander in the U.S. Public Health Service at the National Cancer Institute and completed a one-year senior residency at Jackson Memorial Hospital in Miami. He joined the faculty of the University of Miami School of Medicine in 1966 and then moved to Mount Sinai Medical Center of Greater Miami, chairing its Department of Dermatology from 1972 to 1990.

While at Mt. Sinai, Dr. Frost sold a disposable instrument for skin biopsies to Miles Laboratory. He and his partner in that venture then purchased Key Pharmaceuticals, which was later sold to Schering-Plough for \$600 million. Eager to explore the then-unglamorous world of generic drugs, Dr. Frost next founded IVAX Corporation, which became recognized for its consumer-directed research, development, manufacture, and marketing of pharmaceutical products worldwide. Since 1987, Dr. Frost has served as chairman of the board of directors and chief executive officer of IVAX; he also was president from 1991 to 1995. IVAX was recently acquired by TEVA Pharmaceutical Industries Ltd. and, according to published reports, Dr. Frost will receive more than \$1 billion of TEVA stock as a result of its sale.

Dr. Frost is a director of Northrop Grumman Corporation, Continucare Corporation, Cellular Technical Services Co., Inc., and Ladenburg Thalmann Financial Services Inc. He also is co-vice chairman of the American Stock Exchange's board of governors and a trustee of Scripps Research Institute and previously served as chairman of the board of directors of Key Pharmaceuticals, Inc., chairman of Whitman Education Group, Inc., and vice chairman of the board of directors of American Vaccine, Inc. In addition, Dr. Frost possesses significant fiscal experience with matters of government oversight.

Residents of Florida for over 40 years, Dr. and Mrs. Frost also have been ardent supporters of local community efforts. In addition to their commitment to the visual arts, the Frosts made a \$33 million gift to the University of Miami for its school of music (now called the Phillip and Patricia Frost School of Music), one of the largest individual gifts the university ever has received. Dr. Frost serves as campaign co-chair of the fund-raising initiative "Momentum: The Campaign for the University of Miami," having previously served as chairman of its board of trustees, and co-chaired the successful launch of the Miami Art Museum's fund-raising campaign "Art for All People." He is a former member of the Florida International University (FIU) Foundation board and the FIU board of trustees. The Patricia & Phillip Frost Art Museum at FIU is so-named as a tribute to their longstanding support; likewise, the university presented Dr. Frost with an honorary degree in 1993 for his many contributions in medicine, business, and community service. He also was named the 2001 National Ernst & Young Entrepreneur of the Year.

Since 1987, Phillip Frost has served as chairman of the board of directors and chief executive officer of Ivax Corporation, which was recently acquired by TEVA Pharmaceutical Industries Ltd.; he also was president of IVAX from 1991 to 1995. In addition, he was chairman of the Department of Dermatology at Mt. Sinai Medical Center of Greater Miami from 1972 to 1990.

Nationally recognized for his business acumen and creative enterprise, Dr. Frost has held leadership positions with numerous corporations and organizations. In addition to his management of the IVAX board of directors, he is chairman of the board of its subsidiary, IVAX Diagnostics, and director of Northrop Grumman Corporation, Contin-

care Corporation, Cellular Technical Services Co., Inc., and Ladenburg Thalmann Financial Services Inc. Dr. Frost also is co-vice chairman of the American Stock Exchange's board of governors, chairman of the board of trustees of the University of Miami, and a trustee of Scripps Research Institute. He previously served as chairman of the board of directors of Key Pharmaceuticals, Inc., chairman of Whitman Education Group, Inc., and vice chairman of the board of directors of American Vaccine, Inc.

Dr. Frost and his wife, Patricia, are ardent supporters of the arts. Sophisticated collectors of American abstract art, they gave their 113-piece collection to the Smithsonian American Art Museum in 1986. The Frost's \$33 million gift to the University of Miami for its school of music (now called the Phillip and Patricia Frost School of Music) was one of the largest individual gifts the university has ever received, and the largest ever made to a university school of music in the United States. Dr. Frost also serves as chair of the fundraising initiative "Momentum: The Campaign for the University of Miami" and has served as chair of the Miami Art Museum's fundraising campaign "Art for All People." Additionally, he is a former member of the Florida International University (FIU) Foundation board and the FIU board of trustees. FIU's Patricia & Phillip Frost Art Museum is so-named as a tribute to their longstanding support; likewise, the university presented Dr. Frost with an honorary degree in 1993 for his many contributions in medicine, business, and community service. He also was named the 2001 National Ernst & Young Entrepreneur of the Year.

A native of Philadelphia, Dr. Frost attended the University of Paris from 1955 to 1956. He received his B.A. from the University of Pennsylvania in 1957 and his M.D. from the Albert Einstein College of Medicine in New York in 1961, after which he completed his internship at New York's Montefiore Hospital and his residency in dermatology at the Hospital of the University of Pennsylvania. Following service as a lieutenant commander in the U.S. Public Health Service at the National Cancer Institute, Dr. Frost completed a one-year senior residency at Jackson Memorial Hospital in Miami. He joined the faculty of the University of Miami School of Medicine in 1966 prior his tenure at Mount Sinai Medical Center.

#### S.J. RES. 30

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with section 5581 of the Revised Statutes (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, resulting from the retirement of Manuel L. Ibáñez, is filled by the appointment of Phillip Frost of Miami Beach, Florida. The appointment is for a term of 6 years, beginning upon the date of enactment of this joint resolution.

#### NOTICES OF HEARINGS/MEETINGS

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been rescheduled before the Committee on Energy and Natural Resources.

The hearing originally scheduled for Tuesday, February 14, 2006 at 2:30 p.m. in Room SD-366 of the Dirksen Senate

Office Building will now be held on Wednesday, February 15, 2006 at 10:30 a.m. in the same room.

The purpose of the hearing is to receive testimony regarding S. 2197, to improve the global competitiveness of the United States in science and energy technology, to strengthen basic research programs at the Department of Energy, and to provide support for mathematics and science education at all levels through the resources available through the Department of Energy, including at the National Laboratories.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Kathryn Clay or Steve Waskiewicz.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources on Wednesday, March 1, at 10 a.m. in Room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the oversight hearing is to receive testimony regarding the state of the economies and fiscal affairs in the Territories of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Josh Johnson or Steve Waskiewicz.

#### AUTHORITIES FOR COMMITTEES TO MEET

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Monday, February 13, 2006, at 10 a.m. for a hearing titled, "Hurricane Katrina: Waste, Fraud, and Abuse Worsen the Disaster."

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

##### PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be authorized to meet on Monday, February

13, 2006, at 8:30 a.m., for a field hearing at James J. Hill Reference Library in St. Paul, MN, entitled "Volatility in the Natural Gas Market: The Impact of High Natural Gas Prices on American Consumers."

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

#### PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following list of fellows and interns with the Finance Committee staff be allowed on the Senate floor for the duration of the debate on the tax reconciliation bill:

Mary Baker, Robin Burgess, Tiffany Smith, Tom Louthan, Richard Litsey, David Schwartz, Stuart Sirkin, Zachary Henderson, Lesley Meeker, Britt Sandler, Lauren Shields, Janis Lazda, Jordan Murray, Leona Cuttler, Laura Kellams, Deidra Henry-Spires, Caroline Ulbrich, Peggy Hathaway, and Robin Burgess.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Anne Freeman and Theresa Pattara of the Finance Committee staff be given privileges of the floor for the duration of consideration of the House message to accompany H.R. 4297.

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

#### APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to Public Law 109-59, appoints the following individuals to serve as members of the National Surface Transportation Policy and Revenue Study Commission: Paul Weyrich of Virginia and Patrick E. Quinn of Tennessee.

#### MEASURES PLACED ON THE CALENDAR—S. 2271 AND S. 2273

Mr. FRIST. Mr. President, I understand there are two bills at the desk due for a second reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2271) to clarify that individuals who receive FISA orders can challenge non-disclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

A bill (S. 2273) to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Act of 1981 program for fiscal year 2006, and for other purposes.

Mr. FRIST. In order to place the bills on the calendar under the provisions of rule XIV, I object to further proceeding en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will be placed on the calendar.

#### ORDERS FOR TUESDAY, FEBRUARY 14, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 on Tuesday, February 14. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of the House message to accompany H.R. 4297, as under the previous order.

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

#### PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will complete consideration

of the pending motions to instruct the conferees on H.R. 4297, the tax relief bill, and send that bill to conference. We will have multiple votes starting close to 10 a.m. Senators should plan to stay around the floor for a series of up to 16 stacked votes in the morning. I truly hope that some of those will not be pushed to a rollcall vote and we would finish at a reasonable time.

Tomorrow afternoon, we will resume consideration of S. 852, the asbestos bill. There is a pending motion to waive the Budget Act that must be disposed of before we can move forward with the amendment process.

#### ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if this is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:58 p.m., adjourned until Tuesday, February 14, 2006, at 9:45 a.m.

#### NOMINATIONS

Executive nominations received by the Senate February 13, 2006:

##### EXPORT-IMPORT BANK OF THE UNITED STATES

JAMES LAMBRIGHT, OF MISSOURI, TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2009, VICE PHILIP MERRILL, RESIGNED.

##### DEPARTMENT OF ENERGY

DENNIS R. SPURGEON, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF ENERGY (NUCLEAR ENERGY). (NEW POSITION)

##### OFFICE OF PERSONNEL MANAGEMENT

ROBERT IRWIN CUSICK, JR., OF KENTUCKY, TO BE DIRECTOR OF THE OFFICE OF GOVERNMENT ETHICS FOR A TERM OF FIVE YEARS, VICE AMY L. COMSTOCK, RESIGNED.

##### DEPARTMENT OF JUSTICE

DONALD J. DEGABRIELLE, JR., OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS, VICE MICHAEL TAYLOR SHELBY.