



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE *108<sup>th</sup>* CONGRESS, FIRST SESSION

Vol. 149

WASHINGTON, THURSDAY, MAY 15, 2003

No. 73

## Senate

The Senate met at 9:15 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

### PRAYER

The guest Chaplain, Dr. Gerald L. Durley, offered the following prayer:

Eternal and Almighty God, we have entered this hallowed Chamber to seek Your guidance, wisdom, and protection. We have come to lift up those who have been elected, appointed and anointed to complete the will of Your people. Their task is not easy. It is fraught with frustrating disappointments, stalled moments of doubt, hurts and pain. We therefore reverently request to approach Your sovereign throne to ask You to individually and collectively pour Your omniscience upon the Members of this distinguished body of legislators.

Dear God, I am reminded of a time when one of Your servants told his cousin that she was "called to represent her people and that her time is now." (Esther 4:14). We pray this morning, Father, that You will assist these Senators to act on behalf of a nation which not only believes in Your supreme desire to have justice reign but also in Your immutable ability to heal our country economically, educationally, sociologically, and politically. We trust that You will guide these emissaries with Your Divine knowledge.

On this beautiful spring day we would ask that You gently touch each Senator's physical body where ailments and sickness have taken their toll; give each of them the strength to endure the various debates of differences; speak to each of their families in such a way that they will understand and appreciate the unselfish sacrifices which these modern day patriots are experiencing.

Dear Father, give them the patience to persist; the tolerance to prevail; the ability to forgive; and the wisdom to place Your Spirit with love as the foun-

dation for their daily living. Assure each person, under the sound of my voice, that their individual solos are unique; however, their collective voices create a harmonious choir which will then be well pleasing unto You, and to the people of this great Nation. 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 legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 15, 2003.

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.

### JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1054, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1054) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

Pending:

Grassley amendment No. 555, to increase the criminal monetary penalty limitation

for the underpayment or overpayment of tax due to fraud.

Dorgan/Baucus amendment No. 556, to repeal the 1993 income tax increase on Social Security benefits and to offset the revenue loss.

Specter amendment No. 569, to urge the Senate Finance Committee and the Joint Economic Committee to hold hearings and consider legislation providing for a flat tax.

Baucus amendment No. 570, to ensure that the limit on refundability shall not apply to the additional \$400 child credit for 2003, to make the dividend exclusion effective for taxable years beginning in 2003, and to eliminate the increase in the dividend exclusion from 10 percent to 20 percent of dividends over \$500.

Kennedy amendment No. 544, to provide for additional weeks of temporary extended unemployment compensation and to provide for a program of temporary enhanced regular unemployment compensation.

Lincoln amendment No. 578, to expand the refundability of the child tax credit.

Cantwell amendment No. 577, to permanently extend and modify the research and experimentation tax credit and strike the partial exclusion of dividends provision.

Jeffords amendment No. 587, to accelerate the elimination of the marriage penalty in the earned income credit.

Bunning/McConnell amendment No. 589, to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

Burns amendment No. 593, to amend the Internal Revenue Code of 1986 to allow the expensing of broadband Internet access expenditures.

Grassley amendment No. 594, to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services in rural areas under the Medicare Program.

Harkin amendment No. 595, to help rural health care providers and hospitals receive a fair reimbursement for services under Medicare by reducing tax cuts regarding dividends.

Collins amendment No. 596, to provide temporary State and local fiscal relief.

Murray amendment No. 564, to provide temporary State fiscal relief.

Stabenow amendment No. 614, to ensure the enactment of a Medicare prescription drug benefit.

Warner modified amendment No. 550, to amend the Internal Revenue Code of 1986 to

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



Printed on recycled paper.

S6407

increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses.

Voinovich amendment No. 592, to establish a blue ribbon commission on comprehensive tax reform.

Graham of Florida amendment No. 617, in the nature of a substitute.

Kyl amendment No. 575, to further enhance the denial of deduction for certain fines, penalties, and other amounts.

Landrieu amendment No. 619, in the nature of a substitute.

Landrieu amendment No. 620, to provide pay protection for members of the Reserve and the National Guard.

Landrieu amendment No. 621, to amend the Internal Revenue Code of 1986 to allow employers in renewal communities to qualify for the renewal community employment credit by employing residents of certain other renewal communities.

Ensign amendment No. 622, to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

Schumer amendment No. 557, to amend the Internal Revenue Code of 1986 to make higher education more affordable.

Conrad amendment No. 611, to make the child tax credit acceleration applicable to 2002.

Baucus, for McCain, amendment No. 612, to add the provisions of the Armed Forces Tax Fairness Act of 2003.

#### AMENDMENT NO. 589

The ACTING PRESIDENT pro tempore. There are now 2 minutes evenly divided before a vote on the Bunning amendment. Who yields time?

The Senator from Kentucky.

Mr. BUNNING. I will be very brief. This amendment was discussed pretty thoroughly yesterday. This sets a date certain for a vote on the reduction of the tax on the Social Security seniors from 85 to 50 percent; that we report a bill out no later than July 1, 2003; and that the bill should be acted on no later than September 30, 2003, consistent with the preservation of the Medicare trust fund.

Under the provisions of section 904 of the Congressional Budget Act of 1974, I move to waive the point of order against the pending amendment and I ask for the yeas and nays.

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

There is a sufficient second.

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

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

The senior assistant bill clerk proceeded to call the roll.

Mr. REID. 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. BAUCUS. Mr. President, has the proponent of this amendment any time remaining? Have we completed the time remaining to speak in favor of the amendment?

The ACTING PRESIDENT pro tempore. There remains a minute in opposition.

Mr. BAUCUS. Is there any time remaining to speak for the amendment?

The ACTING PRESIDENT pro tempore. No.

Mr. BAUCUS. Mr. President, I am going to vote for this amendment. I think all Senators should realize this is really a cover amendment. This is an amendment which allows Senators to not do the real thing. What is the real thing? The real thing is a vote for the Dorgan amendment which is next. The Dorgan amendment provides that Social Security taxes on 85 percent of Social Security benefits are not taxable. That is the real thing. The current amendment before us is a sense of the Senate. It is a cover amendment. I am going to support it. I think all Senators should support it. But the real test is the next amendment. If Senators vote for this amendment, if they want to reduce Social Security taxes, they should vote for the Dorgan amendment because that is the real amendment. That is the one that counts.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I withdraw my motion to waive the point of order since none has been made against the amendment.

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

The question is on agreeing to the amendment.

Mr. BUNNING. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

The senior assistant bill clerk called the roll.

The result was announced—yeas 98, nays 2, as follows:

#### [Rollcall Vote No. 148 Leg.]

#### YEAS—98

Akaka	Dodd	Lincoln
Alexander	Dole	Lott
Allard	Domenici	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Edwards	Mikulski
Bennett	Ensign	Miller
Biden	Enzi	Murkowski
Bingaman	Feingold	Murray
Bond	Feinstein	Nelson (FL)
Boxer	Fitzgerald	Nelson (NE)
Breaux	Frist	Nickles
Brownback	Graham (FL)	Pryor
Bunning	Graham (SC)	Reed
Burns	Grassley	Reid
Byrd	Gregg	Roberts
Campbell	Hagel	Rockefeller
Cantwell	Harkin	Santorum
Carper	Hatch	Sarbanes
Chafee	Hutchison	Schumer
Chambliss	Inhofe	Sessions
Clinton	Inouye	Shelby
Cochran	Jeffords	Smith
Coleman	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kerry	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Warner
Dayton	Levin	Wyden
DeWine	Lieberman	

#### NAYS—2

Hollings Voinovich

The amendment (No. 589) was agreed to.

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 556

The ACTING PRESIDENT pro tempore. There are now 2 minutes equally divided prior to the next vote.

Mr. DORGAN. Mr. President, the next vote is on the amendment that actually does what the previous amendment says the sense of Senate should do. If you really believe with the sense of the Senate that we should do this, the question is, Do you believe we should do it now? The question here, it seems to me, is one of priorities. If 8 million senior citizens are paying \$1,500 more in taxes because of the change in 1993 and you want to repeal that change, then this particular amendment will reduce taxes for those 8 million Americans.

Is this a greater priority than the issue of dividends and other issues in this bill? In my judgment, this is a greater priority. If you really believe you want to cut taxes for 8 million senior citizens by \$18 billion, now is the time to do that. Now is the time to make the change to do that. If you choose not to, it is really hard to say you support this kind of a change.

The ACTING PRESIDENT pro tempore. Who yields time in opposition?

Mr. GRASSLEY. Mr. President, this amendment is designed to kill the growth package. It would eliminate the acceleration of all individual income tax rate reductions, and it would eliminate the entire dividend exclusion.

What is also interesting about this amendment is that our colleagues on the other side of the aisle who are solely responsible—

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the bottom line is that this tax on Social Security income is as high as it is because, in 1993, all except one Senator now serving on the other side of the aisle imposed a tax in the first place. I believe we should have an opportunity to repeal this tax. However, as my colleagues are aware, the revenue from this tax goes into the Medicare hospital fund without other changes in Medicare. Repealing this tax would bankrupt the Medicare trust fund. We should consider this in light of other Medicare legislation, and it ought to be done in the Finance Committee.

This language is not germane to the measure now before the Senate. Therefore, I raise a point of order under section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. DORGAN. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

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

There is a sufficient second.

The yeas and nays were ordered.

Mr. FRIST. Mr. President, I want to make a couple of comments on the schedule for today which I did not have the opportunity to make this morning.

We just had our first vote in what will be a very long day with a lengthy series of votes. Hopefully, we can do as much as possible to shorten that list over the course of the day and certainly not add to it too much.

I want to ask all of our Members to stay close to the Chamber. We will be starting, with this vote, 10-minute votes, and that will be enforced. It will be the only way we can get through this bill in this so-called vote-arama. I know it is going to be tough in terms of everybody's schedules today. I would go ahead and talk to your schedulers and let them know we have these votes every 10 minutes.

Following passage of this bill later today, we will proceed directly to the global HIV/AIDS bill. We will work that bill through tonight, and hopefully finish that bill tonight. If we complete that bill tonight, Members can expect no rollcall votes tomorrow. The objective will be to complete the jobs and growth package today, start on the HIV/AIDS bill, and hopefully finish today. If so, we will not have votes tomorrow.

Again, I ask Members to stay close to the Chamber and the 10-minute votes will be enforced.

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

The legislative clerk called the roll.

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Rollcall Vote No. 149 Leg.]

#### YEAS—49

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Pryor
Byrd	Hollings	Reed
Campbell	Inouye	Reid
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kerry	Snowe
Corzine	Kohl	Stabenow
Daschle	Landrieu	Wyden
Dayton	Lautenberg	
Dodd	Leahy	

#### NAYS—51

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Fitzgerald	Nickles
Brownback	Frist	Roberts
Bunning	Graham (SC)	Santorum
Burns	Grassley	Sessions
Chafee	Gregg	Shelby
Chambliss	Hagel	Smith
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Inhofe	Sununu
Cornyn	Kyl	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 49, the

nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 555

The ACTING PRESIDENT pro tempore. There will be 2 minutes evenly divided on the next amendment.

Who yields time?

The Senator from Iowa.

The Senator will suspend. The Senate will come to order. The Senate will be made aware that votes will be limited to 10 minutes. There are 23 amendments that remain pending which we want to complete in an orderly fashion.

Mr. GRASSLEY. Mr. President, I don't care if anybody listens to me, but it would be nice if everybody would shut up so you don't have to go through that 10 times today.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized for 1 minute.

Mr. GRASSLEY. Mr. President, I am pleased to work with Senator BAUCUS to strengthen criminal tax penalties. We have seen in Enron-type corporation scandals that there is no end to the cleverness of con artists in the corporate world. The con artists will even pay a little tax to cover up their deception. Then after the fraud, the corporation asks for its money back.

This amendment will ensure the corporate con artists pay full freight for their crime of duping shareholders and workers.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, obviously this is a good amendment. Also, when I finish speaking, I will offer an amendment in the second degree, which has been cleared on the other side, essentially to bring the criminal provisions in the Tax Code up to date with the Sarbanes-Oxley criminal provisions. The Sarbanes-Oxley bill did not address the criminal tax provisions because that was not a tax bill. We do address it here.

I urge adoption, by voice vote, actually, of both amendments.

I yield back the remainder of my time.

#### AMENDMENT NO. 624 TO AMENDMENT NO. 555

Mr. President, I ask unanimous consent to call up my second-degree amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 624 to amendment No. 555.

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

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

The amendment is as follows:

(Purpose: To increase the criminal penalties for fraud and false statements)

On page 2, strike line 13 and insert:

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "\$100,000" and inserting "\$250,000",

(B) by striking "\$500,000" and inserting "\$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "\$100,000" and inserting "\$250,000",

(B) by striking "\$500,000" and inserting "\$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by

Mr. BAUCUS. Again, this is the amendment I earlier referred to, and I urge all Senators to vote for it.

The ACTING PRESIDENT pro tempore. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 624) was agreed to.

#### VOTE ON AMENDMENT NO. 555, AS AMENDED

The ACTING PRESIDENT pro tempore. The question is on agreeing to the Grassley amendment No. 555, as amended.

The amendment (No. 555), as amended, was agreed to.

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 569

The ACTING PRESIDENT pro tempore. There are now 2 minutes evenly divided prior to a vote on the Specter amendment.

Who yields time?

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, if I may have the attention of my colleagues, this is a sense-of-the-Senate amendment which calls upon the Finance Committee and the Joint Economic Committee to undertake a study on tax simplification, with the view to presenting a report to the Senate on a flat tax.

The complexities of the Internal Revenue Code are well known. Even Albert Einstein said he could not understand the Internal Revenue Code. We spend billions of hours, billions of dollars on the complexities of filling out the tax

returns. This flat tax would enable us to file a return within a few minutes on a postcard.

This amendment does not commit the Senate to a flat tax, but it only calls upon relevant committees to conduct a study. There has never been a study of a flat tax. This amendment, cosponsored by Senator GRASSLEY and Senator BENNETT—and I think agreed to; we will soon hear from Senator BAUCUS—will be a significant step forward.

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

Who seeks time in opposition?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I think it is a good idea to set up some kind of a body or commission to see if we can simplify the code, knowing that it is a daunting task. Nevertheless, we should try, including looking at the flat tax proposal that has been suggested by several Senators and other observers over the years. But at least let's give it a try. We can certainly improve upon the code we now have.

I urge its adoption.

The ACTING PRESIDENT pro tempore. Is there further debate?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask unanimous consent to be added as a cosponsor.

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

The question is on agreeing to amendment No. 569.

The yeas and nays have been ordered.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

The result was announced—yeas 70, nays 30, as follows:

[Rollcall Vote No. 150 Leg.]

#### YEAS—70

Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Biden	Fitzgerald	Nickles
Bond	Frist	Reid
Breaux	Graham (SC)	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Byrd	Harkin	Smith
Campbell	Hatch	Snowe
Carper	Hollings	Specter
Chafee	Hutchison	Stevens
Chambliss	Inhofe	Sununu
Cochran	Jeffords	Talent
Coleman	Kohl	Thomas
Collins	Kyl	Voinovich
Cornyn	Landrieu	Warner
Craig	Leahy	Wyden
Crapo	Lott	
DeWine	Lugar	

#### NAYS—30

Akaka	Dorgan	Lieberman
Bingaman	Durbin	Lincoln
Boxer	Edwards	Mikulski
Cantwell	Graham (FL)	Murray
Clinton	Inouye	Pryor
Conrad	Johnson	Reed
Corzine	Kennedy	Rockefeller
Daschle	Kerry	Sarbanes
Dayton	Lautenberg	Schumer
Dodd	Levin	Stabenow

The amendment (No. 569) was agreed to.

AMENDMENT NO. 570

The PRESIDING OFFICER. There will now be 2 minutes of debate on the next amendment, the Baucus amendment.

Mr. BAUCUS. Mr. President, this is essentially what I call a "more stimulus now" amendment. It has two provisions. One, it accelerates the year in which the dividend exclusion is effective. Under the committee bill, the dividend exclusion does not come into effect until 2004, which basically means most taxpayers are not going to receive the benefit until 2005 when they file their tax returns. All this takes effect in 2003 in my amendment, as well as the 10 percent. We are going to stimulate the economy.

In addition, there is acceleration of the child tax credit. The amendment provides the full \$400 be sent to those who qualify for the additional child tax credit, and that is based on the 2002 returns. If they qualify in 2002, they are entitled to the full \$400 check in 2003. To avoid the problem we faced in the 2001 bill, where sometimes they got \$300 and sometimes not, this will speed that up.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I appreciate Senator BAUCUS' efforts. We, in this bill, have tried to balance investment and spending incentives. This bill already provides \$95 billion for children and the child tax credit. The bill includes acceleration of the credit for low-income families, whom Senator BAUCUS seeks to help.

In addition, I believe the market will benefit more from the proposal contained in the bill because of how we have approached it in a balanced effort. However, I do thank the Senator for his efforts.

I have to raise a point of order. The pending amendment offered by the Senator from Montana increases mandatory spending and, if adopted, would cause the underlying bill to exceed the committee's section 302(a) allocation. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the Congressional Budget Act of 1974.

Mr. BAUCUS. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable section of that act in the budget resolution for the consideration of the pending amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. 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 assistant legislative clerk called the roll.

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 151 Leg.]

#### YEAS—47

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

#### NAYS—53

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Gregg	Smith
Chafee	Hagel	Snowe
Chambliss	Hatch	Specter
Cochran	Hollings	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	

The motion was rejected.

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 47, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 544

The ACTING PRESIDENT pro tempore. It is now in order to consider amendment No. 544, the Kennedy amendment. There will be 2 minutes equally divided on each side.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are involved in a debate between Republicans and Democrats about how to get the economy going, but there is one reality, and that is that we have stagnation at the present time.

There is one lifeline for millions of hard-working Americans who paid into the unemployment compensation fund, and that is to extend the unemployment compensation benefits.

Today there are 18,000 Iraqi veterans who are on unemployment compensation, and that number is increasing every single week. We are talking about funds that have been paid into that fund by these workers. They are entitled in a time of difficulty and challenge to get that money back to help them meet their mortgage, put food on the table, and take care of their children.

The American people understand fairness, and they understand, on the one hand, if we are going to provide billions for the wealthiest individuals in

this country, we ought to look out for hard-working men and women who have played by the rules, worked hard all their lives, have paid into that fund, and now need that assistance. This is what that amendment does.

In the last 10 years, we have extended unemployment compensation benefits seven times. It has been extended by Republican Presidents, and we ought to do it today.

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

Who yields time? The Senator from Iowa.

Mr. GRASSLEY. Mr. President, as I said yesterday, we are willing to extend current unemployment benefits. We are willing to do it before the end of the week. In fact, yesterday I offered a unanimous consent request to accomplish this, and it was rejected on the other side.

We have Senator MURKOWSKI standing by ready to offer a unanimous consent request to extend unemployment benefits. This amendment is overreaching. This amendment would go way beyond anything we have done on unemployment at a level of 6 percent right now. In fact, this makes it as high as when unemployment was at 8 percent. We are asked to deal with an amendment that goes way too far to score political points. That is why it should be rejected.

I raise the point on this amendment that the language is not germane to the measure before the Senate. Therefore, I raise a point of order under section 305(b)(2) of the Congressional Budget Act of 1974.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment. I ask for the yeas and nays.

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

There appears to be a sufficient second.

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

The senior assistant bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. ALLARD) is necessarily absent.

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

The yeas and nays resulted—yeas 50, nays 49, as follows:

[Rollcall Vote No. 152 Leg.]

#### YEAS—50

Akaka	Clinton	Graham (FL)
Baucus	Conrad	Harkin
Bayh	Corzine	Hollings
Biden	Daschle	Inouye
Bingaman	Dayton	Jeffords
Boxer	Dodd	Johnson
Breaux	Dorgan	Kennedy
Byrd	Durbin	Kerry
Campbell	Edwards	Kohl
Cantwell	Feingold	Landrieu
Carper	Feinstein	Lautenberg

Leahy	Nelson (FL)	Sarbanes
Levin	Nelson (NE)	Schumer
Lieberman	Pryor	Specter
Lincoln	Reed	Stabenow
Mikulski	Reid	Wyden
Murray	Rockefeller	

#### NAYS—49

Alexander	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hagel	Snowe
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner
Dole	McConnell	

#### NOT VOTING—1

Allard

The PRESIDING OFFICER. On this vote, the yeas are 50 and the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

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

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 578

The PRESIDING OFFICER. There are now 2 minutes evenly divided prior to a vote on the Lincoln amendment. Who yields time?

The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, may I inquire how much time I have?

The PRESIDING OFFICER. One minute.

Mrs. LINCOLN. Mr. President, I hope everyone in this Chamber will agree that raising children is probably one of the most important and expensive undertakings in which we have all engaged. I hope we will also agree in this Chamber that the face of our country tomorrow will be shaped by how well we raise our children today, and that is not just our children, it is everyone's children.

That is why I think my amendment is so important. Eight million children from working families at the very bottom of the income scale get no benefit from the child tax credit, but 4.4 million of those 8 million children would begin to get a benefit from the child benefit under the Lincoln amendment.

By providing tax relief to those who need it the most, the Lincoln amendment will have a direct and meaningful stimulative effect on the economy. These families with children play by the rules. They go to work each day at extremely low wage jobs. They pay significant payroll, State, local excise taxes, maybe even property taxes. They struggle to make ends meet, yet they get no benefit from the child tax credit in this bill.

On behalf of the children of this Nation, I encourage my colleagues to support this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Senator from Arkansas has done well in the last tax bill and this tax bill to help in the area of refundability, and I compliment her for that, but this amendment goes too far because it provides a new entitlement with regard to the child credit.

The bill already provides \$95 billion for the child credit. That is the biggest part of this bill. It also includes acceleration of the child credit for low-income families, an issue of great importance to Senator LINCOLN as well.

The bill has a balance between spending and investment. The amendment cuts back significantly on the investment part, the partial dividend exclusion. I appreciate the Senator's efforts, but this amendment would gut our jobs bill.

The pending amendment offered by the Senator from Arkansas increases mandatory spending and, if adopted, would cause the underlying bill to exceed the committee's section 302(a) allocations. Therefore, I make a point of order against the amendment pursuant to section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator in Arkansas.

Mrs. LINCOLN. Pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable section of that act for purposes of the pending amendment and for the 4.4 million children who will be covered by this amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 153 Leg.]

#### YEAS—49

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

#### NAYS—51

Alexander	Burns	Craig
Allard	Chafee	Crapo
Allen	Chambliss	DeWine
Bennett	Cochran	Dole
Bond	Coleman	Domenici
Brownback	Collins	Ensign
Bunning	Cornyn	Enzi

Fitzgerald	Lott	Shelby
Frist	Lugar	Smith
Graham (SC)	McCain	Snowe
Grassley	McConnell	Specter
Gregg	Miller	Stevens
Hagel	Murkowski	Sununu
Hatch	Nickles	Talent
Hutchison	Roberts	Thomas
Inhofe	Santorum	Voinovich
Kyl	Sessions	Warner

The PRESIDING OFFICER. On this question, the yeas are 49, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

## AMENDMENT NO. 577

The PRESIDING OFFICER. There are now 2 minutes evenly divided on the Cantwell amendment. The Senator from Washington.

Ms. CANTWELL. Mr. President, this amendment is offered by myself, the Senator from Florida, Senator NELSON, and Senator BAUCUS, to extend the research and development tax credit. What we are saying here today is we will implement a philosophy that has been a proven success in generating jobs in our economy, giving business the ability to deduct research and development costs in an information age when we know there are so many products and services yet to be created.

Since its enactment in 1981, the research tax credit has demonstrated it is a very powerful and effective tool for creating jobs. It should be no surprise to my colleagues that research estimates indicate that agreeing to this amendment could, in the next 5 years, increase our gross domestic product by over \$10 billion. There is no better stimulus.

We should make this investment. It is a bipartisan-supported effort, research and development tax credits. Compared to the other stimulus in this bill, this is the tried and true way for the American public. We know there is research and development in biotechnology, in computer sciences, medical research, and this will help us create jobs. I ask my colleagues for their support.

Mr. GRASSLEY. The R&D tax credit doesn't expire until June 30, 2004. That is more than 1 year away. The President has included permanent extension of R&D in his fiscal year 2004 budget. I want the people to know I am committed to extending the credit in subsequent legislation.

However, we have before us the amendment by Senator CANTWELL proposing striking the dividend exclusion in order to pay for the R&D extension. The exclusion for dividend income is a very significant piece of any jobs and growth plan—the President has it in his, obviously—even though in our bill it is scaled back some.

Finally, extension of this R&D credit is not germane to the jobs and growth

bill. I therefore raise a point of order under section 305(b)(2) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, under section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of the Act for consideration of the pending amendment.

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, I announce that the Senator from Missouri (Mr. TALENT) is necessarily absent.

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

The yeas and nays resulted—yeas 49, nays 50, as follows:

## [Rollcall Vote No. 154 Leg.]

## YEAS—49

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

## NAYS—50

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Bennett	Ensign	Nickles
Bond	Enzi	Roberts
Brownback	Fitzgerald	Santorum
Bunning	Frist	Sessions
Burns	Graham (SC)	Shelby
Campbell	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	

## NOT VOTING—1

Talent

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

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

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

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, the leader asked me to remind everybody that starting right now the 10-minute rule for voting is going to be enforced because these votes are taking so long and we have so many more votes to go.

I have made the announcement, and I yield the floor.

## AMENDMENT NO. 587

The PRESIDING OFFICER. There are now 2 minutes evenly divided on the Jeffords amendment.

Mr. JEFFORDS. Mr. President, this amendment accelerates the marriage penalty relief for low-income married couples who claim the earned-income tax credit. This marriage penalty relief was included in the 2001 tax bill but does not become fully effective until 2008. Other marriage penalty relief for the 2001 bill is accelerated as part of the bill under consideration today, but not the EITC marriage penalty relief.

A copy of the Washington Post editorial of today on this issue is on your desk.

The pending Senate bill accelerates the child tax credit for some in this group. But like the House version, it would provide no marriage penalty relief for EITC recipients who can face a particularly deep dip.

Considering that in this situation, and two single parents each with one child, each earning \$10,000, if they remain single, each receives about \$2,500. If they marry, their total tax benefit falls by more than \$1,000.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JEFFORDS. I urge you to look at the editorial at your desk.

Mr. GRASSLEY. Mr. President, I compliment Senator JEFFORDS for doing a lot of work in this area. I was able to work with him on the 2001 tax bill to accomplish lots of what he wanted to accomplish in the area of refundability. But what we have here is an example of going just a little bit further than we should. There is \$95 billion in this bill for children.

In addition, we accelerate the refundable child credit for low-income families, the exact group Senator JEFFORDS seeks to help.

I note also that there are some problems with the earned-income tax credit. It has 30-percent improper payments, according to the Treasury. That is \$10 billion a year of improper payments. The GAO lists this program on its high-risk list.

I think we are at a point where before we expand the earned-income tax credit we need to make sure it is reformed.

I haven't made a point of order yet, but I would like to make a point of order.

The pending amendment offered by the Senator from Vermont increases mandatory spending, if agreed to, and would cause the underlying bill to exceed the committee's section 302(a) allocations. Therefore, a point of order is raised against the amendment pursuant to section 302(f) of the Budget Act.

Mr. JEFFORDS. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act and the budget resolution for purposes of the pending amendment, and 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 bill clerk called the roll.

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—49

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

NAYS—51

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Gregg	Smith
Chafee	Hagel	Snowe
Chambliss	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Cornyn	Kyl	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). On this vote, the yeas are 49, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to set aside the Burns amendment No. 593 and proceed to the next amendment, which is my own amendment No. 594.

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

AMENDMENT NO. 594

Mr. GRASSLEY. Mr. President, I also ask unanimous consent to add the following people as cosponsors: Ms. COLLINS, Mr. THOMAS, Mr. BAUCUS, Mr. HARKIN, Mr. BINGAMAN, and Mr. CAMPBELL.

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

Mr. GRASSLEY. Now I can speak for 1 minute on my amendment.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. GRASSLEY. Mr. President, my amendment takes urgently needed steps to end Medicare's discrimination against rural States.

Doctors and hospitals in rural America provide some of the lowest cost, highest quality care in the country. Academics, researchers, and policy people know this, but Medicare does not know it.

This amendment changes that by fixing unfair payment formulas once and for all. Doctors, hospitals, home health agencies, and ambulances in rural communities can count on payment fairness from this day forward by adopting this amendment.

My fairness amendment is paid for by changes in other parts of the Medicare Program, and it is not offset by other parts of the tax provisions of this bill.

My amendment is a dose of common-sense medicine for Medicare in rural America.

One final word to cancer patients in Iowa and across the country regarding the AWP offset. I am going to work in conference and directly with the Secretary of HHS to ensure that seniors and their caregivers have adequate payment for, and continued access to, important cancer therapies.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise today to speak in favor of the Medicare amendments offered by both Senator GRASSLEY and Senator HARKIN.

Many of the provisions included in both amendments were part of legislation that Senator GRASSLEY and I offered last year. And many of the provisions were included in the Senate Rural Health Caucus bill, which I support. Several of these Medicare provisions in these amendments have also been recommended by the Medicare Payment Advisory Commission, which advises Congress on Medicare payment policy. And they have the support of the American Hospital Association. Taken together, these changes mean a lot to rural providers and, by extension, rural seniors. They represent a significant leveling of the Medicare reimbursement playing field that my colleagues and I have sought to address.

I would also like to add, however, that some of the offsets in the Grassley amendment have generated some controversy.

For example, the proposed changes to Medicare payment for Part B covered drugs are of great concern to many cancer patients and oncologists, among others.

Ideally, we would be legislating on these issues in the Finance Committee so that the committee has a chance to weigh in on these issues. But I believe that the changes on the whole are positive for the Medicare program, and so I intend to support both amendments.

Mr. President, I yield to the Senator from Iowa, Mr. HARKIN.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am pleased to join the Senator from Iowa, Mr. GRASSLEY, as a cosponsor of his amendment.

As we all know, the reason this is so critical is that the health care system in rural America is collapsing. For too long the Medicare reimbursements to urban centers have eclipsed those to rural communities at such a rate that cities, towns, and villages throughout rural America are in a real health care crisis.

In our State of Iowa, low reimbursement rates mean we can't recruit and retain health care professionals. Every time a hospital in Iowa treats a Medicare patient, it loses money. That cost is shifted to small businesses, private insurance companies, private payers—in other words, Main Street, Iowa.

This amendment takes a giant step forward in fixing this problem and getting us on the path to making sure we in rural States have the same kind of reimbursements that people do in more urban areas. It would give rural providers and hospitals, and the communities they serve, the support they need and deserve.

I urge my colleagues to support its adoption.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Senator STEVENS be added as a cosponsor to the amendment.

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

Mr. GRASSLEY. 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 amendment No. 594.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Hawaii (Mr. INOUE) are necessarily absent.

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

The result was announced—yeas 86, nays 12, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—86

Akaka	Dayton	Landrieu
Alexander	DeWine	Leahy
Allard	Dodd	Levin
Allen	Dole	Lieberman
Baucus	Domenici	Lincoln
Bayh	Dorgan	Lott
Bennett	Durbin	Lugar
Biden	Edwards	McCain
Bingaman	Enzi	McConnell
Bond	Feingold	Mikulski
Breaux	Fitzgerald	Miller
Brownback	Frist	Murkowski
Bunning	Graham (FL)	Murray
Burns	Graham (SC)	Nelson (NE)
Campbell	Grassley	Nickles
Cantwell	Gregg	Pryor
Carper	Hagel	Reid
Chafee	Harkin	Roberts
Chambliss	Hatch	Rockefeller
Cochran	Hollings	Santorum
Coleman	Hutchison	Sessions
Collins	Inhofe	Shelby
Conrad	Jeffords	Smith
Cornyn	Johnson	Snowe
Craig	Kerry	Specter
Crapo	Kohl	Stabenow
Daschle	Kyl	



Stevens  
SununuTalent  
ThomasWarner  
Wyden

## NAYS—12

Boxer  
Clinton  
Corzine  
EnsignFeinstein  
Kennedy  
Lautenberg  
Nelson (FL)Reed  
Sarbanes  
Schumer  
Voinovich

## NOT VOTING—2

Byrd

Inouye

The amendment (No. 594) was agreed to.

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

The motion to lay on the table was agreed to.

## AMENDMENT NO. 595 WITHDRAWN

Mr. GRASSLEY. Mr. President, I move to set aside the Burns amendment so we can go to the Harkin amendment.

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

Who yields time?

Mr. BAUCUS. Mr. President, I ask unanimous consent the Harkin amendment be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## AMENDMENT NO. 596

Mr. GRASSLEY. Mr. President, Senator COLLINS is ready to speak on her amendment.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the Collins amendment.

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, this bipartisan amendment would provide \$20 billion in much needed fiscal aid to the States. Forty-nine States are struggling with budget deficits. This won't relieve them of the obligation to make painful budget choices, but it will recognize the difficult financial strains under which they are operating.

Half of the money would go for an increase in the FMAP rate under Medicaid. The other half would be used for a flexible grant program that would be allocated between the States and localities.

I yield the remainder of my time in favor of the amendment to the Senator from Nevada, if he wishes to speak.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I compliment the Senator from Maine for her vision in offering this amendment. The State of Nevada is one of the 49 States that is desperate for money. I think this amendment is one of the best we have had. Again, I compliment the Senator from Maine.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. REID. Mr. President, we yield back whatever time is left.

The PRESIDING OFFICER. Without objection, the opposition time is yielded back.

The question is on agreeing to the amendment.

The yeas and nays have previously been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Idaho (Mr. CRAIG) and the Senator from Alabama (Mr. Sessions) are necessarily absent.

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

The result was announced—yeas 95, nays 3, as follows:

[Rollcall Vote No. 157 Leg.]

## YEAS—95

Akaka  
Alexander  
Allard  
Allen  
Baucus  
Bayh  
Bennett  
Biden  
Bingaman  
Bond  
Boxer  
Breaux  
Brownback  
Bunning  
Burns  
Byrd  
Campbell  
Cantwell  
Carper  
Chafee  
Chambliss  
Clinton  
Cochran  
Coleman  
Collins  
Conrad  
Cornyn  
Corzine  
Crapo  
Daschle  
Dayton  
DeWineDodd  
Dole  
Domenici  
Dorgan  
Durbin  
Edwards  
Enzi  
Feingold  
Feinstein  
Fitzgerald  
Frist  
Graham (FL)  
Graham (SC)  
Grassley  
Gregg  
Hagel  
Harkin  
Hatch  
Hollings  
Hutchison  
Inhofe  
Inouye  
Jeffords  
Johnson  
Kennedy  
Kerry  
Kohl  
Kyl  
Landrieu  
Lautenberg  
Leahy  
LevinLieberman  
Lincoln  
Lugar  
McCain  
McConnell  
Mikulski  
Miller  
Murkowski  
Murray  
Nelson (FL)  
Nelson (NE)  
Pryor  
Reed  
Reid  
Roberts  
Rockefeller  
Santorum  
Sarbanes  
Schumer  
Shelby  
Smith  
Snowe  
Specter  
Stabenow  
Stevens  
Sununu  
Talent  
Thomas  
Voinovich  
Warner  
Wyden

## NAYS—3

Ensign

Lott

Nickles

## NOT VOTING—2

Craig

Sessions

The amendment (No. 596) was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

## AMENDMENT NO. 564

Mr. BAUCUS. Mr. President, I ask unanimous consent that the next amendment we vote on be the Murray amendment.

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

Who yields time? The Senator from Washington.

Mrs. MURRAY. Mr. President, the Senate has just taken a step in the right direction to address the economic crisis that is facing many of our States and communities by adopting the Collins-Rockefeller amendment. But I think all of us know our States are facing a very severe crisis; in fact, the most severe economic crisis since the Second World War. Many of our State legislatures are facing cuts in health care, education, and even law enforcement.

Our States are facing deficits as high as \$80 billion total, and we are very concerned because they are threatening to eliminate the health care coverage of more than 1.7 million Americans.

Today when health care is one of the most difficult decisions our State legis-

latures have to make, we need to take the next step so we do not lose more doctors, more hospitals; that patients do not see continuing increased costs to their health insurance; and we have Medicaid patients who are losing coverage.

My amendment takes the next critical step by providing \$40 billion for the relief package. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in opposition to the amendment offered by the Senator from Washington. First, many priorities identified by Senator MURRAY have already been addressed in Senator COLLINS' amendment. Second, I consider \$40 billion for this amendment to be fiscally irresponsible. I do appreciate the needs for State fiscal relief, and that is why I supported Senator COLLINS' amendment. Therefore, I urge my colleagues to vote against this very costly amendment.

The amendment offered by the Senator from Washington increases mandatory spending and, if adopted, would cause the underlying bill to exceed the committee's section 302(a) allocation. Therefore, I raise a point of order under section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Washington.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

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

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

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

The yeas and nays resulted—yeas 47, nays 52, as follows:

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 158 Leg.]

## YEAS—47

Akaka  
Baucus  
Bayh  
Biden  
Bingaman  
Boxer  
Breaux  
Byrd  
Cantwell  
Carper  
Clinton  
Conrad  
Corzine  
Daschle  
Dayton  
DoddDorgan  
Durbin  
Edwards  
Feingold  
Feinstein  
Graham (FL)  
Harkin  
Hollings  
Jeffords  
Johnson  
Kennedy  
Kerry  
Kohl  
Landrieu  
Lautenberg  
LeahyLevin  
Lieberman  
Lincoln  
Mikulski  
Murray  
Nelson (FL)  
Nelson (NE)  
Pryor  
Reed  
Reid  
Rockefeller  
Sarbanes  
Schumer  
Stabenow  
Wyden

## NAYS—52

Alexander  
Allard  
AllenBennett  
Bond  
BrownbackBunning  
Burns  
Campbell



Chafee	Graham (SC)	Roberts
Chambliss	Grassley	Santorum
Cochran	Gregg	Sessions
Coleman	Hagel	Shelby
Collins	Hatch	Smith
Cornyn	Hutchison	Snowe
Craig	Inhofe	Specter
Crapo	Kyl	Stevens
DeWine	Lott	Sununu
Dole	Lugar	Talent
Domenici	McCain	Thomas
Ensign	McConnell	Voinovich
Enzi	Miller	Warner
Fitzgerald	Murkowski	
Frist	Nickles	

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote the yeas are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The majority leader.

Mr. FRIST. Mr. President, we have just finished our eleventh rollcall vote in a row, and that is substantial progress. We have been here since 9:15 this morning, and our goal was to address each of the amendments in a systematic way. I commend the Chair for addressing these amendments in a timely fashion. However, we still have a large number of amendments to dispose of. At this time, we are giving Senators a chance to catch their breath to go back to their offices, not for a long time but about 47 minutes, and maybe even grab a bite to eat. We will resume voting right at 2. Although we will not be voting over the next 45 minutes or so, it is my hope we will be able to proceed, which we will, to some opening statements on the bill that will follow completion of the jobs and growth package, and that is the global HIV/AIDS bill, which we will be bringing to the floor.

In order to complete the jobs and growth bill and the global HIV/AIDS bill, we are going to take advantage of this 45 minutes to make some introductory comments about the global AIDS package.

When the Senate resumes the jobs bill, we will automatically begin the voting sequence. The first vote in the series at 2 p.m. will be the normal 15 minutes. Following the first vote, the remaining votes will be 10 minutes. I say again that the voting limit will be strictly enforced to allow us to finish our business as early as possible today.

#### UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed, as under the order, to the consideration of H.R. 1298, until the hour of 2 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1298) to provide assistance to foreign countries to combat HIV/AIDS, tu-

berculosis, and malaria, and for other purposes.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, the first speaker on the global HIV/AIDS bill will be the chairman of the Foreign Relations Committee, Senator LUGAR, who has done yeoman's work in getting us to this point.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the Chair for the recognition, and likewise I appreciate the majority leader giving us this hour of debate, because today it is very important the Senate consider the global HIV/AIDS bill.

For the past year, intense discussions have occurred in Congress and between the executive and legislative branches on how our country can best respond to the global AIDS crisis.

In June 2002, the Foreign Relations Committee unanimously approved an HIV/AIDS bill, initially introduced by Senators FRIST and KERRY, with a large bipartisan group of co-sponsors. The Senate unanimously passed that bill. However, the House of Representatives failed to act on it before the end of the 107th Congress.

At the start of this Congress, the Foreign Relations Committee undertook at the request of the new majority leader to reintroduce the 2002 Senate-passed bill, with some minor changes requested by the Department of State. In addition, we revised portions of the bill to take account of the President's AIDS initiative outlined in his 2003 State of the Union Address.

The Committee's efforts, therefore, incorporated many of the modifications requested by the White House, including the addition of new authorities for the Special HIV/AIDS Coordinator created by our legislation last year and incorporated in the President's AIDS initiative this year.

Our efforts resulted in S. 1009, currently on the Senate calendar. Simultaneously, the House proceeded with its own bill to authorize the President's AIDS initiative. The House passed that bill last month, and it was placed on the Senate calendar.

Many Senators, including myself, come to this debate with preferences on how a bill should be structured on this subject. Nevertheless, I share the majority leader's hope that the Senate will move quickly to pass the House bill before us so that HIV/AIDS funding will not be delayed any further and so President Bush can have an AIDS initiative in hand when he travels to the G-8 summit later this month of May. The House passed their bill by a vote of 375 to 41. It is a good bill worthy of the strong bipartisan support that it received.

The United States must have partners in the effort to stop HIV/AIDS. Passage of this bill will maximize the President's ability to enlist other nations in the fight against AIDS. American leadership is as important as

American contributions to this objective.

We must be mindful of the President's recent observation that, "Time is not on our side," in combating this disease. The global HIV/AIDS pandemic is a humanitarian crisis of horrific proportions. In Africa, nearly 10,000 people contract the HIV virus each day. The United States has a clear moral obligation, as the most powerful nation on earth, to respond generously and quickly to this crisis.

But beyond our moral obligations, we should recognize that this bill is squarely in the self-interest of the United States and the American people. If we are to protect our national security and overcome terrorism, we must devote ourselves to strengthening democracy, building free markets, and encouraging civil society in nations that otherwise might become havens or breeding grounds for terrorists. We must seek to encourage societies that can nurture and fulfill the aspirations of their citizens and deny terrorists the uncontrolled territory and abject poverty in which they thrive.

Few conditions do more harm to these objectives than the HIV/AIDS pandemic. It has imposed a crushing burden on the economies of numerous African nations; it has exacerbated undercurrents of political instability that weaken the fundamentals of responsible government; and it has destroyed millions of family units. Beyond the sick and the dead, the disease has created a generation of orphans, whose prospects for a fulfilling and productive life have been diminished by the loss of parents and other family members.

The President has recognized the urgency of moving forward at this moment in history and has announced his support very solidly. He believes we need to fulfill our altruistic role in the world and to protect U.S. national security. We must join him in this effort by passing the bill before us.

The House bill would authorize the President's Emergency Plan for HIV/AIDS Relief. This plan would provide \$15 billion over the next 5 years for AIDS care, treatment and prevention in those countries already facing an AIDS crisis and in those countries that have experienced a dramatic increase in the disease.

The bill would establish the position of Coordinator for HIV/AIDS to ensure an effective approach by the various agencies of the U.S. Government involved in combating the global spread of AIDS.

The bill also would provide the President with the discretion to devote up to \$1 billion a year for the Global Fund to Fight AIDS, Tuberculosis, and Malaria. In an effort to generate foreign contributions to the global fund, the bill sets a ceiling for American contributions at one-third of total contributions. In other words, we hope to stimulate at least \$2 in foreign contributions to the global fund for each

dollar contributed by the United States.

The Senate can make history this week by passing this bill and sending the measure to the President for his signature. We should do so without delay.

I add, finally, this thought to the debate. The President of the United States, during the ceremonies in which the new members of NATO were ratified by this body last week, and introduced to the public at the White House by the President, took aside Members who were there, and even at a historic moment in which we were discussing NATO, he discussed with us the HIV/AIDS legislation. He indicated that he was going to the summit of the G-8, that it is critical that other nations join us. It is critical today that we pass this legislation.

But in order for the HIV pandemic to be arrested, other nations must be involved. The President emphasized to me and to others that his own advocacy, his own power in that meeting with regard to this issue, is dependent upon having a bill. In a very pragmatic way, the President indicated the House bill, which passed by a large majority, is a good bill. I suspect if the President were to offer all of his amendments, if I were to offer those I have already suggested in the Foreign Relations Committee, likewise the distinguished ranking member, Members of the House and the Senate, who have a variety of ways in which we can improve the situation, we could have a remarkable debate. As a matter of fact, we might have a substantial study of this situation for much of the rest of this Congress. Feelings are very strong on many of these issues.

I am sensitive to this in many ways, having tried, as chairman of the Foreign Relations Committee, from the beginning of this year, to wrestle with this very piece of legislation and how we could bring it to fulfillment.

The President's response to all of this is that the House has passed a good bill. Please pass the same bill without amendment. Please send it to me so I can sign it next week and take it in this month of May to the G-8 summit to make a powerful statement in behalf of the world and in behalf of our leadership.

That has led to my course of action in which I have indicated to my colleagues that I intend to support the President. I intend to support this bill that is before us. I will oppose amendments to the bill because that will clearly complicate the process. A conference would be required. It is not clear how rapidly the conferees could either meet or come to conclusion, and we have a recess 1 week from now, which leaves the President in limbo without a bill.

It is those considerations that I hope Members will keep in mind, will understand, and will in fact support. But at least I appreciate in this opening statement an opportunity to state my own

convictions, my own course of action, and the leadership, at least in this body, that I advocate.

I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Delaware.

Mr. BIDEN. Mr. President, I understand fully the situation of my friend from Indiana. As my colleague, Barry Goldwater—and we both served with him—used to say: In your heart you know we could have a better bill.

But we have a time problem. We have a circumstance where the House had, frankly, thumbed its nose at us last time. We passed unanimously a bill which was much more significant than this bill, led by our majority leader and by my friend from Massachusetts, Senator KERRY. They put together a real robust, significant bill.

This is a mere shadow of that bill in my view. But I end up almost the same place as my friend from Indiana, my chairman does. That is, you play the hand you are dealt. The House doesn't give a darn about this bill. Frankly, they are threatening if we add any amendments to just ditch it. So once again we are yielding to the lowest common denominator.

The fact is, they have a whip hand right now. The fact is, I want the President to be able to have a bill when he goes to the G-8 because I believe he is committed to trying to get the rest of the world to do more than they are doing. He wants to be able, to use a phrase he likes to use, lay his cards on the table. He wants to be able to ante up and say: This is what I am ready to do. Now, what are you all going to do?

I am willing to help him do that, even though this is not—this is not—the best bill. The best bill was the Kerry-Frist bill. That was the best bill we had, and we passed it. I think we voted it out unanimously last time. It was much more significant than the bill we have now. Then my friend and I, both faced with a similar dilemma, came along with what, a Lugar-Biden/Biden-Lugar bill, which was better than this bill.

But I am not here to talk about that. I am here to say we need a bill. I want everyone to know we are trying our best. I hope the majority leader would attest to the fact I have been straight up with him. We want to add a couple of amendments. Frankly, we are going to have a rough road to hoe. I think we will get one—I hope so, because I think the House may accept it if it is added on—which I think is very important.

Parochially, Senator SANTORUM and I, although he is not the one pushing it and I am—one is on the debt relief, which is something my friend from Indiana and I have worked on for years in various forums. And I think we should get the global AIDS fund up to that minimum threshold of \$500 million.

Last July, the Senate unanimously approved a bill initiated in the Committee on Foreign Relations by Senators KERRY, FRIST, HELMS and myself. It stalled in the other body. There was

little interest expressed by the Bush administration, and the bill died.

In January of this year, as one of the first orders of business, we began discussions in the Committee on Foreign Relations on moving forward on the Kerry-Frist-Helms-Biden bill. Unfortunately, each time we tried to proceed with the bill, the White House or the majority leader asked the chairman to delay, because the administration wanted more time to work on its proposal.

We might have passed a very strong bill months ago. But we did not. Now we are told that time is up, that we must take up the House bill, and that we must not amend the House bill.

I must say that I find it curious that we were asked to delay, and now we are told we cannot amend this bill. But I will return to that subject in a moment.

HIV/AIDS is the worst epidemic that mankind has ever seen. It is a source of instability. It is highly damaging to economic development in some of the poorest countries of the world. It is a humanitarian disaster. It is, in short, a national security issue, and will be for the foreseeable future.

It is right and proper that the Congress and the President work together to develop a comprehensive program of assistance.

As the world's leading economic power, we have a responsibility to lead the world in fighting this plague. I commend the President for focusing attention on this important question. It has clearly helped us push this legislation toward the finish line.

But now that we are nearing that finish line, I think we need to make a few modifications. The bill before us was passed by the House with, I am sure, the best of intentions.

It does not, however, as the title suggests, provide leadership. I believe there is considerable room for improvement in the House-passed bill.

I acknowledge that the bill does some useful things.

First and foremost, it acknowledges the severity of the HIV/AIDS epidemic, and authorizes substantial funds over a 5 year period to address it—\$15 billion over 5 years, to be exact. That's a heck of a lot of money, and well above the current budgets for these programs.

It provides for a strategy, and a coordinator to pull together all the agencies working on this issue. These are all good things.

Unfortunately, the House bill has several flaws.

The bill gives no guidance on the amount of our contributions to the Global Fund. In Fiscal Year 2004, the bill authorizes "up to" \$1 billion. So it could be \$1 or \$1 billion. Which one is it? What do we really expect the Committee on Appropriations to provide? The President's budget requests just \$200 million for the fund, which is far from adequate.

For the remaining 4 years the bill, there is no specific amount set forth. It

merely authorizes "such sums as may be necessary." This is an abdication of Congressional responsibility. It's like giving a contractor money to build a house without stating what you want the house to look like. Who would do something that unwise?

I believe that it is our job to set priorities, and funding levels. The voice of Congress should be heard on this issue. There will be an amendment by one of our colleagues authorizing a responsible contribution of the fund.

The House-passed bill does not deal with the issue of debt relief for countries suffering the burden of an AIDS epidemic.

Last year the Senate-passed bill included a provision, authored by myself and Senator SANTORUM, extending increased debt relief to countries with a severe public health crisis such as AIDS. We should do no less this year.

The House-passed bill contains language that I think is bad policy. It contains a requirement that one-third of all dollars devoted to prevention must be earmarked for abstinence-only until marriage programs.

I am concerned that this limitation is impractical.

I believe that the Agency for International Development and other agencies working on the ground are competent to decide how much money to spend on abstinence-only programs based on local conditions.

We should not assign arbitrary percentages to one element of a comprehensive strategy to prevent the spread of AIDS without a rationale. How did the other body come to the conclusion that 33 percent was appropriate? I do not know. I doubt that anyone does.

There are other problems with the bill. Some are more serious than others.

We will try, with a few amendments, to fix them in an expeditious way.

The majority leader has suggested that we must not amend this bill because there is no time for a conference or for consideration by the other body. With all respect to the leader, I believe he is mistaken.

The reconciliation bill we just passed will not go to conference. The leadership of both bodies intends to bring back the conference report on that bill before the recess. I can assure the leader that any conference on this bill would be far simpler than the conference on the reconciliation bill.

Moreover, the bill need not even go to conference—it could go through the House again, containing the amendments by the Senate. That happens all the time around here. There's no reason that action cannot be scheduled promptly—if the House leadership wants it.

What the leader is really saying is this: we must be a rubber-stamp for the other body. We cannot amend it, not even one word, or else the bill will be in trouble.

I simply don't believe that.

The Senate has a duty to debate and vote on amendments. If you oppose amendments, vote them down. But don't vote them down because you think an amendment will doom the bill.

Let us have a debate. We will do it quickly. We have no intention of delaying passage of this legislation. I urge my colleagues to support a limited number of amendments. Then we can send it to the other body, and get it to the President by the end of next week.

Frankly, I feel a little bit like I was misleading the public at large, as if I were the leader on this subject. The leader on this subject has been Senator JOHN KERRY, on our side of the aisle. So I would like, with the permission of my colleagues, to yield to Senator KERRY to make the substantive opening statement on this bill, since I will have an opportunity to manage it. Again, I compliment him and Senator FRIST, who, frankly, were the emotional, political, and intellectual engines getting this going.

If there is no objection, I yield the floor to my friend from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I am extraordinarily grateful, not just for the yielding by my colleague from Delaware, and my friend of many years here, but I am also very grateful for the comments he just made. I appreciate enormously his acknowledgment of the work that has gone into this legislation from the Foreign Relations Committee. Senator FRIST and I did start this effort a number of years ago. In fact, we chaired a major bipartisan, frankly apolitical, completely non-political effort nationally, bringing together most of the people involved in this issue for a long period of time to solicit from them their thoughts about the best way to try to put together, for the first time, a comprehensive approach to the issue of AIDS.

The reason for wanting to make it comprehensive, obviously, is that everything else was failing. There was and is a sense of implosion in continents and countries as a consequence of what is happening.

No country ever had the capacity to provide as much leadership or to provide as much resource as the United States of America to help to deal with this issue. It is good that we are at least on the floor of the Senate today for some brief period of time dealing with this question of the HIV/AIDS, Tuberculosis and Malaria Act which comes over to us from the House. The scope of the AIDS epidemic really cannot be underestimated. It is now spreading to the Caribbean. It is in East European former Soviet bloc countries. It is in Asia. The non-discriminating way that AIDS kills women and children, men and boys, young and old alike, tears up families, and destroys human infrastructure, is beyond people's belief, absent an extraordinary effort comprehensively to

begin to coordinate a global effort to combat it. It is the worst public health, social, and humanitarian crisis of our age.

It is imperative the United States lead the efforts to deal with it. It should not only be on our agenda today, but it needs to be on our agenda in the months and years to come.

Obviously, Congress should send to the President legislation that substantially increases funding for our global AIDS programs, and indeed this bill will do that. But we need to leave no doubt in the world's mind that we are going to be at the forefront of that fight in the years to come.

To underscore what the ranking member of the Foreign Relations Committee just said, the President could have had this legislation last year, or even earlier this year, had the administration and Republican allies in Congress wanted it. Last July, the Senate unanimously passed and sent to the House the bipartisan United States leadership effort against HIV/AIDS.

I thank the majority leader for his efforts to join me in again a completely nonpartisan effort to try to behave in a globally responsible way and in a way that lives up to the highest values and standards of our country.

I introduced that bill a year ago today, along with Senators FRIST, BIDEN, HELMS, DASCHLE, and some 10 other cosponsors. That bipartisan bill was the most comprehensive global HIV/AIDS bill ever introduced in the Congress. It authorized more than double the annual \$1 billion level of funding for AIDS, TB, and malaria programs over each fiscal year of 2003 and 2004, it created an HIV/AIDS coordinator in the Department of State, it ensured the Government had a comprehensive 5-year global strategy on HIV/AIDS, and it provided USAID, CDC, and other HHS agencies with the necessary authorities and resources to carry out an effective program of prevention and treatment abroad.

The House of Representatives had ample opportunity to act on this bill before Congress adjourned last November, but it failed to even take it up. Nor was the House interested in conferring the full bill. The administration provided no impetus, no leadership, and no effort in order to try to get the House to do so. Apparently the comprehensiveness of the bill was too much for the House Republicans to handle.

Speaking to this point on November 13 of last year, Congressman HYDE, chairman of the House International Relations Committee, stated that "Discussions have broken down between the Senate and the House over the size and the scope of the bill." And there was no intervention whatsoever by the administration to try to bring those parties together at any time.

It is more than regrettable that our colleagues in the House refused to act last year. Although this bill predated President Bush's AIDS initiative announced this year in his State of the

Union Address, that very worthy initiative could easily have been funded and carried out under the provisions of the Senate-passed bill. We had a missed opportunity, one that could have saved lives. As Chairman HYDE wrote earlier this week in his own op-ed in the Washington Post, "In the five minutes or so required to read this column, another 30 people will die and another 55 will become infected."

Just think how many people could have been helped had the administration and the House not missed the opportunity offered by the Senate last year to ramp up our efforts.

Since the beginning of this year, Senator BIDEN and I have worked consistently with Senator LUGAR, chairman of the Foreign Relations Committee, to produce a bipartisan global HIV/AIDS bill. Regrettably—and I do regret—each step of the way those efforts were repeatedly frustrated by the White House and some Members on the other side of the aisle. Our most recent effort, S. 1009, the United States Emergency Plan for AIDS Relief Act of 2003, introduced by Senator LUGAR on May 7 and cosponsored by Senators BIDEN, DASCHLE, and SARBANES, was based on the very draft the majority leader, Senator FRIST, brought us for consideration after consultation and input from the White House. But that effort, too, died on the vine.

The White House and the Senate majority leader have made it abundantly clear that the President now wants the Senate to move quickly to pass the bill without amendment. Having been at the forefront of the legislative effort to combat this, I am delighted the President now wants to have a bill in hand when he meets with the G-8 leaders in June. I agree that we can and must leverage other nations to increase their efforts and their resources to combat the AIDS pandemic. And I am confident the President will be able to tell his colleagues and the Congress that we are united in the fight against AIDS. However, the bill we send him ought to not only provide substantially increased resources to fight AIDS, but it should also embody comprehensive, balanced, and effective policies and programs.

The pending House bill does well in resources in terms of authorization—\$15 billion over the next 5 years for the three most infectious global diseases, HIV/AIDS, TB, and malaria. Like last year's bipartisan Senate bill on which it is modeled, the House bill established an HIV/AIDS coordinator, and it mandates a coordinated, comprehensive, and integrated U.S. 5-year strategy. But the bill remains flawed. If left unaddressed, those flaws will seriously undermine the effectiveness and the comprehensiveness of the U.S. AIDS programs.

The House bill provides insufficient resources for the Global Fund to Fight AIDS, TB and Malaria, the public-private partnership established in 2001 with the strong support of President

Bush and United Nations Secretary General Kofi Annan. The global fund reflects the international community's determination to marshal increased resources to combat not only HIV/AIDS but also TB and malaria. Tommy Thompson, Secretary of Health and Human Services, currently chairs the global fund's board of directors. Whereas the Bush administration's new AIDS initiative is focused on only 14 countries—12 in Africa and 2 in the Caribbean—the global fund's scope is worldwide, covering not only countries where AIDS is rampant, but also countries such as Russia, China, and India, where the epidemic is growing rapidly.

The Bush administration's preference for bilateral efforts over multilateral efforts, in my judgment, is discernible because of the way the allocation of funds within the President's announced initiative takes place. The President promised \$15 billion over 5 years. But only \$1 billion of those funds—that is \$200 million a year—would go to the global fund. This annual figure of \$200 million a year is already \$150 million less than we have provided in fiscal year 2003 alone. The President's proposal provides for no increases over the 5-year period.

The House bill authorizes "up to \$1 billion" for the global fund for fiscal year 2004. On the face of it, that looks like an improvement. It is calculated to look like an improvement, but it is not an improvement. The House bill fails to guarantee any specific funding level, and it caps U.S. contributions at 25 percent of the fund's total contributions.

This is simply not adequate. We can, and we should, do more. At a minimum, we should be able to guarantee that our contributions to the fund for fiscal year 2004 are significantly increased over the 2003 level.

I know some of my colleagues believe other countries are not contributing enough to the fund. I share that concern, but I am proud that the United States of America is the largest donor to the fund, and we ought to be. In my view, that is commensurate with leadership, and leadership is what is needed. However, other countries can and should do more, and if leveraging our contributions will enable Chairman Thompson and the leadership of the global fund to raise more resources, I am all for that.

S. 1009, the Lugar-Biden-Kerry bill that was introduced earlier this month, would authorize \$1 billion for the fund for fiscal year 2004, and \$500 million of this would be available without any strings attached. To receive the additional \$500 million, the fund would have to raise \$2 billion in contributions from sources other than the United States. So it provides real leverage, and that is what we ought to be doing. In effect, the United States would be providing one-third of the fund's resources—a figure with which all of us ought to be able to live. I will support changes in the House bill to strike the

House language on the fund and achieve those higher funding levels.

Second, the House bill mandates that one-third of the funds spent on prevention go only to abstinence-until-marriage programs. Now, none of us disagrees that abstinence is an important component of AIDS education. It is important as a matter of values, and of course we ought to engage in that effort. But the effectiveness of these programs depends literally on their comprehensiveness and on their relevancy to the population you are targeting. That means you need all three components of the so-called ABC model: abstinence; be faithful, which includes reducing the number of partners; and the use of condoms.

Obviously, abstinence does not apply to all target populations. For example, take a situation where you have people who are married or they are in a monogamous relationship. It is well and good to promote the concept of abstinence, which we should do, but abstinence-until-marriage programs have their greatest resonance with young people, and I believe we ought to fund those types of programs. But we should not tie the President's hands by specifically earmarking the percentage of funds to be spent on these programs because that denies the reality of what you find on the ground in terms of the targeted population.

I will support an amendment to strike this earmark. We ought to be rational enough as human beings to understand that you do not want to just promote abstinence. What happens when somebody falls short of the abstinence, as everyone in the world knows occurs? Then you want at least to have that person also educated as to what the possibilities are to still prevent the spread of the disease.

In my view, we should be providing the administration with maximum flexibility to ensure that our assistance programs are well targeted to the countries in which we are working. Regrettably, the House bill contains a number of earmarks and limitations ideologically driven but not practically driven, which reduce the flexibility and undermine the capacity to work with various high-risk populations at the epicenter of the HIV/AIDS pandemic.

The House bill guarantees that faith-based organizations may participate in U.S. Government-funded HIV/AIDS programs even if they choose not to participate in all elements of the program. For example, they can be involved in the component that respects abstinence but they may choose not to be involved in providing counseling on safe sex and distributing condoms.

Faith-based organizations are on the front lines of the fight against HIV/AIDS, and I respect that. We welcome that. And they should be. We need them there. I do not believe we should ask any organization, faith-based or otherwise, to compromise their principles in this effort, and I would not do that. But if the U.S. Government is

funding their programs, it is important, with respect to the expenditure of our dollars, that we guarantee that those dollars be spent in the most effective way and that we need to respect the interventions that, in fact, prevent HIV infection, even those they object to on a moral or religious ground.

An organization that does not wish to give out condoms should absolutely not be required to do so, but it also ought to be required to give accurate and medically sound advice on the effectiveness of that method. I will support an amendment to the House bill that makes it clear that all organizations that are funded by the U.S. Government in this fight must follow that policy.

Last year, the Senate-passed AIDS bill contained a title on debt reduction that was authored by Senators BIDEN and SANTORUM. It urged the Secretary of the Treasury to renegotiate the Enhanced HPIC Initiative to provide funds for HIV/AIDS programs through greater debt reduction. The House bill we are now considering contains no such title, despite strong support for it from many quarters, including the Catholic and other churches. This deficiency in the House bill ought to be corrected. I strongly support Senator BIDEN's amendment to put that title back in the bill.

This bill has been a long time in coming. It is here now. Obviously, it is important for the Senate to advance our efforts with respect to AIDS. In my judgment, the amendments that are being offered will improve this legislation in terms of its resources, in terms of its policy, and the flexibility for the President.

I hope those amendments will be adopted, notwithstanding the Chair's desire not to have any amendments, because they will provide us with the capacity to have the full measure of the policy we ought to be passing in order to deal with this issue. It is better to have something that is comprehensive and effective than something that merely meets political cosmetic needs and does less than what is needed to address this extraordinary challenge.

I also believe there is time yet. There is time, if there is good will on both sides and if there is Presidential leadership, to conference a bill with these amendments. There is no reason we should not make that available to the Senate. We can guarantee the President, on our side, that if we do that in good faith, he will have a bill before he goes to the G-8 summit. But if our efforts to improve this bill fail, I will still support it, Mr. President, imperfect as I think it is, because stemming the AIDS pandemic is the goal and any measure that begins the steps towards that cannot be ignored and is better than none.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. FRIST. Mr. President, I will be speaking for about 10 minutes or so. The Senator from Illinois and I were just discussing all of us who want to speak on, and that we, the Senator from Illinois and the Senator from Massachusetts, from whom we just heard, have worked so hard on this effort.

I think what I will do is get my opening statement out of the way, and then we will come back to the bill a little later today.

I will yield a minute or so to the Senator from Illinois, if he would like to make a comment. I know we are a little constrained for time. We are going back to the growth bill in about 9 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the majority leader for yielding 1 minute.

Mr. President, I think this is a historic piece of legislation. I think the United States is making a commitment to a world problem that is going to haunt us for decades to come.

I salute President Bush for his leadership. I am glad this has been bipartisan. My only regret is that it comes to the floor in a very tight procedural situation. I hope we will have time to have an honest discussion about a few issues and still deal with this bill on a timely and dispatched basis.

I salute the Senator from Tennessee, the majority leader, for his commitment, as well as the Senator from Massachusetts, and my good friend and neighbor from Indiana, Senator LUGAR.

I am going to withhold any further statements for a little later on in the bill. As we get into the dialog, I will offer a few ideas.

Mr. FRIST. Mr. President, we really only have 35 minutes to speak on the bill itself, now that we are officially on the bill. My colleagues can tell from the comments today that this initiative is a huge bipartisan initiative that is supported strongly by Democrats and Republicans. I think they will see as the debate goes forward that nobody thinks the bill is absolutely perfect in the sense that they don't as individuals agree with everything in the bill itself. Again, reflected in the comments we have just heard, if we step back, we are seeing an unprecedented commitment on behalf of this institution, the Senate, the House of Representatives, the Congress, with passage of a bill that follows the leadership of President Bush of \$15 billion over a 5-year period.

I especially appreciate the comments of the Senator from Massachusetts because, indeed, Senator KERRY and I have been working on this issue for years, in an apolitical way, in working with CSIS, which is a nonprofit group that all of us know, and we have brought in the experts from all over the world. They have done a beautiful job. We have sent delegations to China to look at the issue and broadly support it.

I think that is what this bill is all about. So much of what we do appears so partisan and, indeed, we will disagree on dollars and how much should go to the global fund. Some people feel passionately it needs to be more. Others say: Let's give a little more time to the fund. At the end of the day, when we pass this bill, this bipartisan bill—it comes from the House, but it is an assimilation of all the ideas we have been working on—it is something of which we can be quite proud.

The chairman of the Foreign Relations Committee, Senator LUGAR, has made comments I especially appreciate because it walked through the challenges we face in addressing an issue that is very difficult for a lot of people because it involves stigma, a virus that wasn't even around 23 years ago. The HIV, when I was doing medical school and the internship and the early years of residency, had never been heard of, not talked about in the textbooks until 1981, when we saw the first three or four viruses. That virus has now killed 23 million people, has 40 million people infected, and will kill, in the best of all worlds, another 60 million people.

As history looks back at this day or at this year or at these Senators in this body, it will be able to say we did everything possible to reverse the course of that destruction. At the end of today we will say, yes, for this point in time—we have lots of other steps to take—this is the first major step. This is what I wanted to say to my colleagues on both sides of the aisle. This is not going to cure the virus. We have no cure. We have no vaccine. We can reverse that trend, but this is the first major step.

The President took the lead in the State of the Union Message. It is very complementary to the work I have worked with Senator KERRY and Senator LUGAR and Senator BIDEN and Senator DURBIN on over the years. That is most important. This little HIV virus is only about 100 nanometers. That is tiny. It is microscopic. It is invisible to the naked eye. A meter is about that big. It is a billionth of a meter in terms of size, 12,000 times smaller than a human hair. So it is amazing. We are just entering this era where we understand viruses and how we can fight them to the point that we can effectively combat them, but something that small can cause so much destruction.

In terms of process, which people have referred to, we will begin legislation later today on this \$15 billion 5-year effort to combat the worldwide HIV/AIDS epidemic. The bipartisan support is reflected in the fact that the bill that I, in talking to the leadership on the other side of the aisle, said, how can we best immediately begin the response to the destruction of this virus, meaning not put it off 6 months or 12 months or 3 months or a year, and it is using this piece of legislation which will come to the floor later today.

Some have suggested, you kind of knock out the deliberative process by

going to the House bill. I disagree. We have put together various bills. If you look at the House bill, while not everybody agrees with everything in it, it really is an assimilation of the proposals put forward that looks at prevention, care, and treatment. That is what is beautiful. It is the amount of money, \$15 billion, about \$3 billion a year for 5 years, the money, but also it is the first time in legislation that we have linked a public health approach, which you need, to this greatest of all humanitarian and public health tragedies—challenges, as Senator KERRY has just said on the floor, that you link prevention, care, and treatment. With that, over time, we will be able to reverse the course of this virus.

The treatment strategies themselves have to do with antiretroviral drugs. Some people say, let's put all the money there. We don't have a cure yet, so to put all the money there doesn't make sense. We have to go back and look at both prevention, which we know is 100-percent effective, the prevention strategies—I refer back to Uganda, and what is being done there—and also the care. How do you manage people with HIV/AIDS? It could be other antibiotics. It could be nutrition. It could be care. That is why the overall planning and the comprehensive nature of this bill is so important.

The bill before us does represent a lot of coming together into a focus of agreement and consensus on a range of issues—not all of the issues, but on, I would say, most of the issues. That is why we can't let the perfect be the enemy of what the good is in this particular bill.

It is true that in less than 3 weeks the President of the United States, if we pass this bill, will be able to go to the G-8 conference, and that is important. That is not necessarily the driving reason to do it, but it does give us an additional reason to do it—in addition to the fact it will save lives, which is the most important issue to all of us—that the President of the United States can show that we are a caring nation, we are not just a good nation but we are a great nation in terms of reaching out, the caring, the compassion as we go forward. We will be able to lead—yes, we are a powerful nation—and get other nations to participate because we can't solve this problem by ourselves. The United States can't do it. We don't know the answer. We don't have enough money to do it. But when we can bring the family of nations, contributing both commitment and money, we will be able to cure this little virus as we go forward.

There are lots of issues in the bill we will talk about later. One of the most important is that we can start immediately. We will have a skilled coordinator—that is part of the underlying package—will be able to move forward, begin the planning, begin the implementation. Then through the appropriations process we will be able to add the appropriate money.

Let me close as I opened: Again, we will have the opportunity to talk later tonight at greater length. History, ultimately, will judge how we respond. We have done a pretty good job through study, committees, through bills, through proposals, through debates, through the appropriations process, but this gives us the first disciplined, dedicated, focused, comprehensive response which links the public health with the scientific. That is what this is about.

History will look back on this day as the first major step in reversing this greatest of humanitarian challenges of the 21st century. We do have a choice. We could put it off for later or we could choose to do it now. I believe we will choose to act tonight, ultimately pass this bill, and, with that, it will be a demonstration of why we are not just a good Nation but a great nation.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I want to thank the majority leader for bringing this important piece of legislation to the Senate floor. It is desperately needed. The Senate passed something very similar to this proposal 9 months ago. Despite our urgent and repeated requests, Republican leaders in the House refused to act on that bill. But something important happened between then and now. In his State of the Union Address to the Nation, President Bush proposed an historic U.S. commitment to the global AIDS fight. We applaud the President's support. I also want to acknowledge Secretary of State Colin Powell, who has shown great leadership on this issue of global AIDS and taken some criticism for it.

Our colleagues in the House of Representatives, especially Congressmen HENRY HYDE and TOM LANTOS, also deserve thanks for their commitment to this cause. Here in the Senate, many of us have seen the face of AIDS in Africa and the Caribbean personally. This fight has benefitted from their leadership. I especially want to acknowledge the work of Senators DURBIN, KERRY, BIDEN, LEAHY, FEINGOLD, KENNEDY, FRIST, LUGAR, and DEWINE.

Last August, I traveled with several of our colleagues to South Africa, Kenya, Botswana, and Nigeria. We wanted to get a clear look at the development challenges in Africa. The challenges are myriad and massive. They include investment and trade, education and agriculture. One of Africa's greatest challenges is health care—particularly AIDS.

In South Africa, I had the privilege to deliver 1,000 pounds of clothes and toys, donated by the people of South Dakota to children in South Africa affected by HIV/AIDS. Those toys provided some glimmer of hope to the South African children who received them. But this bill offers the beginning of real hope. This bill holds out the promise that some of those children will grow to be adults and perhaps have children on their own.

On that trip, I met a young girl named Mary. She lives in Soweto. She had recently lost both of her parents to AIDS. She had been left to care for her four younger siblings. She was 12 years old. Mary and her siblings are among the world's more than 14 million "AIDS orphans"—children who have lost their mother, or both parents, to AIDS. Worldwide, more than 30 million people have already died from AIDS. Last year, AIDS and AIDS-related illnesses claimed the lives of 3.1 million people. And 5 million more people became newly infected. Today, more than 42 million people are infected with HIV or living with AIDS. More than 75 percent of them live in Africa or the Caribbean.

I am convinced that, if we combine America's resources and technology and the great compassion of the American people with the courage and hope shown by Mary and so many others, we will defeat this disease.

HIV/AIDS is the great humanitarian crisis of our time. But it is more than a humanitarian crisis. AIDS is a national security issue. It is a public health issue. It is an economic issue. And it is a moral issue. We have the tools to fight this disease. It is our duty and our obligation to use them. The U.S. commitment to the global AIDS fight has increased significantly in the last few years. But we could have, and should have, done far more, far sooner. We must not delay any more.

This bill is another step in our fight. It would more than double current U.S. spending for international AIDS programs. It calls for a comprehensive strategy that integrates prevention, treatment, research for a vaccine and help support children—like Mary, orphaned by the disease.

The President is right in calling for us to target nations in Sub-Saharan Africa and the Caribbean. These nations represent the epicenter of the global AIDS crisis. But a crisis is looming in Asia and Central and Eastern Europe. We must do now in those areas what we did not do soon enough in Africa. We must intervene now to stop the spread of HIV/AIDS before it reaches the epic proportions experts warn we could see. For that reason, Democrats will offer an amendment to this bill to guarantee a robust American commitment to the Global Fund to Fight AIDS, Tuberculosis and Malaria. The bilateral efforts aimed at Africa and the Caribbean are needed to address today's crisis. A strong U.S. commitment to the Global AIDS Fund is needed to prevent tomorrow's crisis.

We will also offer an amendment to give the President the flexibility he needs to confront this epidemic. The House bill ties the President's hands on prevention programs. Abstinence must be a central piece of any successful prevention program. But earmarking 33 percent of prevention funds for one approach is counter-productive.

We will also offer other important amendments. One will relieve the debt

burden on the world's poorest nations—many of whom are burdened also by this AIDS crisis. Another will provide American food aid to people suffering from AIDS in desperately poor nations. We know that many people who suffer from AIDS actually die from starvation and malnutrition. Emergency food aid from America's farmers can help keep them alive.

It is important to note, however, that this is just an authorization bill. By itself, it does not commit one dime to prevent AIDS or help its victims. The real test of our commitment to children like Mary and others living with and threatened by AIDS will be whether we fund this promise. A prescription you can't afford to fill does no good at all. The President calls his proposal an "emergency plan." He is right. This is an emergency. We should treat it like an emergency. After we pass this bill, we must appropriate the full amount it prescribes.

We can react to the plight of AIDS orphans like Mary with denial and despair. Or we can respond—as this proposal does—with a determination to save those children and the millions of others threatened by HIV/AIDS.

In Uganda, mothers with AIDS create "memory books" for their children. In their dying days, they gather together photos and stories they want their children to know. They know that they will not live to see their children grow up. With this bill, we have a chance to write a different book—a different kind of history in this fight against AIDS. Let us write that book. Let us pass this bill today. Then, let us quickly agree to commit the resources it promises.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. COLEMAN. 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. COLEMAN. Mr. President, are we in morning business? What is the status of where we are, Mr. President?

The PRESIDING OFFICER. The Senate is to resume consideration of the tax reconciliation bill.

Mr. COLEMAN. I ask unanimous consent to have an opportunity to address the global AIDS bill very briefly.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

# JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003—Continued

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

The PRESIDING OFFICER. The reconciliation act, and it is necessary to set aside the pending Burns amendment.

Mr. BAUCUS. I ask unanimous consent that the Burns amendment be set aside.

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

## AMENDMENT NO. 614

The PRESIDING OFFICER. The business now is the amendment of the Senator from Michigan.

Who yields time?

Ms. STABENOW. Mr. President, I ask unanimous consent that Senator MIKULSKI be added as a cosponsor of the amendment.

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

Ms. STABENOW. Mr. President, I urge my colleagues to support this very important amendment for the seniors of this country. This does that. First and foremost, before we pass the dividend tax cut and the top rate tax cut, we will proceed to develop and pass a comprehensive prescription drug benefit that is equivalent to what we receive in the Senate. I have heard many colleagues express the concern I share, which is that the seniors and the disabled of this country ought to have the same ability to have the prescription drug coverage we as Federal employees do.

This amendment simply sets our priorities straight. It says before we proceed with these two tax cuts, we will pass a comprehensive prescription drug benefit based on FEHBP, the most common portion of which is used by Senate and House Members. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I oppose this amendment. I feel exactly about Medicare and prescription drug issues as the Senator from Michigan, but this is not the way to do it. This amendment reduces our jobs and growth package even before the Finance Committee takes up a comprehensive prescription drug benefit and Medicare improvement bill.

I hope everybody knows that I am very committed to reporting a \$400 billion bill out of the Finance Committee, and doing it this summer, hopefully within the month. This will add a comprehensive prescription drug benefit for seniors.

The amendment before us jumps the gun. I am working in a bipartisan way on a prescription drug policy that fits within that \$400 billion framework in our budget resolution. In fact, I have a 4 o'clock meeting today with Senators on that issue that, obviously, I am not going to be able to keep because of these rollcall votes. We need to keep the jobs and growth package complete.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. Mr. President, I want to raise a point of order. This upsets the balance of our bill. This language is not germane to the measure before the Senate. Therefore, I raise a point of order under section 305(b)(2) of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Due to the fact the budget resolution does not contain enough revenue to do what our distinguished chairman has just indicated, this amendment is necessary to make that happen. Pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act and the budget resolution for the consideration of the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

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

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 44, nays 56, as follows:

[Rollcall Vote No. 159 Leg.]

## YEAS—44

Akaka	Durbin	Levin
Bayh	Edwards	Lieberman
Biden	Feingold	Lincoln
Bingaman	Feinstein	Mikulski
Boxer	Graham (FL)	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Hollings	Pryor
Chafee	Inouye	Reed
Clinton	Johnson	Reid
Conrad	Kennedy	Rockefeller
Corzine	Kerry	Sarbanes
Daschle	Kohl	Schumer
Dayton	Landrieu	Stabenow
Dodd	Lautenberg	Wyden
Dorgan	Leahy	

## NAYS—56

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Baucus	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Snowe
Carper	Hatch	Specter
Chambliss	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Jeffords	Talent
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCaïn	

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

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

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

The motion to lay on the table was agreed to.

The next amendment is the Warner amendment. The Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent that the Warner amendment be set aside to take up another amendment, and then we will take up the Warner amendment next.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.



AMENDMENT NO. 592, AS MODIFIED

The PRESIDING OFFICER. The next amendment is the Voinovich amendment. Who yields time?

The Senator from Montana.

Mr. BAUCUS. I understand the regular order is the Voinovich amendment. The Senator from Ohio has the right to speak.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Ohio.

Mr. VOINOVICH. I have an amendment that has been modified. The modification has been agreed to. I send my amendment, with the modification, to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

(Purpose: To establish a blue ribbon commission on comprehensive tax reform)

At the appropriate place insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Fundamental Tax Reform Commission Act of 2003".

#### SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the "Blue Ribbon Commission on Comprehensive Tax Reform" (in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 12 members of whom—

(A) 1 shall be the Chairman of the Board of Governors of the Federal Reserve System;

(D) 2 shall be appointed by the majority leader of the Senate;

(E) 2 shall be appointed by the minority leader of the Senate;

(F) 2 shall be appointed by the Speaker of the House of Representatives;

(G) 2 shall be appointed by the minority leader of the House of Representatives; and

(H) 3 shall be appointed by the President, of which—

(i) no more than 2 shall be of the same party as the President; and

(2) FEDERAL EMPLOYEES.—The members of the Commission may be employees or former employees of the Federal Government.

(3) DATE.—The appointments of the members of the Commission shall be made not later than July 30, 2003.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among its members.

#### SEC. 3. DUTIES OF THE COMMISSION.

(a) STUDY.—The Commission shall conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations on how to comprehensively reform the Federal tax system in a manner that generates appropriate revenue for the Federal Government.

(c) REPORT.—Not later than 18 months after the date on which all initial members of the commission have been appointed pursuant to section 2(b), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

#### SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

#### SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without

interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

#### SEC. 6. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 3.

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to the Commission to carry out this Act.

Mr. VOINOVICH. Mr. President, I ask that the amendment, as modified, be accepted by voice vote.

The PRESIDING OFFICER. Is there objection to vitiating the yeas and nays?

The Senator from Montana.

Mr. BAUCUS. Mr. President, might I ask the Senator from Ohio if the modification is the one that changes the ratio of the membership?

Mr. VOINOVICH. It changes the ratio of the membership and increases more representation by minority. It takes off the head of the IRS, and it is more evenly balanced and meets the problems that we talked about last night.

Mr. BAUCUS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The yeas and nays are vitiated.

The question is on agreeing to the amendment, as modified.

The amendment (No. 592), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I understand the next amendment is the Graham of Florida amendment.

The PRESIDING OFFICER. If the Warner amendment is once again set aside.

Mr. BAUCUS. I ask unanimous consent that the Warner amendment and all relevant amendments be temporarily set aside so we can next proceed to the Graham of Florida amendment.

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

AMENDMENT NO. 617

The PRESIDING OFFICER. Who yields time on the Graham amendment?

Mr. GRAHAM of Florida. I ask unanimous consent that Senators ROCKEFELLER and KERRY be added as cosponsors to my amendment.

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

Mr. GRAHAM of Florida. Mr. President, we have more dismal news on the state of the economy in today's press; that the April sales in the United

States declined .9 percent below those in March. This is what the chief economist of Wells Fargo had to say about this development: Consumers are tapped out. They have done a marvelous job of supporting the economy, but they are basically done. We need something else to pull up the slack.

I suggest that what we need is this amendment which will place money in the hands of those Americans and institutions most likely to spend and therefore create demand. Those include payroll, small business. It includes those who have already lost their jobs and their unemployment benefits and State governments. This proposal would focus on the next 2 years—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM of Florida. The period of time in which we need to have a stimulus. Most importantly, this would not add to the national debt because it would be fully offset, therefore avoiding the potential that by adding to the deficit we will add to the economic problems that we will have in the future.

Mr. President, I ask unanimous consent that an article from today's Washington Post on consumer spending 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, May 15, 2003]

CONSUMERS TRIMMED SPENDING IN APRIL  
DROPPED IN GASOLINE SALES WAS FACTOR IN  
DECLINE

(By Dina ElBoghdady and Anitha Reddy)

Consumer spending dipped in April as shoppers were more concerned about their jobs than the easing of tensions with Iraq, increasing prospects that economic growth will be tepid at best in the second half of the year.

The Commerce Department reported yesterday that April retail sales fell 0.1 percent from March, when pent-up demand created by February's snow storms helped boost sales 2.3 percent.

Excluding auto purchases, April sales declined 0.9 percent, the report showed.

"Consumers are tapped out," said Sung Won Sohn, chief economic officer at Wells Fargo & Co. "They've done a marvelous job of supporting the economy, but they are basically done . . . We need something else to pull up the slack."

A large portion of the overall sales decline came from consumers spending less on gasoline. Gas purchases fell 5.9 percent from late March to late April as gas prices slid by about a dime on average.

But shoppers also held back on their purchases of clothing, furniture and garden supplies because of uncertainty about holding on to their jobs, or finding new ones, if necessary. The jobless rate is 6 percent today, compared with slightly over 4 percent a year ago. Consumers' hesitancy was a big factor preventing the postwar bounce that economists had expected.

"It's not just that the unemployment rate is a problem, it's that the people who are unemployed are unemployed for a longer period of time," said John E. Silvia, chief economist at Wachovia. "The job pool is stagnant."

A tax cut might prompt shoppers to increase spending and help fuel a more robust

recovery, said David A. Wyss, chief economist at Standard & Poor's Corp.

Wyss said the savings patterns of the average American indicate that any extra money in after-tax pay would be spent rather than saved.

"The saving rate is pretty much flat, which certainly suggests that consumers are spending as much money as they have," Wyss said. "You can't expect them to do much more than that."

Sales fell 3.2 percent at clothing and accessory stores, 1.4 percent at department stores and 0.5 percent at restaurants and bars.

"I've just been going out a lot less," said Tonya Sawyer, a claims adjuster shopping at the Fashion Centre at Pentagon City. "So I don't have the need for clothes or make-up."

Instead, the 30 years old said she relies on new books and CDs, rental videos and her dog Bella to entertain herself in her Arlington apartment. Sales at stores that sell sporting goods, books, music and hobby materials increased 1.2 percent.

Even the one demographic group that stores hoped might show steadfast devotion to shopping—teenage girls during prom season—was being wary.

"It's finding what you want at the right price" that's so hard, said Breona Cain, a high school senior from Largo who was at Pentagon City with two friends yesterday, searching for the perfect accessories for her dress.

Auto sales rose 2.5 percent in April, thanks to widespread no-interest financing offers.

"Consumers have shown they're opportunistic," said Frank Badillo, senior economist at Retail Forward Inc., a market research firm. "So certain sectors are benefiting in what is otherwise a weak environment."

Some economists say that in such an uncertain climate it's too early to gauge the outlook for the rest of the year.

"The April results should most properly be viewed as transition from a war footing to a normal peacetime footing," Ken Mayland, president of Clear View Economics, said in a report. "Consumers are betwixt and between a 'recession' mindset and a 'recovery' mindset. They have not bought in to either."

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. KYL. Mr. President, speaking on behalf of Senator GRASSLEY, this is a complete substitute and therefore, obviously, will have to be opposed. It strikes all of the good work from the committee bill regarding the child credit, marriage penalty, AMT, reduction of rates for individuals and small businesses, as well as the dividend relief.

We certainly appreciate the Senator's concerns about unemployment insurance and relief for the States. Obviously, we are committed to addressing the unemployment insurance issue. As everyone now knows, we have \$20 billion for State aid in the bill, and therefore we will have to make a point of order. The matter is not germane to the measure now before the Senate. Therefore, I make a point of order that the pending amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. GRAHAM of Florida. Pursuant to section 904 of the Budget Act I ask that the point of order against my amendment be waived.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

The result was announced—yeas 35, nays 65, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—35

Akaka	Dorgan	Lautenberg
Biden	Durbin	Leahy
Bingaman	Feingold	Levin
Boxer	Feinstein	Mikulski
Breaux	Graham (FL)	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Hollings	Reid
Clinton	Inouye	Rockefeller
Corzine	Jeffords	Sarbanes
Daschle	Kennedy	Stabenow
Dayton	Kerry	Wyden
Dodd	Landrieu	

NAYS—65

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Edwards	Murkowski
Baucus	Ensign	Nelson (NE)
Bayh	Enzi	Nickles
Bennett	Fitzgerald	Pryor
Bond	Frist	Reed
Brownback	Graham (SC)	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Schumer
Campbell	Hagel	Sessions
Carper	Hatch	Shelby
Chafee	Hutchison	Smith
Chambliss	Inhofe	Snowe
Cochran	Johnson	Specter
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Lieberman	Talent
Cornyn	Lincoln	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	

The PRESIDING OFFICER. On this question, the yeas are 35, the nays are 65. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 550 WITHDRAWN

The PRESIDING OFFICER. Without objection, the pending Warner amendment is set aside.

The Senator from Virginia.

Mr. WARNER. Mr. President, I ask to have the amendment set aside.

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

Mr. WARNER. My request is on behalf of Senator COLLINS, Senator CRAIG, Senator ALLEN, and Senator MURKOWSKI. I do so because we have made a conscientious effort, together with the cooperation of the managers of this bill, to find the offset and we simply could not find the offset.

The thrust of our amendment is for the teachers in America. The amendment is very simple. It compensates them through a tax deduction for each time they reach into their own pocket-books or pockets to buy school supplies for their students. We need to increase

that amount from \$250 which is current law. We need to broaden it so they can use some of the deduction for purposes of continuing education. This is an amendment not for the rich; it is simply for those who serve America and ask very little by way of salary.

We cannot move it at this time, but the managers very generously have acceded to this colloquy. The managers have agreed to look at this in future tax legislation and for the time being will agree to extend it so this current law of the \$250 deduction will not expire at the end of this calendar year.

I ask the question of my colleague.

Mr. GRASSLEY. The Senator accurately stated what my intentions are, but let me say it for myself so the Senator knows I have said it.

First of all, I need to thank the Senator for his cooperation in working with us on this amendment so we can expedite the bill. Also, I make clear I am a strong supporter of the Senator's legislation and the expansion of it and would agree to make sure we get this done before the end of the calendar year, so that would involve extending it and expanding these teacher provisions.

This all deals—so everyone knows what we are talking about—with the extension of legislation passed within the last 2 years. It sunsets. We make these permanent, and there would be a significant increase in the above-the-line deduction for teachers.

Mr. WARNER. Mr. President, I thank my distinguished colleague. Perhaps the ranking member may wish to address this issue. If the ranking member would care to make a comment about the withdrawal of the amendment of the Senator from Virginia?

Mr. BAUCUS. Mr. President, I thank the Senator from Virginia for asking the question. All I can say at this point is we will do the very best we can.

Mr. WARNER. I thank my colleague. I move to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

#### AMENDMENT NO. 375

The PRESIDING OFFICER. The business before the Senate is the Kyl amendment.

The Senator from Arizona.

Mr. KYL. Mr. President, is there an order for me to speak to the Kyl amendment at this point?

The PRESIDING OFFICER. The Senator has the floor for 1 minute.

Mr. KYL. Mr. President, this is the amendment that would return money to the States from the tobacco company payments to trial lawyers, money that exceeded reasonable fees as determined by a common standard in the courts and an IRS Code provision.

What we have done in this amendment is to apply it only prospectively, not retroactively. The fee is a reasonable fee plus 500 percent, and in any event the lawyers are guaranteed—and, colleagues, please note this—\$20,000 per hour. That is what the lawyers are

guaranteed in those cases, those 10 to 15 cases per year to which this would apply.

Those fees were not set by contract. They were not set by courts. The money is going to be paid by the tobacco companies. The only question is, are these excess fees going to be paid to the tobacco lawyers or are they going to be paid to the States?

I will have at both desks a chart which shows how much money each of the States would receive. It is between \$6 billion and \$9 billion in total. You can see the amount listed on this sheet. I ask you to consult that because that is money your States would receive if this amendment is adopted.

The PRESIDING OFFICER. Who speaks in opposition? The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, this amendment was already offered in the Senate Finance Committee. It was defeated by a bipartisan vote of Republicans and Democrats in the Finance Committee.

IRS should not be involved in setting the fees for CEOs in this country. They should not be involved in setting the fees for plumbers or electricians. And they should not be involved in setting the fees for attorneys who have had voluntary agreements between defendants and the plaintiffs about what they should be paid, which have been approved by the courts. All of these fees have been approved by the courts or by the arbitrator. They were voluntarily agreed to.

Lawyers don't get paid by the hour in these cases; they get paid by the job. IRS should not determine what are correct payments for services.

Mr. BIDEN. Will the Senator yield me 10 seconds?

Mr. BREAUX. I yield it if I have any time remaining.

Mr. BIDEN. I want to point out company lawyers were paid \$700 million per year, per year, for 5 years. Plaintiffs' lawyers had to risk \$100 million of their own money.

The PRESIDING OFFICER. All time has expired.

Mr. BREAUX. Mr. President, the pending amendment is not germane. Therefore, I make a point of order the amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. KYL. Mr. President, I move to waive the provision. 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 assistant legislative clerk called the roll.

Mr. LOTT (when his name was called). Present.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

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

The yeas and nays resulted—yeas 37, nays 61, as follows:

[Rollcall Vote No. 161 Leg.]

#### YEAS—37

Alexander	Ensign	Murkowski
Allard	Enzi	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Snowe
Burns	Hagel	Stevens
Campbell	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lugar	Warner
Dole	McCain	
Domenici	McConnell	

#### NAYS—61

Akaka	DeWine	Lieberman
Allen	Dodd	Lincoln
Baucus	Dorgan	Mikulski
Bayh	Durbin	Miller
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Graham (FL)	Pryor
Byrd	Graham (SC)	Reed
Cantwell	Harkin	Reid
Carper	Hatch	Rockefeller
Chafee	Hollings	Sarbanes
Chambliss	Jeffords	Schumer
Clinton	Johnson	Shelby
Cochran	Kennedy	Smith
Coleman	Kerry	Specter
Conrad	Kohl	Stabenow
Corzine	Landrieu	Voinovich
Crapo	Lautenberg	Wyden
Daschle	Leahy	
Dayton	Levin	

#### ANSWERED "PRESENT"—1

Lott

#### NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote, the yeas are 37, the nays are 61, and one Senator responded "present." Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

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

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 619

The PRESIDING OFFICER. The next amendment is the Landrieu amendment. Each side has 1 minute.

Who yields time?

Mr. BAUCUS. Mr. President, I ask unanimous consent that relevant pending amendments be temporarily laid aside so that Senator LANDRIEU's amendment can be voted on.

The PRESIDING OFFICER. The Landrieu amendment is now before the body.

Mr. GRASSLEY. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. Senators will please take their conversations off the floor.

The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President.

Mr. President, this afternoon we are being asked to buy a pig in a poke.

That is what we would say in Louisiana—a pig in a poke. Please colleagues, do not vote for the underlying bill. Senator CORZINE and Senator SCHUMER and I offer an amendment which is a \$350 billion alternative that is truly stimulative. It tries to work with the administration but takes out the nonstimulative portion and puts in a rebate on wages. If we want to create jobs, then let us stop taxing them.

Our amendment also treats States as respected partners and not as charitable aid organizations, which they are not.

It also says that tax cuts aren't the only way to stimulate the economy; that you can make strategic investments. As politicians, live up to your promises to children by funding education and health care.

Don't buy a pig in a poke, and don't turn your back on the 2 million companies, 2 million farms, and 2 million partnerships that do not get a penny from the dividend tax cut.

Mr. GRASSLEY. Mr. President, the way to make sure the American people are not buying a pig in a poke is to get more money in the pockets of the taxpayers so that there is less money around here for 535 Members of Congress to play with.

I want to speak in regard to this amendment; that the complete substitute will cut back our efforts to reduce marginal rates for families and small businesses.

In addition, the bill will make millions of taxpayers subject to the alternative minimum tax.

I appreciate the Senator's efforts on the child tax, and we already have a \$95 billion child tax credit.

We also have significant State aid in the bill.

We have a point of order, as we have had before on an amendment like this.

I raise that point of order—that the language is not germane to the measure now before the Senate. The point of order is under section 305(b)(2) of the Congressional Budget Act.

Ms. LANDRIEU. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections of that act for the consideration of this amendment, and 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.

The yeas and nays resulted—yeas 47, nays 53, as follows:

[Rollcall Vote No. 162 Leg.]

#### YEAS—47

Akaka	Clinton	Feinstein
Baucus	Conrad	Graham (FL)
Bayh	Corzine	Harkin
Biden	Daschle	Hollings
Bingaman	Dayton	Inouye
Boxer	Dodd	Jeffords
Breaux	Dorgan	Johnson
Byrd	Durbin	Kennedy
Cantwell	Edwards	Kerry
Carper	Feingold	Kohl

Landrieu	Mikulski	Rockefeller
Lautenberg	Murray	Sarbanes
Leahy	Nelson (FL)	Schumer
Levin	Pryor	Stabenow
Lieberman	Reed	Wyden
Lincoln	Reid	

#### NAYS—53

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Gregg	Smith
Chafee	Hagel	Snowe
Chambliss	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Collins	Kyl	Talent
Corryn	Lott	Thomas
Craig	Lugar	Voinovich
Crapo	McCain	Warner
DeWine	McConnell	

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

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

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

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, my understanding is there are pending votes that require unanimous consent to be set aside. I make that request so that the next Landrieu amendment can be in order.

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

#### AMENDMENT NO. 620

The PRESIDING OFFICER. The Landrieu amendment No. 620 is before the Senate.

There are 2 minutes equally divided.

Who yields time?

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, this amendment would go a long way to send the right message to our guardsmen and reservists. Over 370,000 have been activated since September 11 and the attack on this city and our Nation.

As we know, it has been made painfully aware to us that many of these guardsmen and reservists who serve take a cut in pay because they leave their jobs, they close their businesses to temporarily serve us.

This amendment will give their employers, and themselves if they are an employer, the opportunity to write off 50 percent of the cost of their salaries so those salaries can be maintained while they are protecting and serving us. It is the least we can do.

The other side is going to say they will get to it later. Let's get to it today. Let's not let this tax bill pass without honoring the Guard and Reserves and giving them a chance to keep their businesses open while they keep us safe.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this amendment proposes to offer a 50-per-

cent tax credit for employers of reservists to encourage differential pay.

This amendment does not benefit those who are self-employed and provides little benefit to small businesses with little equity.

In addition, nearly 80 percent of the cost of the military tax bill, which we have already passed in the Senate, is dedicated to reservists with the above-the-line deduction that was included because Senator DEWINE pushed very hard for it.

The amendment is paid for by reducing the dividend exclusion which is essential to our growth package; in other words, to keep a well balanced growth package.

So the amendment I see as an attack on the jobs and growth bill, and I ask that it not be adopted.

Mr. President, I raise a point of order on germaneness, that the amendment is not germane. The point of order comes under section 305(b)(2) of the Congressional Budget Act.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that Senator FEINGOLD, Senator STABENOW, and Senator MIKULSKI be added as cosponsors of the amendment.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 46, nays 54, as follows:

[Rollcall Vote No. 163 Leg.]

#### YEAS—46

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	Mikulski
Bingaman	Graham (FL)	Murray
Boxer	Harkin	Nelson (FL)
Breaux	Hollings	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kerry	Schumer
Corzine	Kohl	Stabenow
Daschle	Landrieu	Wyden
Dayton	Lautenberg	
Dodd	Leahy	

#### NAYS—54

Alexander	Craig	Hutchison
Allard	Crapo	Inhofe
Allen	DeWine	Kyl
Bennett	Dole	Lott
Bond	Domenici	Lugar
Brownback	Ensign	McCain
Bunning	Enzi	McConnell
Burns	Feinstein	Miller
Campbell	Fitzgerald	Murkowski
Chafee	Frist	Nelson (NE)
Chambliss	Graham (SC)	Nickles
Cochran	Grassley	Roberts
Coleman	Gregg	Santorum
Collins	Hagel	Sessions
Corryn	Hatch	Shelby

Smith  
Snowe  
Specter

Stevens  
Sununu  
Talent

Thomas  
Voinovich  
Warner

The PRESIDING OFFICER (Mr. SMITH). On this vote, the yeas are 46, the nays are 54. Three-fifths of the Senate duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

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

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 621 WITHDRAWN

Mr. BAUCUS. Mr. President, I ask unanimous consent that the votes on the various amendments next up be temporarily laid aside so we can proceed to the Landrieu amendment No. 621.

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

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank my colleagues for their patience. Senator SESSIONS and I offered this amendment. We are not going to ask for a vote, but I would like to explain it in 1 minute. We offered this amendment to try to technically correct a glitch in the renewal community law. It only affects districts in Louisiana and Alabama now, but it could affect, in the near term, districts in 40 other States.

I am going to ask the chairman of the Finance Committee to consider this fix. It only costs \$14 million a year and it will help create jobs in some of the poorest areas in our country. So if I could ask for their consideration, I will at this time withdraw the amendment.

Mr. KYL. Mr. President, I have spoken to the Senator from Louisiana. I know the chairman is appreciative of her efforts along with the Senator from Alabama. He is anxious to continue to work with her on this matter. He appreciates their very strong interest in trying to rectify this situation. On behalf of the chairman, I can say he will be willing to work with her.

Mr. BAUCUS. Mr. President, I, too, have spoken with the Senator and understand her concerns and will do my utmost to help resolve the issue.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. BAUCUS. 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.

#### AMENDMENT NO. 557

Mr. BAUCUS. Mr. President, I ask unanimous consent that the votes on

the earlier amendments be temporarily laid aside so we can now proceed to amendment No. 557 by the Senator from New York.

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

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, this is a simple amendment. Two years ago, on the last tax bill, we took a historic step in this body. We said part of college tuition should be tax deductible. We required that the first \$3,000 be deductible for a family making up to \$160,000 a year. This will raise that. It goes up to \$4,000 in the next fiscal year under the previous law, and then it expires in 2006. This law would make it permanent and raise the amount to \$8,000 initially, next year, and then \$12,000 in future years.

It is very simple. It pays for itself, by the way, by reducing the top rate not by three points but by one point. The choice is simple. Middle-class people have an awfully difficult time paying for college. If you are rich, you can afford it. If you are poor, we help you, and we should. But the middle class gets stuck. Families are up late at night worrying about how they are going to pay the tuition bill.

I ask my colleagues, which do they choose? Bring the top rate down but not as quickly and help middle-class families with the second greatest expense they face other than their home, or bring the rate down quickly? It is a simple choice. I hope the body will vote for the middle-class parents who are stuck with these huge tuition bills.

Mr. KYL. Mr. President, we added the tuition provision in the bill 2 years ago, and it is obviously supported by a broad number of people in the body. The problem is that this addition is way too expensive and comes out of the top rate reduction from the bill that is on the floor, the acceleration of the marginal income tax rate provision of the bill.

Obviously, we have to oppose this particular amendment. This is a matter that could be dealt with in a different way but not by paying for it in the manner it is paid for. It is not germane. Therefore, I raise a point of order under 305(b)(2) of the Congressional Budget Act of 1974.

Mr. SCHUMER. Mr. President, I ask that the point of order be waived, and 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.

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

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Rollcall Vote No. 164 Leg.]

#### YEAS—49

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

#### NAYS—51

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Gregg	Smith
Chafee	Hagel	Snowe
Chambliss	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Cornyn	Kyl	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCaín	Warner

The PRESIDING OFFICER. On this vote, the yeas are 49, the yeas are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. BAUCUS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 622, AS MODIFIED

The PRESIDING OFFICER. The next amendment is the Ensign amendment No. 622.

The Senator from Nevada.

Mr. ENSIGN. Mr. President, I have a technical modification to my amendment at the desk, and I ask unanimous consent that my amendment be so modified.

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

The amendment, as modified, is as follows:

On page 281, between lines 2 and 3, insert the following:

#### SEC. \_\_\_\_ TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

#### “SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

“(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

“(1) the taxpayer's excess qualified foreign distribution amount, and

“(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the

amounts described in paragraphs (1) and (2) for such taxable year.

“(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘excess qualified foreign distribution amount’ means the excess (if any) of—

“(A) dividends received by the taxpayer during the taxable year which are—

“(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

“(ii) described in a domestic reinvestment plan approved by the taxpayer’s president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer’s board of directors, management committee, executive committee, or similar body, which plan shall provide for the reinvestment of such dividends in the United States, including as a source for the funding of worker hiring and training; infrastructure; research and development; capital investments; or the financial stabilization of the corporation for the purposes of job retention or creation, over

“(B) the base dividend amount.

“(2) BASE DIVIDEND AMOUNT.—The term ‘base dividend amount’ means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

“(3) FIXED BASE PERIOD.—

“(A) IN GENERAL.—The term ‘fixed base period’ means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

“(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

“(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

“(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall mean such shorter period representing all of the taxable years of the taxpayer ending on or before December 31, 2002.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) DIVIDENDS.—The term ‘dividend’ means a dividend as defined in section 316, except that the term shall also include amounts described in section 951(a)(1)(B), and shall exclude amounts described in sections 78 and 959.

“(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term ‘controlled foreign corporation’ shall have the same meaning as under section 957(a) and the term ‘United States shareholder’ shall have the same meaning as under section 951(b).

“(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent.

“(4) FOREIGN TAX CREDIT LIMITATION.—For all purposes of section 904, there shall be disregarded 85 percent of—

“(A) the excess qualified foreign distribution amount,

“(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

“(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

“(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

“(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer in applying the rules of this section.

“(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

“(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

“(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

“(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

“(d) ELECTION.—

“(1) IN GENERAL.—An election under this section shall be made on the taxpayer’s timely filed income tax return for the taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

“(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

“(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer, and shall apply to all members of the affiliated group.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.”

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

“Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.”

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section, other than the amendment made by subsection (d), shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

(d) TERMINATION OF REHABILITATION CREDIT FOR BUILDINGS OTHER THAN CERTIFIED HISTORIC STRUCTURES.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

“(e) TERMINATION OF CREDIT FOR BUILDINGS OTHER THAN CERTIFIED HISTORIC STRUCTURES.—No credit shall be allowed under subsection (a)(1) with respect to expenditures incurred after December 31, 2003.”

Mr. ENSIGN. Mr. President, the modification says the offset included in the amendment repeals the tax credit for refurbishing of nonhistoric structures only, not historic structures, with which people had concerns.

If you believe the American economy needs a shot in the arm right now, then you should vote for this amendment. Our amendment allows companies that have made money overseas to bring it back right now. They are taxed at 35 percent. When faced with a choice of whether they keep it overseas or bring it back, they keep it overseas. We are going to allow a 1-year exemption. The tax will be lowered from 35 percent to 5.25 percent. They have 1 year to invest the money to create jobs in this country. As with Senator BOXER’s very fine amendment in our bill, it cannot go for executive pay. The money has to be invested in America to create jobs.

I believe this will be a tremendous stimulus to our economy, and I urge its adoption.

I yield 10 seconds to my friend from California.

The PRESIDING OFFICER. The Senator’s time has expired.

Mrs. BOXER. I ask for 10 seconds.

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

Mrs. BOXER. Mr. President, I hope my colleagues will vote for this one-time infusion of private sector dollars to create jobs and encourage business investment in plants and equipment. This infusion will happen immediately. I think it is what we need to fight for because our people are hurting out there.

I thank the Chair.

The PRESIDING OFFICER. The Senator’s time has expired.

USE OF FUNDS REPATRIATED

Mrs. BOXER. Mr. President, I rise to thank Senator ENSIGN for his leadership on the Invest in the USA Act. As we said earlier, this infusion of cash will provide an immediate and much needed boost to the economy. Over the next year, it is estimated that this legislation, which is included in this bill as an amendment, will bring \$140 billion in foreign earnings back into the United States.

As my friend is aware, under our amendment, which is the Invest in the USA Act of 2003, these funds are to be used as a source for worker hiring and training; infrastructure; research, and

development; capital investments; or the financial stabilization of the corporation for the purposes of job retention or creation. Any attempt to use these funds to increase executive pay would be a violation of the intent of this legislation.

Mr. ENSIGN. Mr. President, the Senator from California is absolutely correct. These funds are meant to stimulate the economy. I pledge to work with Senator BOXER and our colleagues in conference to ensure that these funds may not be used for executive pay.

The Senator from Louisiana.

Mr. BREAUX. Mr. President, I rise in opposition to the Senator's amendment. This amendment was offered in the Senate Finance Committee. Republicans and Democrats joined to defeat this amendment.

There is no question that the international tax laws need to be assessed. We have agreed to do that in the Finance Committee. The Republican leadership said they would look at all international tax laws and consequences.

This is a retroactive tax break. This bill is supposed to be stimulative in the future, not in the past. This amendment will reward companies for what they did a long time ago when we ought to be looking at the bill in a prospective nature.

A retroactive tax cut is not what we need. We ought to examine international tax laws. We have an agreement to do it in a bipartisan fashion. This does not belong in the bill at this time.

I make a point of order that the amendment is nongermane under section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. ENSIGN. Mr. President, I move to waive that section of the Congressional Budget Act. Also, I note that

many of the people who voted against this amendment in the Finance Committee will be voting for it today.

Pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

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

The bill clerk called the roll.

The yeas and nays resulted—yeas 75, nays 25, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—75

Akaka	Dodd	McCain
Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feinstein	Nelson (NE)
Bennett	Fitzgerald	Nickles
Bond	Frist	Pryor
Boxer	Graham (SC)	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Santorum
Burns	Hagel	Schumer
Campbell	Hatch	Sessions
Cantwell	Hollings	Shelby
Carper	Hutchison	Smith
Chafee	Inhofe	Snowe
Chambliss	Jeffords	Specter
Cochran	Kyl	Stabenow
Coleman	Landrieu	Stevens
Collins	Lautenberg	Sununu
Cornyn	Leahy	Talent
Corzine	Lieberman	Thomas
Craig	Lincoln	Voinovich
Crapo	Lott	Warner
DeWine	Lugar	Wyden

NAYS—25

Biden	Durbin	Kohl
Bingaman	Edwards	Levin
Breaux	Feingold	Mikulski
Byrd	Graham (FL)	Nelson (FL)
Clinton	Harkin	Reed
Conrad	Inouye	Rockefeller
Daschle	Johnson	Sarbanes
Dayton	Kennedy	
Dorgan	Kerry	

The PRESIDING OFFICER. On this question, the yeas are 75, the nays are 25. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The question now is on the amendment.

Mr. GRASSLEY. I urge we now adopt the amendment by voice vote.

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

The amendment (No. 622), as modified, was agreed to.

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 611

Mr. BAUCUS. Mr. President, my understanding is the next amendment is the amendment offered by the Senator from North Dakota, Mr. CONRAD.

The PRESIDING OFFICER. The Senator is correct.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, this bill increases the child tax credit from \$600 to \$1,000 effective back at the beginning of this year.

My amendment simply takes it back another year to the beginning of 2002. This is an efficient way of targeting money to those who are most likely to use it to give stimulus to the economy.

I offset the additional cost by delaying part of the final reduction in the top marginal rate for a year and a half. This asks the top 1 percent, actually less than 1 percent of the taxpayers, to take part of their reduction somewhat later. It gives a benefit to 27 million American families by asking less than a million American families to wait for the final part of their additional tax reduction for a year and a half.

## NOTICE

*Incomplete record of Senate proceedings.*

*Today's Senate proceedings will be continued in the next issue of the Record.*