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Senate

The Senate met at 9:47 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

Let us pray.

Sovereign Lord, whose fairness is intertwined with everything You do, You will right all wrongs and reward all loving service and suffering for Your sake. Thank You for each blessing You have given us. Surely You have been good to us, O Lord. You have revealed Yourself through Sacred Scripture, condensing Your thoughts and making them intelligible to humanity. You have cared enough to communicate with us in a clear and accessible way. Forgive us for our reluctance to read Your word and to meditate with listening hearts. Refresh, nourish, and teach our Senators Your thoughts that they may discover Your will and pattern for living and serving. Guide them today and give them Your peace. Help each of us to prove our gratitude for Your kindness by selfless service to those who need our love and care. We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period of morning business for up to 1 hour. The first half of that time will be under the control of the minority leader or his designee, and the second half of the time will be under the control of the majority side of the aisle.

Following this period of morning business, the Senate will resume consideration of S. 1637, the FSC/ETI JOBS bill. Under the agreement reached last night, today the debate until noon will be equally divided between both sides.

At noon, the Senate will conduct a rollcall vote on the motion to invoke cloture on the FSC/ETI JOBS legislation. If cloture is invoked, we will go immediately to a vote in relation to the pending Cantwell amendment regarding unemployment insurance.

Senators can, therefore, expect up to two votes beginning at 12 noon today. Following those votes, the Senate will stand in recess until 2:15 for the weekly policy luncheons to occur.

I ask unanimous consent that if cloture is invoked, the time during the recess count under the provisions of rule XXII.

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

Mr. FRIST. Mr. President, I thank all Members who have allowed us to proceed in this fashion. We have worked on both sides to organize today so we can bring the FSC/ETI bill to closure. I believe we will invoke cloture and we will be able to bring the bill to conclusion, hopefully, later this afternoon or early this evening.

As I stated yesterday, there will be germane amendments, and we will debate them and vote on those; thus, we anticipate additional rollcall votes over the course of the day.

I mentioned several weeks ago, and again yesterday, that we plan to begin the IDEA legislation following the completion of the FSC/ETI JOBS bill and, thus, we have a lot of work to do. I want to encourage people to consider that as we bring the FSC/ETI bill to closure.

I also want to mention a concern that I have with the Executive Calendar. Last week, we were able to confirm some of the pending ambassadorial nominations on the calendar. But still, as you look at the calendar, there are 89 additional nominations that are available for Senate consideration. As we all know, some of these are controversial and, therefore, delay is not unexpected. But the vast majority of these nominations, including many of the judicial nominations, should be cleared unanimously.

I want to take this opportunity to remind my Senate colleagues of our responsibility—the Senate's responsibility—to consider these nominations and to allow them to begin their very important work for the United States of America.

In addition to the 33 judicial nominations, there are 8 additional ambassadorships to countries such as Sweden, Brazil, South Africa, Northern Ireland, and others. So, again, I want to take this moment to bring all of this to the Senate's attention. My colleagues may come to me and ask why we are not moving. It is time to move in that direction.

I have heard the comments of the Democratic leadership regarding their concern with the nominations, and I know there are underway a number of consultations and discussions regarding this process. As we move forward, I urge my colleagues to allow us to consider some of the many noncontroversial nominations that are available so that we can fill these positions.

Mr. President, I also want to comment on last night's action by thanking my colleagues for their unanimous support for S. 356. This Senate resolution, which passed last night, condemns the abuse of Iraqi prisoners at the Abu Ghraib prison and urges a full and complete investigation to make sure that justice is served, and served in a fully transparent way.

The resolution also expresses the Senate's support for all Americans who

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are serving so nobly in Iraq to bring freedom, democracy, and the rule of law to that country.

The resolution expressed the sentiment and views of the Senate in a clear, firm, and bipartisan manner. In particular, it made clear our expectation that the Senate be kept apprised of the ongoing investigations being conducted in the Department of Defense and of the actions being taken to ensure that these incidents never occur again.

The resolution also made clear that the appropriate committees of the Senate will be exercising their oversight responsibilities to ensure these ends. This is not just the right thing to do; this is the Senate's duty and our obligation to the American people—indeed, to the victims, to the families, and to the Iraqi people.

The Senate has already acted quickly and deliberately to address the heinous actions perpetrated by a few at the Abu Ghraib prison. Last week, the Senate Select Committee on Intelligence held a closed-door session to hear from representatives of the intelligence community regarding the CIA's role. The Senate Armed Services Committee held a full hearing last Friday on this matter with the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and several other senior Defense Department officials appeared. Indeed, today, the Armed Services Committee is meeting again to receive testimony from Major General Taguba, who investigated and reported on the Abu Ghraib prison abuses.

We are also working in a bipartisan manner to address the issue of appropriate access to further evidence of the atrocities at Abu Ghraib. And at the leadership level on both sides of the aisle, we are working with the ranking member and chairman of the Armed Services Committee to establish a process whereby materials can be viewed. As well, it is likely that we will afford the Secretary of Defense another opportunity to answer questions from Senators in the near future.

I have also consulted with various committee chairmen about items that might be in their committee's jurisdiction as this investigation unfolds, so that the appropriate Senate tools are applied judicially to buttress the work of the executive branch in getting to the bottom of this scandal, no matter where it leads.

In closing, I ensure my colleagues and the American people that the Senate will continue to hold hearings and briefings and take other steps, as necessary, to ensure that justice is served, that preventive action is taken, that those responsible are held accountable, and that all of this is done in a very fair, deliberate, and open manner.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

ADVANCING THE AGENDA

Mr. DASCHLE. Mr. President, first, I express my support for the remarks just made by the majority leader with regard to the position of the Senate on a bipartisan basis regarding the tragedy involving prisoner abuse. I hope the limited debate that was devoted to the resolution last night will not be seen by anyone as minimizing our strong feelings and the unanimity with which we wanted to express those feelings through that resolution.

I appreciate the effort made by many of our colleagues who participated in the drafting of the resolution, and I am grateful for the strong show of support expressed through the resolution last night.

We condemn these acts. We apologize to the world community for the involvement of the United States in the humiliation and the extraordinary violation of human rights that we have witnessed with the photographs themselves. We also wanted to say again that we recognize this is the exception to U.S. military deportment, not the rule, and that the vast majority of military men and women have served admirably, served their country and the cause, have advanced the goal, and have deserved our commendation and thanks. I think it is critical that we keep that in balance. I hope that as we continue to conduct oversight properly, we maintain not only the interest in holding those at the lower ends of the military echelon accountable, but I would hope we would not allow anyone to use those directly involved, whose pictures are shown, as the scapegoats for everything else that happened. I still have yet to see the degree of accountability up and down the chain of command that I would think would go without question.

We will have a lot more to say about accountability, responsibility, and those in the higher echelons of Government and the military who themselves ought to be asked to account for their actions and their decisions. In that regard, I would hope we could continue to press for even more oversight as the Armed Services Committee is doing today. Someone proposed a select committee, a bipartisan, bicameral select committee to allow for a more thorough investigation in a collective way, rather than have the scores, I guess, of subcommittees and full committees on both sides of the Congress reviewing this material.

Perhaps one committee, which could be formed with the exclusive purpose of reviewing the facts and coming to some conclusion, may be of value. I am not proposing it today. I noted that others have made this suggestion, and I think it merits our consideration.

I know the majority leader also talked about nominations. Last week, we confirmed I believe it was 19 ambassadorial nominations and a number of other executive appointments. We will continue to work with our Republican colleagues, but as many have heard me say on countless occasions, this has to be reciprocal. We cannot be confirming nominations and dealing with the judicial appointments and all of the other things expected of us if the Democratic nominees continue to languish on the calendar and in the administration itself. We have over a dozen Democratic nominees who have not yet been given even vetting, much less the actual official nomination.

We will continue to work with our Republican colleagues and with the administration, but we have to be given the confidence that there will be reciprocity and some degree of appreciation for the need to move all nominees, regardless of political affiliation or of position.

There are two other issues I wish to talk about briefly. First of all, I wish to thank Judge Becker, who has been involved now for many months in helping the Senate find a resolution to the complicated, controversial, and complex array of challenges we face with regard to asbestos.

After the vote on asbestos a few weeks ago, Senator FRIST and I asked Judge Becker if he would be willing to engage in mediation to see if we can move forward on a number of the outstanding questions.

Judge Becker worked tirelessly for the last couple of weeks and met with Senator FRIST and me almost on a daily basis to provide us with his progress reports. We focused on claims values, projections, and the overall amount of the fund. Unfortunately, we were not able to move nearly as far as many of us would have hoped on the issue of claims values. Some movement I think was made but little on projections. Perhaps the greatest movement was made on the overall amount. Business came up a little bit, from 114, with a $10 billion contingency, to 116, with a $12 billion contingency. Labor came down from 154 to 134, with a $15 billion contingency.

I am deeply troubled by the insurance industry. The insurance industry again issued a statement in the form of a letter that said they will not support a legislative response to asbestos. Their intransigence was a major problem in bringing any kind of resolution to this matter.

I am not giving up. I am pleased that Senator FRIST has agreed to meet again this week to ensure that our discussions and perhaps our negotiations can continue as well. This is too important an issue simply to say we failed. We need to keep the pressure on. We need to find a way with which to resolve these three outstanding issues in particular: the overall funding level, the issue of claims values and appropriating the necessary values to circumstances, and then certainly our projections, how many people will definitely be affected, and how can we then come to some conclusion about the other outstanding questions involving existing cases as well as what happens if the fund runs out and is sunset.

Finally, let me just say later on today we will have a vote in relation to the FSC bill. It is a cloture vote. I urge my colleagues to support cloture today. This has been a long and unnecessarily complicated struggle. All we have wanted from the beginning was an opportunity to vote on a number of key amendments. We have had the vote now on overtime. We have had the vote on outsourcing. We intend to have a vote today on unemployment compensation and a number of other issues we felt were very important in the overall context of the creation of good jobs.

We are not finished. There will be other amendments offered to other vehicles, but, in large measure, because we held our position on cloture, we are now at a point where we have been able to protect our Members and offer the amendments we thought were most important. We will certainly work with our Republican friends to bring the debate to a close, deal with a number of still germane amendments that have to be addressed on FSC before we move on to other important legislative matters, including IDEA.

We hope to complete our work on FSC today; if not today, certainly tomorrow. We will then move on to other matters.

I yield the floor.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee, and the second half of the time under the control of the majority leader or his designee.

The Senator from Illinois.

Mr. DURBIN. Mr. President, I yield myself 15 minutes from the time allotted to the Democratic side of the aisle.

The PRESIDENT pro tempore. The Senator is recognized for 15 minutes.

COVER THE UNINSURED WEEK

Mr. DURBIN. Mr. President, the preamble to our Constitution makes it clear what our responsibilities shall be and puts in order that first we provide for common defense and then promote the general welfare. A lot has been said on the floor of the Senate about our common defense, what is happening in Iraq and Afghanistan in our war on terrorism. It is an issue front and center for the American people, as it should be.

Considering that issue alone is to ignore our obvious requirement under the Constitution to also promote the general welfare. We need to look beyond the defense issue to the welfare of American citizens and look to specific items that concern them. This I can tell you with some degree of certainty.

Pick any State in this Union. Allow me or anyone to visit that State and meet with businesses large and small, and families, and ask them what they are worried about, what do they sit and talk about, what are the issues that give them caution about the future.

What I have found in Illinois, which is a fairly typical State, being rural and urban south and north and midwestern, as well as showing signs of big city with our city of Chicago, when I have visited with these businesses for the is that last several years—small and large businesses alike—their concern is the cost of health insurance. Over and over they say to me: Senator, we are glad you are out there. We are glad you are serving in the Senate. When are you going to start talking about issues that really count for us when it comes to our business and its costs?

This year we are going to make certain that we at least raise this issue in debate on the Senate floor, even if we will not raise a single bill to be considered in the Senate to deal with this issue and grapple with it.

This is ''Cover the Uninsured Week'' across the United States. An impressive coalition of individuals and groups have come forward. Former President Jimmy Carter, former President Gerald Ford, the AFL–CIO, the U.S. Chamber of Commerce, AARP, United Way, the Catholic Health Association, and the American Medical Association have all come forward this week and said: Do not overlook the obvious. Too many people in America do not have health insurance.

Mr. President, 44 million people in our country, 15.2 percent of our population, were uninsured in the year 2000—that was up from 14.6 percent the year before—the largest single-year increase in both number and rate of uninsured people in a decade.

When one wants to measure the strength of the economy and whether we are recovering, it is not enough to say a person has a job. Clearly the obvious question has to be asked: Does the job pay a decent wage? Is there any health insurance coverage involved in it?

We are finding the raw statistics of employment do not tell the whole story. Keep this in mind: More than 20 million working adults lacked health insurance in the year 2002 and the number is growing. These are not lazy people, stretched out on the couch watching soap operas and eating chocolate-covered cherries. These are people getting up every morning, getting the kids off to school, getting a little bit of lunch together, heading off to work, knowing full well if they start feeling bad, if they need to go to a doctor or a hospital, they have to pay for the whole thing out of their own pocket.

There are 20 million Americans without health insurance. Part of the reason is, of course, the cost of health insurance is outpacing inflation and workers' earnings. So if one is earning more money, it is not enough because the cost of health insurance is going up dramatically. Look at these charts, which show from 1996 a 14-percent increase in the cost of health insurance. I think that shows what we are faced with. Look on this chart at wages, which linger around 2 or 3 percent.

The cost of health insurance goes up dramatically. Premiums have outpaced inflation by 4½ times. For the last 6 years, health insurance premiums have increased more than wages. If we go to virtually any city in America and ask why workers are on strike, why they are involved in a long contract dispute, we will find the underlying cause is the cost of health insurance.

Over and over again, I cannot tell my colleagues how many times not only business owners but members of labor unions have said to me: It is breaking our back. We have a dollar more an hour for the next year and every darn penny of it is going to health insurance and we have less coverage.

This is the reality of what businesses and workers face across America, but it is not the reality of what we debate on the Senate floor.

I have had the honor to serve in this Chamber for almost 8 years and in that period of time there has been no—underline no—serious discussion of this issue. In that period of time since 1996, up go the costs of health insurance premiums, down goes the conversation on the Senate floor and in Congress about what we can do about it as a nation.

Since President Bush took office, the number of uninsured Americans has risen by almost 4 million people from 39.8 million in the year 2000 to 43.6 million in 2002, almost a 10-percent increase. Look at the average premiums, from $2,426 on an annual basis to $3,060 in the year 2002; a 26-percent increase in the health insurance premiums, and almost 10-percent increase in the number of people.

In his State of the Union Address, President Bush called for high quality, affordable health care for all Americans and argued we must work toward a system in which all Americans have a good insurance policy. Take a look at his budget. Rhetoric in a State of the Union Address is almost meaningless if the President's budget does not address it. Frankly, this budget does not. The President calls for a tax credit proposal but says before we can enact it we have to offset it with cuts in other areas.

I will tell my colleagues how impossible that is. As our defense budget goes up dramatically at historically high levels, as spending for homeland security goes up in our war on terror, as the national increase in costs for Social Security and Medicare goes up, the amount of money left over for everything else in our Government, education, health care, infrastructure, corrections, all of those things have been shrinking.

We face the largest deficit in the history of the United States of America under this administration, which has

given us tax cuts in time of war, virtually unprecedented in American history, and the largest deficit in the history of the United States. So when the President says we will deal with health insurance with a tax credit proposal and we will offset it by cutting spending in domestic programs, frankly, it is an empty promise.

I will tell my colleagues what this means: A 55-year-old in America today buying health insurance as an individual is going to pay at least as high as $6,000 in annual premiums. If one is in an employer-based group, one might pay closer to $1,000 out of pocket. Now the President and many Republicans are coming forward with health savings accounts. Quite frankly, this is a very suspicious proposal. When one looks at the company that is behind health savings accounts, it turns out to be a very politically well-connected company. Originally, Golden Rule, which was out of Illinois and Indiana, became United Health Care and came up with health savings accounts, which frankly are not going to provide the relief America needs for our serious health insurance problems.

Then the administration has suggested something called association health plans. What that means is the health insurance for groups, small businesses, for example, would be exempt from State regulation and coverage requirements. What does that mean? Right now, insurance is a State responsibility. My State of Illinois, the State of Alaska, and the State of Iowa, all of the States, have insurance commissioners to make certain the companies selling health insurance are solvent.

If a company is going to sell health insurance in my State, they have to prove they have the money to back it up when the claims are filed.

The State association health plans that are now being suggested would be exempt from State regulation, so people will not be certain of the solvency of the companies involved. So what is that worth? A State health association plan with no guarantee of solvency could be worth nothing, and it has been worth nothing.

Secondly is coverage. In my State, we have requirements; if one wants to sell health insurance, here are the things they must cover. Let me give one example because it is a provision in Illinois law I added as a staff attorney many years ago. There was a time when one could sell a family health insurance policy in Illinois and exempt from coverage newborn infants for 30 days after they were born—a pretty smart provision from the insurance company point of view. The baby has a problem at birth, it can be very expensive. They said, if that happens, the family is on their own for 30 days.

We said, no way. If a company wants to sell health insurance in Illinois, they cover that baby from the moment of birth and everything that might happen. We required it in law. When a person goes to these association health plans, it would exempt this coverage requirement for newborn coverage, for mammograms, and for many of the things we consider essential for real health insurance coverage.

We asked the Secretary of Health and Human Services Tommy Thompson what about the state of health care in America? Do you not think we need to be concerned about uninsured people? Should we not move toward universal coverage? Here is what he said on February 3 of this year:

> Even if you don't have health insurance in America, you get taken care of. That could be defined as universal health care.

What does he mean? He means if someone sick shows up in an emergency room, they will not turn that person away. That is Secretary Thompson's view of universal health care and that is why this conversation is going nowhere in Washington, DC. This administration has no meaningful proposal to deal with the health insurance crisis in America. This Congress is afraid to act and has refused to address it. We have refused to address the No. 1 business and labor issue in America today.

In 2003, nearly half of uninsured adults postponed seeking medical care and over a third say they needed it but did not get it in the previous year. More than a third of the uninsured had a serious problem paying medical bills in the last year. The list goes on.

Uninsured people still have to do their best to pay, though. If a person shows up at a hospital and they are provided care, even if they have a low-paying job, they may find themselves being hounded for the payment to the hospital. That is not unusual.

I might add as a postscript, many of my colleagues in the House are raising questions as to why the uninsured person is charged dramatically more at a hospital than someone who is under an HMO or under a Medicaid plan. They are charged 600 to 700 percent above the charge of the low plans. I am speaking about people who have no money to pay.

Bertha Hardiman, who is a 60-year-old laundry worker in Chicago, makes $17,000 a year. She was sued by a Chicago hospital because of a $6,200 hospital bill. A law enforcement official showed up at her door with a summons. She worked out a payment plan. This 60-year-old lady is paying $200 a month, 15 percent of her monthly take-home pay.

A hospital in Champaign-Urbana in my State filed a collections lawsuit against Kara Atteberry, a 26-year-old single mother of two. They said she failed to pay $1,678 after treatment for a miscarriage. She is a waitress at a pizzeria. She was unable to get off work to go to the court hearing and a arrest warrant was issued. She turned herself in to the authorities because she didn't want to be facing the embarrassment of being arrested in front of her daughters. That is what happens in America when you are working at a low-wage job and you have a hospital bill of even $1,600 that you can't pay.

There is a better way. We have to first look at the obvious. Businesses are overwhelmingly looking for ways to save money on health care. This shows the number of businesses that have been shopping for new plans, the number of businesses that have changed health care plans, that are in a constant search to find affordable health insurance because, frankly, it is outstripping their ability to be profitable and to pay their workers.

How big an obstacle are health insurance costs in hiring? Take a look at this chart. When, you ask, is it not an obstacle for businesses in America? An obstacle? Look at the numbers: 71 percent of the businesses in 2000 said health insurance costs were an obstacle to hiring employees, 64 percent in the next year, 71 percent in the year 2002, and 78 percent in the year 2003.

I am glad my colleague Senator BLANCHE LAMBERT LINCOLN of Arkansas has come to the floor because she and I believe this conversation should not stop with a lot of complaints.

We ought to be moving forward in a constructive way. What we suggest is very basic. We think American businesses and workers should be entitled to the same health insurance opportunity to which Senators and Congressmen and Federal workers are entitled.

The Federal Employees Health Benefits Program is an amazing opportunity. We have the best health insurance in the world. Is it our own creation? No. We shop in the marketplace. Each year we have an open enrollment period for every Federal worker, to pick the best health insurance plan for their family. My choice in Illinois is seven to nine plans each year from which to pick, for my wife and myself. How much do we want to pay? What kind of coverage do we want? We go shopping as people shop for a car.

What we are suggesting is creating a pool of health insurance coverage for small businesses and groups around America, very similar to the Federal Employees Health Benefits Program. It would basically give these small businesses an opportunity to be part of a purchasing pool that is very large, to shop with individual private insurance companies, and to get the benefits of lower costs. We think this is a fair way to approach it. Senator LINCOLN will give more detail on that as she addresses the Senate this morning.

I yield the floor.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. REID. On my time, I ask a question of the Senator. I ask the Senator to comment through the Chair.

A lot of people think that doctors are getting fat in our modern society. The fact is, in Nevada—I am sure it is the same in Illinois and Arkansas—doctors are having a difficult time with the managed care programs and the mass numbers of uninsured.

So I ask, does my friend agree that we in this Congress are doing things not to help the physician himself? For example, we come to this floor often and talk about medical malpractice reform, setting caps. Half the doctors you talk to recognize that is not going to help them. But a program the Senator from Illinois has advocated, and I have joined with him, giving an incentive taxwise, a tax credit to a doctor for insurance premiums, they would love that because it would give them immediate help.

The point I am making is we have a health care crisis in this country and the physicians are part of it. They are not doing as well as I personally would like. Would the Senator agree with that?

Mr. DURBIN. I thank the Senator. In response to his question, let me tell you if I am sick or a member of my family is sick, and I look up from that gurney, I want to see the best and brightest physicians in America looking down at me, and I want them to feel they are being rewarded for many years of study and hard work. They are facing frustration today because HMOs are taking away their power to make medical decisions.

Second, I believe there are costs of practice, which include malpractice premiums. In my State, they are terrible. The increases in some areas are unbearable and physicians are retiring from practice. I do not believe putting a cap on the monetary recovery of innocent victims of malpractice is the answer.

As the Senator from Nevada has alluded, I think the way to approach this is to make sure we help these physicians pay for the malpractice premiums with a tax credit. Let us give them a helping hand. Let us recognize we need to do something about it. I think it is incumbent upon us in the Senate, with a leader who is a medical doctor, Senator FRIST, to come together on a bipartisan basis. We can do this. We can have good, affordable health care in America. We can start expanding insurance instead of reducing it. We are not going to have a jobless economic recovery and we are not going to have an economic recovery where people don't have health insurance, and have this country believe we are moving in the right direction.

Mr. REID. Mr. President, I yield 10 minutes to the Senator from Arkansas.

The PRESIDENT pro tempore. The Senator from Arkansas is recognized for 10 minutes.

Mrs. LINCOLN. Mr. President, I thank my colleagues from Illinois and Nevada for being here to talk about an issue critical to our country. I rise to speak about the same issue, the growing crisis of the uninsured here in our great country. I have devoted a great deal of time and energy during my career in public service to develop solutions to our health care crisis. I believe it is critical, as Senator DURBIN has mentioned, that we begin by dealing with this problem of the uninsured and doing it now.

This is an issue on which we can come together and work through our differences and produce a product that actually is not only going to provide a better quality of life for all Americans, but it is also going to be an enormous step in dealing with the economics and the budgetary concerns that we have in our country today.

One of our No. 1 employers in most of our communities in rural America are our health care providers. It is not just that the health care providers provide us with the quality of life and the medical care we need, but they are also a huge part of the economy in this country, if we can begin to work toward balancing that out and making sure we can predict what people's needs are going to be and where that payment is going to exist.

The fact is, the number of uninsured in our country is alarming and it must become more of a national priority. One of the ways we have noticed it tremendously in our State of Arkansas is the number of uninsured who serve in our Guard and Reserves. We have found they are uncovered until they are activated. It creates a huge national crisis in many instances because we can't call these individuals up until they meet military health specifications. Most of them are employed by small businesses, so they are not getting the health care they need.

The consequences of not addressing this problem are enormous, in terms of our Nation's physical and economic well-being. Right now, as many as 44 million Americans are uninsured. The vast majority, over 80 percent of the uninsured persons under the age of 65, are part of families where at least one family member is working. Many times, these individuals' jobs do not provide insurance or the coverage offered is too costly, given their limited incomes. Buying insurance on the individual market is unthinkable for many because the costs can be even higher in that marketplace.

In my home State of Arkansas and in other rural States, the health care crisis has its own special character. In Arkansas, over 400,000 lack health insurance. Given the scope of this problem in Arkansas and nationwide, we need to develop innovative solutions to ensure people get the coverage they need.

Why is access to health insurance so critical? Many believe even if people don't have access to insurance, that they still have their health care needs taken care of. I have no earthly idea where they come up with this misconception.

The truth is, without health insurance many Americans find themselves faced with a barrier to health care. Uninsured families have less access to important screenings, the state-of-the-art technology that we have so meticulously developed, and prescription drugs. Uninsured adults have a 25-percent greater mortality risk than adults with health care coverage. An estimated 18,000 deaths among people younger than 65 are attributed to the lack of health insurance coverage every year.

Uninsured adults with chronic conditions such as diabetes, cardiovascular disease, HIV infection, and mental illness have less access to preventive care and have worse clinical outcomes than insured patients. Uninsured adults negatively affect our health care providers and local economies, too.

Senator REID from Nevada brought up the issue of our health care providers who are trying desperately to provide needed medical care. A community's high rate of uninsurance can adversely affect the overall health status of the community, the financial stability of its health care institutions and its providers, and access to emergency departments and trauma centers. I can assure you hospitals in Arkansas will tell you how much uncompensated care jeopardizes the access to health care for the communities they serve.

The facts make it clear. People without health insurance don't have their health care needs taken care of. Those who lack health insurance don't get access to timely and appropriate health care. For Americans without health insurance, children and adults suffer worse health and die sooner than those who have health insurance.

It is clear the uninsured who have inadequate health care options tend to fend for themselves in the marketplace and with health care providers. Working families need help with this problem and they need it today. The lack of insurance also creates tremendous financial obstacles for working families. If an uninsured family member has serious health problems such as cancer or a heart attack, the bills can destroy the financial foundation of that entire family. Uninsured families are more likely to pay a higher percentage of their income for medical care, and often will have to borrow money from family members to cover medical expenses. The reality is debt from medical expenses often drives the uninsured into bankruptcy. In my home State of Arkansas, the No. 1 cause of bankruptcy is high medical bills.

Recently, I, along with Senator DURBIN, Senator CARPER, and Senator REID, introduced legislation in the Senate to help more Americans get access to health insurance coverage through their employers. We know that is the most logical place for them to access it.

Small businesses are the No. 1 source for jobs in Arkansas. What better way to help our economy than to help these small businesses offer affordable health care options. More than half of workers in firms under 100 people make less than $25,000 a year—$25,000 a year, and they don't even get the child tax credit when we don't make it refundable. Can't we at least do something about providing them some health care? A

high proportion of businesses with low-wage workers are much less likely to offer insurance.

Our bill, The Small Employers Health Benefits Program Act, will provide the self-employed and the small businesses with a variety of private insurance plans. This approach would give these employers access to a larger purchasing pool and negotiated rates for health insurance. They would get more choice at lower costs—exactly what we as Federal employees get. The purchasing pool will be similar in the structure to the Federal Employees Health Benefit Program to which all Government employees across this great country have access.

This is a far cry from the associated health plans some folks here in Washington talk about. These other plans—AHPs—allow companies to cherry-pick only the healthiest workers, leaving a pool of the sickest and neediest without coverage. That is not a way to attack this problem. It is only going to drive up costs in the long run.

Our plan would provide more comprehensive coverage to a far greater number of workers. We have seen its success in what it provides to us and to our workers in the Federal Employees plan, not to mention all of the others who work in Federal Government across this land, from rural areas to urban areas.

We have seen the increase in our ability to offer them choice and better cost. If we can make health insurance more affordable for all of these workers through their employers—all of these small-business workers—we would not necessarily solve the problem of the uninsured, but we would certainly make an enormous dent in it.

Our plan would go a long way toward making health care more accessible for millions of workers and their families. After all, more than half of the private sector workers in the United States are employed by small businesses, and many of these businesses struggle with the cost of providing quality health coverage. That would go a long way toward helping to ease some of the anxiety and concerns people in this country are feeling. In my home State, 76 percent of businesses have fewer than 50 employees, so Arkansans would benefit greatly from this program.

I have heard from many of our small-business owners in Arkansas who have been forced to drop or reduce their employees' health coverage because of the high cost. But it is not just small businesses. Health care and health care costs in this country are the first item of business for anyone who comes into our offices to talk to us about their needs and concerns.

These small-business employers want to provide their employees with the best coverage possible because they recognize how valuable health insurance is as a tool for boosting recruitment, retention, and employee morale, not to mention their production. They are so much more productive when they have healthy people in their workforce.

Clearly, health insurance can play a vital role in the overall success of a small business. Our plan would help our small-business owners provide employees with health coverage at a much lower cost—a win-win situation for everyone.

With solutions such as this, health insurance plans for small businesses, we can ensure health coverage is a fundamental component of every American worker's economic security.

We must make the growing number of uninsured in our country a priority. It must be a priority we all embrace in the Senate. It is clear working families are not getting the health care they need. Let us come together and do something good for the hard-working folks in this country who can't afford health insurance today.

For those who can't get access to the most basic of preventive medicine, Congress needs to address this issue. The high cost of health care in the United States is giving other developed countries an advantage in keeping and attracting jobs.

For each car they build, DaimlerChrysler AG pays about $1,300 in employee health care costs. When they make a car in Canada, they pay hardly anything. That is why the Big Three automakers actually lobbied the Canadian Government to maintain their national health care system.

At a time when jobs are leaving our country, at a time when health care insurance premiums are rising by leaps and bounds and working families are feeling insecure about their jobs and health care coverage, Congress must do something, and we can do it now.

Mr. REID. Mr. President, when we finish with morning business, we will have about 15 minutes remaining to speak on the Cantwell amendment. All Senators who wish to speak on the Cantwell amendment should get over here at about 10 after 11. Time will be equally divided. That is the only opportunity to speak on the Cantwell amendment today prior to the vote.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Utah.

Mr. BENNETT. Mr. President, what is the time situation?

The PRESIDING OFFICER. The majority controls 30 minutes of morning business, and the time of the minority has expired.

Mr. BENNETT. Mr. President, I will claim such portion of that time as I may consume up to the 30 minutes.

The PRESIDING OFFICER. The Senator is recognized.

THE ECONOMY

Mr. BENNETT. Mr. President, a recent poll within the last couple of days had a fact I found truly extraordinary which I want to talk about. It says a very large percentage—maybe even a majority—of the people of America believe we are still in a recession. I find that extraordinary because the evidence in every area is highly to the contrary. The economy, if you will, is firing on all cylinders. Let me repeat some of the statistics I have given here before.

In the first quarter of this year, the economy grew at a 4.2 percent annual rate. Added to the growth in the 2 previous quarters, this means it has grown over 5 percent in the last 3 quarters, which is the best performance in 20 years.

Some say, Where are the jobs? We may have gross domestic product growth, but we don't have any jobs, so we are still in a recession.

How can we say that in view of the facts which are overwhelming? Within the last 8 months, we have increased 1.1 million jobs according to the payroll survey, and 1.3 million jobs according to the household survey. Every indication is the jobs are coming back, and they are coming back very strongly.

In a recession, you have layoffs. When you have layoffs, you have people who apply for unemployment compensation. Those are jobless claims. The level of jobless claims is at its lowest level in 20 years. How can we be in a recession when the jobless claim level is so up? How can people come to this conclusion?

We have a constant drumbeat in the media about how terrible things are.

I have inquired why certain media figures continue to ignore the actual figures, the facts. I am told with a shrug by some of the leaders in the media, it is all about ratings. They get better ratings on television programs if they rant about American jobs going overseas and about the economy being in terrible shape. If they scare people, for some reason, people seem to stay tuned in and they get higher ratings and a bigger audience.

We have a responsibility in this Chamber not to scare people. We have a responsibility to tell the truth. The truth about the economy is that it is doing well.

Let me review some charts I have presented before to reemphasize the facts, not to make any new argument. Apparently, the arguments made before are being ignored. So let's make it again until people understand the facts. Here is the historical perspective of economic growth. On the chart, the green line above the line represents quarters of activity. Naturally, there are four quarters for each year. The red lines below the line represent quarters when the economy shrank. By definition, a recession is when there are two successive quarters in red.

If we look back over history—and this goes back into the years of Jimmy Carter's Presidency—we see a lot of red in this period. There was a recession at the end of Jimmy Carter's Presidency and then another recession in the first years of Ronald Reagan's Presidency—the dreaded double dip that people talk about. We go into recession, we get

some recovery, and we are right back into recession. That was one of the most difficult economic periods of our history. We survived it, we came through it, and we had a period following it of tremendous economic growth.

During this period we added to the size of the U.S. economy the equivalent of Germany. If we were talking companies, it would be as if the United States, a corporation, acquired Germany; all of it, and all of its profit and economic activity. We grew enough to add the total of Germany to the American economy in this period.

We cannot repeal the business cycle. Inevitably, no matter how well managers try to manage their affairs, something will happen, things will taper off, and we will have a correction. That is what recessions are; recessions are corrections of the excesses that preceded them. Plus, there can always be a recession from an external problem such as the oil shock that hit in the early 1970s. September 11 is something that could cause a recession and other factors. One can never anticipate that the upward trend will continue without a correction somewhere along the way. That hit in the middle of the Presidency of the first President Bush. By comparison to the earlier recession, it was mild. But it was not mild for people who lost their jobs. It was not mild for people who lost their homes or who had difficulties. But otherwise, by comparison, the amount of red below the line was nowhere near the amount of red that preceded it in a decade.

When we recovered from that recession—and the recovery began in the Presidency of the first President Bush—we began another period of prosperity. Overall, it was probably not as big as the prosperity that preceded it, but why quibble about small amounts. It was a period of good prosperity. We heard in the 2000 election it was the greatest economy in history. In fact, the red had shown up in the third quarter of 2000. The signal that this period of prosperity was over, that another recession was on its way, was already given before the election took place. The signal was correct.

After the election, we slipped into a recession that occurred in the last three quarters of 2001. However, we came out of it in the fourth quarter of 2001, and we have been in recovery ever since.

It is amazing to me that polls show that Americans think we are in a recession, when we are in this green period. This green demonstrates that we are going to do at least as well, if not better, than we did in this period—maybe even as well as we did in this period following this recession. This recession, by historic comparison, has been the shortest and the mildest that we have ever had in America.

For political reasons, it is being talked up as a disaster. I have heard in the Senate statements that this is the worst economy in 50 years. I have heard in the Senate that unemployment is the worst it has been since the days of Herbert Hoover. That is almost laughable. Unemployment in the Great Depression went over 25 percent. Unemployment in this recession and recovery topped out at 6.3.

Let's put that in historic perspective for a minute. Let me show what the unemployment rate has been in previous recessions. Here is the dreaded double dip we were talking about. Unemployment hit 10.8 percent, still less than half of what it was in the Great Depression, but it was tremendously difficult. I remember how difficult that was. Then it came down. We got the next recession, and unemployment peaked at 7.8 percent. Now, the peak of unemployment occurred during the recovery, not during the recession. The shaded period on the chart is the period of recession. Here it peaks as the recession ended, and here it peaked during the recovery. Now we came down and we had this recession once again; unemployment peaked during the recovery, but it peaked at 6.3 percent. If you put 6.3 percent across the chart and compare it to where it was in the previous recession, you say: Not bad, not bad at all.

But we are being told, again, this is the worst economy in 50 years because, where are the jobs? Now it is coming down. It is down to 5.6 percent. As I say, the jobs are coming back at the rate of a million in the last 8 months. So project the next 8 months, there is another million jobs. If they come back faster, they come back at the same level as they have been coming, we will have another million jobs in less than 8 months. I don't know what will happen, but I am pretty confident this will continue to come down.

The question is, Why does it take so long for the unemployment rate to come down once the recession is over? The answer is very clear. The business man or woman wants to be absolutely sure his or her business is, in fact, in recovery before he or she goes out and starts to hire. They are delaying hiring permanent workers until they are sure the recovery is in place. They use temporary workers. They use overtime on their existing workers until they are absolutely sure the recovery is in place. Then they start a permanent hiring. That has happened and the statistics are there and the facts are overwhelming. We are in recovery; the recovery is strong. It is robust; it has traction.

I can only assume it is for political reasons that people stand in the Senate and say: No, no, no, we are in the worst economy in 50 years. That simply is not true. It cannot be sustained.

As I listened to the rest of the rhetoric—and I will not repeat all of the statistics I have used in previous speeches because I want to talk about the philosophical basis, but let me make this point. There are those who believe the economy is a sum-zero game. By that I mean they believe that in order for one person to win, the other person must lose an equal amount.

Now, marbles is a sum-zero game. If we play marbles, and you win three, that means I will lose three; and we add your plus three to my minus three and we get zero. But in the economy, just because Adam gets a job, does not mean Benjamin has to lose his. In the economy, just because Charles gets rich, does not mean that Daniel had to be made poor. In the economy, it is possible for both to grow simultaneously. In the economy, just because jobs are growing in India does not mean they are shrinking in America. They can be growing both places. Indeed, that is what is going on.

I see my colleague from Texas wants to speak, and I will be happy to yield the floor and give her such time as she needs. But I want to leave with this one point, once again: In economic analysis, understand that the economy is not static. It is not an either/or. It is not a sum-zero game, a plus and a minus. The economy is constantly fluid. People are moving up and down the income ladder all the time.

We hear statistics about all the people at the bottom and how rich the people are at the top. If I may, in my own case, in my lifetime, I have been at the bottom and I have been at the top and I have gone back to the bottom and struggled back to the top. Statistically, there is no way to reflect that fact. Statistically, they look how rich the people at the top are getting, and look how poor the people at the bottom are, as if they are going to stay there all their lives.

This economy is strong. This recovery is real. No amount of political rhetoric to the contrary can change those facts.

With that, Mr. President, I yield the floor, but I plan to address this overall question of the fact that the economy is not a sum-zero game at some length in the future.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. There is 15 minutes.

Mrs. HUTCHISON. Thank you, Mr. President. I will yield 7½ minutes to the Senator from Mississippi. Before I do that, though, I do want to thank the Senator from Utah, the distinguished chairman of the Joint Economic Committee. He has been looking at the economy every month and really looking at that progress. I think you can see from his remarks that the trend is up on all fronts. All of us knew when the recovery was coming, it would not be a true recovery unless it had jobs with it. Now we are seeing the jobs coming online following the outstanding performance of the stock market, and now consumer confidence is up.

I think the distinguished Senator from Utah was on this trend for a long time before others were focusing on it. We certainly appreciate his leadership.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I join the Senator from Texas in thanking the Senator from Utah for the leadership and information he has been providing about what is happening with the economy, and helping us to understand all the data. As chairman of the Joint Economic Committee, he has been the most aggressive chairman I have seen in recent years. He is doing a fantastic job.

I would describe this economic recovery we are going through now as the ''just say it ain't so recovery.'' When I listen to many of the speeches around Washington—and even out across the country in some areas—I sometimes get the feeling some people think that if you just keep saying the economy is not good, maybe it won't be. Only in Washington do you have that sort of perverse thinking, that too much good news about the economy is either not true or it is unhelpful.

Many people try to look at the stock market to assess whether the economy is doing well. Well, in the long term this may be true, but at some points in time, I think it is a reverse indicator of what is going on in the economy. Sometimes, bad news in the stock market is really good news. We saw that just yesterday. Because the economy is growing, because jobs are being created, because orders are going up, because manufacturing is going up, the stock market said: Wait a minute now. Maybe the economy is beginning to get a little too hot, and maybe the Federal Reserve System is going to have to raise the historically low interest rates a little bit. Oh, this must be bad news, so let's sell now.

So when the stock market reacts like that, you can bet good things are happening in the economy. The list of good economic news is very long and is growing.

I think a lot of credit should go to the Federal Reserve Chairman, Alan Greenspan. He has been careful in his language. Low interest rates have been fantastic for automobile sales and housing starts. The American dream is now available to more Americans than at any time in the history of this country. Americans have access to a variety of choices in homes. More and more people are owning their own home. Of course, a lot of the credit for this should go to the availability of quality housing, a good area of the economy. Home building is done by a lot of really good people who are very capable. But you have to acknowledge that low interest rates have really helped the housing sector.

I think credit should also go to the President for his leadership, and to the Congress. The President knew when he was sworn in that January in 2001, that we were already in a recession. We were already in one, it did not start then. The President came to the Congress and said: We have to do some things to encourage the economy to grow. One of the best ways to do that is to carefully cut taxes. We needed tax cuts that put money in the pockets of working Americans, and incentives for business and industry to create jobs. The Congress heard the President and passed tax cut legislation. We did it in 2001, 2002, and 2003.

Now, Mr. President, we are getting the benefit—the tremendous benefit—of those tax cuts because they boosted the economy when we needed it most. Just look at the numbers. If you have doubts about what is happening in the economy, look at the numbers published by the experts, not as cited by a Member of Congress.

For instance, with respect to jobs, the administration announced on May 7 that 288,000 net new jobs were created in April; and 308,000 were created the month before—over a half million jobs in 2 months. Since last August, an estimated 1.1 million jobs have been created. I think it is probably more like 1.3 million jobs when you take into account the Household Survey. But either way, that is a significant increase.

The national unemployment rate has edged down to 5.6 percent. I remember years ago, when I first came to Washington—I admit that was a long time ago, 30 or so years ago—6-percent unemployment was considered ''full employment.'' Well, my attitude is, any unemployment is unacceptably high. But it is now down to 5.6 percent, falling .7 percentage points, from a peak of 6.3 percent in June of 2003. I believe it is going to continue to go in that direction, partly because manufacturing employment increased 21,000 jobs in April. The February and March job numbers were also corrected upward. So, manufacturing employment has risen for 3 consecutive months.

One of the most interesting statistics I have come across is that we have more Americans employed now than at any time in history. More Americans are working today than at any time in history. Is it enough? No. We want more, and we want better paying jobs with greater opportunities. But still, you have to say, the fact that more Americans are working than ever before is a very impressive statistic.

Weekly unemployment claims have fallen to their lowest level since the year 2000. The economy grew at a strong annual pace of 4.2 percent during the first quarter of 2004. I think, when the assessment is done, it will be adjusted upward to 4.5 percent. That is very strong growth. Most of the countries of the world would be delighted to have even half of that kind of growth.

Household spending continues to be strong. Retail sales are up. Consumer confidence is at the highest level in 3 months, and rising. In March, new housing construction surged to levels near those of December 2003, when we had the highest levels in almost 20 years. American companies are, across the board, reporting historic levels of growth. Productivity levels are up.

So the administration's policies have been working, and we are making great progress. Every economic statistic now is moving in a positive direction. Now, we also need to pay attention to making sure inflation does not creep in, while keeping interest rates as low as possible.

The downturn in the economy, our response to 9/11, the war in Afghanistan and Iraq, and additional expenditures for homeland security have contributed to deficits, but even that projection has fallen. Last year, we were told that the current fiscal year deficit would be more than $500 billion. Now it looks like it will be down to $417 billion. I think it may end up below that because the economy is growing. This is good news, but we have to continue to address the budget deficit problem. I think we are going to have to make some tough choices in the next couple of years to get the deficit back down to where it can be eliminated. I think deficits do matter. They will affect interest rates over a period of years if we ignore them.

One other thing. You might say, well, all right, that is good, but what have you done for me lately? What are you going to do to add to the growth we are trying to achieve? The Senate is doing it today. After fits and starts, four different attempts, we are going to get an international tax bill today. Hallelujah, a bill; an important bill, finally, after 3 years of ignoring the problem of increasing European tariffs on American exports.

Mr. President, this bill will create jobs and address the problem of the WTO ruling. It includes incentives for manufacturing jobs and manufacturing tax credits, and incentives to grow the energy sector of the economy. This is a jobs growth bill. I am glad we are going to get it done. I commend all of those Senators who were involved, including Finance Committee Chairman GRASSLEY and his ranking member, Senator BAUCUS from Montana.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, let me pick up where the Senator from Mississippi left off. What he has been saying about the economy and the figures out there is certainly accurate. The gloom and doom story we have heard over the last 6 months has all of a sudden gone quiet. The reason for that is the very reason the Senator from Mississippi spoke of: the tax incentives we put into place, the investments that are beginning to work, and unprecedented levels of hiring and job creation are underway.

There is something I come to speak about that is of growing concern to me, and I think to thousands of American consumers, if not millions, and the impact it could have on a growing economy, and that is energy and the cost of energy.

Yesterday, I came to the floor to speak on that issue. The senior Senator from Nevada, Mr. REID, came later to say I was unnecessarily, righteously indignant about the Energy bill. You are darn right I am righteous and sometimes indignant when the American consumer is paying $2 per gallon at the pump—and some more than that—and they should not have to be. But they are, and the reason is because the Senate has not acted. No, passing the Energy bill tomorrow is not going to bring the price of gas down at the pump. But if you are in a hole and it is getting deeper and you are still digging, you ought to stop digging. But we have not stopped digging. We have not put policy in place that would begin to fill in the hole that will get us into production and that won't be a major risk to this economy in pulling this growth down because the American consumer is going to have to rejuxtapose some of their budgets. If they are paying $400 or $500 a year more for gas at the pump, let alone the cost of electricity and home heating fuel, they are going to be spending less in the market, and that is just the consumer.

I get righteously indignant when the farmer in Idaho—or in Nevada for that matter—goes to the bank and gives his budget or her budget for the year, and they have not factored in a 30- or 40-percent cost of energy because diesel fuel went through the roof. The bill—if we pass it tomorrow—won't make a difference. The bill will encourage production of domestic oil. It will encourage the development of more natural gas. It will encourage and incentivize the building of necessary infrastructure, such as the Alaskan natural gas pipeline. It will encourage the use of renewable fuels such as ethanol. It will encourage more renewable energy. It will strengthen the future of the nuclear energy option. It will promote clean coal technology. It will promote hydrogen as a new technology for surface transportation. It will promote energy efficiency. It will increase the R&D on a variety of technologies. It will establish mandatory reliable rules for our electricity grid. It will promote investment and expansion of electricity.

No, it is going to take a while for this country to get back into production. But we have not placed the tools in the tool box to allow us to get back into production. So we have become increasingly reliant on foreign sources for our energy. On March 22 of this year, you were paying $1.74 at the pump. On April 4, you were paying $1.78. In May, you paid $1.84, and now you are paying $1.94—in some instances nearly $2, and in other States more than $2.

Some are suggesting that we ought to quit filling the Strategic Petroleum Reserve, that we ought to cut that off. That would not make a difference in the price of oil at this moment because we have lost the capacity to produce. We have to reinvest if we are going to gain that capacity.

Yes, the Saudis are being a bit duplicitous. They said here is our baseline and what we want, and we only need to make $28 on our barrel to fund our country's needs. They are making well over $30 today. Finally, just yesterday, the Saudi oil minister said the OPEC producers ought to increase the official output ceiling. Well, that statement alone knocked the price of crude oil off $1 and, slowly but surely, that will be felt back at the pumps again. What that echoes is that we are not seeing the price of energy improve in our country or determining the future of energy. The Saudi oil minister, by his statement alone, is making that decision and fixing the price, or impacting the price at the pump.

Why do we need a national energy policy? Here is another reason. From 1981 to 2003, we lost a huge chunk of our oil refining capacity. In 1981, we had 324 refineries. Today we have 149 refineries, and they are operating at between 92 percent to 94 percent capacity. The Clean Air Act, the cost of retrofitting, the regulations, and the ability to finance simply took us out of the market and brought down those refineries.

My time is up. The reality is this Senate ought to vote on a national energy bill, and it ought to vote now so we quit digging the hole deeper. Put the tools in the tool box and get this country back into production. And you are darn right I am righteous about it because I don't think our consumers ought to have to pay the bill.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1637, which the clerk will report.

The journal clerk read as follows:

A bill (S. 1657) to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization findings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

Pending:

Cantwell/Voinovich Amendment No. 3114, to extend the Temporary Extended Unemployment Compensation Act of 2002.

The PRESIDING OFFICER. Under the previous order, the time until 12 p.m. shall be equally divided between the two leaders or their designees.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, I assume each side would approximately have 25 minutes.

The PRESIDING OFFICER. Yes, 26.

Mr. REID. Mr. President, we will allocate that time with 10 minutes to the manager of the bill. There will be 5 minutes for Senator CANTWELL, 5 minutes for Senator VOINOVICH, and 5 minutes to Senator SARBANES.

The PRESIDING OFFICER. The Senator from Nevada, Mr. ENSIGN, is recognized.

Mr. ENSIGN. Mr. President, I rise to briefly talk about the underlying bill and the vote we are going to have on cloture, but mostly to discuss the Cantwell amendment related to the temporary extension of unemployment benefits.

Mr. President, we had a vote on a similar amendment earlier this year, but the amendment before us today was redrafted to reflect changes in high unemployment states. First I want to talk about whether we should extend unemployment benefits—a temporary extension of the Federal program—based on the current unemployment situation. Then I want to talk about some of the details of Senator CANTWELL's amendment and the changes that are in her amendment.

The employment picture in this country is looking up by all measures. In the past, employment was looking up according to the household survey, which is the survey that measures employment, including those who are self-employed, people who contract with the Government, and those on payrolls.

But, there are two surveys of employment. The payroll survey does not include people who are self-employed. It does not include small contractors who contract with the Government, and there are a lot of those people today. So the household survey is a more accurate survey of overall employment in this country.

In the past, the household survey and the payroll survey have paralleled each other. There really has not been a difference, so people mainly paid attention to one survey, the payroll survey.

In the past couple of years, we had a recession that was followed by a recovery. It has been called a jobless recovery. But, recessions always have a peak of jobless claims during periods of higher unemployment after recessions.

This is a chart of the last several recessions, and we can see the gray areas are the recessions. These dark lines are a measure of the unemployment rate. We can see after the recessions, either right at the end of the recessions or just after the recessions, we can see the peak in unemployment. This indicates there is always a lag in people being hired after recessions have ended. As the economy starts growing, people are still a bit unsettled in their businesses—Should we rehire people?—and so that peak of unemployment lags after recessions.

We have passed that peak. We had the recession. The recession occurred at the end of the year 2000 and going into the year 2001. We had this recession followed by a slow recovery. And then we had September 11 hit, which just decimated the economy in many areas, especially the tourist economy,

as in my home State of Nevada. It was almost a double dip of a recession. The first dip starting at the end of 2000 and the second dip after September 11, 2001. So we did some things in the Senate to try to overcome that situation. Working with the President, we passed two different tax bills. Those tax bills have had a positive effect on the economy. The economy is recovering. It is still in a growth phase, and it is now moving into the hiring phase of the recovery. As you can tell from recent job numbers people are starting to say: You know what, we really do feel good about what is going on. And they are hiring additional employees.

One of the criticisms has been in the decline of manufacturing jobs. In the past these jobs were declining, and we were losing manufacturing jobs in the United States.

This chart shows manufacturing activity. We can see it down in 1991, it is coming up in 2000, and then, going into 2001, it takes a nosedive. Then in 2001, it came back up a little bit and took another nosedive. We can see in the year 2003 manufacturing jobs have increased by a very nice rate. So the manufacturing activity in the United States is coming back. That is a good sign, and we all welcome that.

The Cantwell amendment would extend temporary unemployment benefits through November, but this is not just a clean extension. The amendment also changes the ''high unemployment'' definition to make more States qualify for additional unemployment benefits. In other words, if her original amendment that we voted on a couple of months ago was enacted today, the only State that would qualify as a high unemployment State would be Alaska.

She redrafted her amendment to where it eliminates what is called a look-back provision, and that look-back provision is what helps determine whether States are high unemployment States. It compares their current unemployment rate to the rates in the previous 2 years.

The amazing thing about that look-back provision is that states with relatively low unemployment could qualify as a high unemployment state under this amendment. According to preliminary analyses of the Cantwell amendment the State of Idaho qualified as a high unemployment state with about a 4.5-percent unemployment rate. That is very low. My State is 4.4 percent, and it is hard to find employees. When the unemployment rate gets that low, it is hard to find employees. Under the Cantwell amendment, the State of Idaho could potentially qualify as a high unemployment State.

Last Friday, the statistics were revealed for last month, the month of April. The unemployment rate dropped to 5.6 percent, and 288,000 jobs, according to the payroll survey, were created. In March, 335,000 jobs were created. Just since the beginning of 2004, almost 900,000 jobs, according to the payroll survey—the one the other side has been talking about—almost 900,000 jobs have been added to the payrolls in the United States. It is the eighth consecutive month of job gains, according to the payroll survey. In that 8-month period, we have had 1.1 million jobs created.

The other thing we have to look at are jobless claims, in other words how many people actually applying for unemployment compensation. The initial jobless claims declined by 25,000 last week, and that was the lowest level since before the 2000 Presidential election.

Also, something that has been talked about on this floor is the number of long-term unemployed, people who have been on the unemployment rolls for a long time or have exhausted their benefits. That number dropped by 200,000. Not only are the unemployment numbers improving, but so is productivity.

I talked before about payroll versus household. I want to emphasize that because the payroll survey is now showing jobs being created.

By the way, this chart shows the 1.1 million jobs by month, and this is the payroll survey. Comparing the payroll with the household survey, in the past we can see how these two surveys parallel each other. But in the years 2000, 2001 and beyond—this is the period we were in the last couple of years—these actually diverge because there were more jobs added to the household survey than the payroll survey. The payroll survey is now starting to catch up.

Why would this occur? Why would the household survey, which measures self-employed people, be different than the payroll survey? The difference comes about because our economy is changing. During times of recession—and this is not unusual for people who cannot find jobs—they start their own companies. They become entrepreneurs, and sometimes it ends up being the best thing that ever happened to them because they start their own company and end up being more successful than they could ever have been working for somebody else. Senator BENNETT referred to his successes in starting businesses earlier today on the Senate floor.

In the last few years, more people than ever have started their own companies. As a matter of fact, 430,000 people now make their full-time living on e-Bay. That is just within the last couple of years. Those people are not measured in the payroll survey; they are only measured in the household survey.

The other side says those who are self-employed do not have jobs. As a matter of fact, the other side says there have been 3 million jobs lost since President Bush took office. That number is according to the payroll survey. The household survey shows 2 million jobs have been added because a lot of those people are now self-employed.

Before my tenure in the U.S. Senate, I was a veterinarian. I was self-employed. My job did not count, according to the other side of the aisle. They say that the household survey does not count. If you are self-employed, you know you are working; you think you have a job; you think that should count. It is an insult to those self-employed people not to count them in a survey of jobs. If we are really talking about jobs, we should have the most accurate reflection of jobs.

Even giving the other side of the aisle just the payroll survey, the payroll survey is improving. It is improving dramatically. Almost 900,000 jobs since the beginning of the year have been added to the payrolls of the United States, which begs the question: why should we extend the temporary extension of unemployment benefits program again?

When the Democrats controlled the White House, the House and the Senate, after the early 1990s recession, the unemployment rate was at 6.6 percent. At that time they said unemployment was low enough to end the program. We have not heard the other side address that issue. I have made this argument on the Senate floor many times this year, and we have not heard the other side address that. They controlled all three of those bodies and yet they saw the fact that 6.6 percent was low enough to end the program.

Fast-forward to today, the Republicans control the White House, the Senate, and the House, and now the Democrats say that, even though the unemployment rate is almost a full percentage point lower than when the Democrats ended the program, now the unemployment is too high and we need to keep the temporary unemployment program going today.

I think that is disingenuous. It is saying while we were in control, 6.6 percent was low enough to end the program, but now the Republicans are in control, 5.6 percent is too high and we ought to keep the program going. They put out the statement from Alan Greenspan, who said we should keep the program going. Well, Alan Greenspan has also said that the biggest threat to our economic long-term growth is the deficit. The amendment that was offered by Senator CANTWELL costs almost a billion dollars a month. It is a 9-month extension, and it is an $9.5 billion price tag. That adds $9.5 billion to the deficit. We have already spent $32 billion on this program the last couple of years, which added $32 billion to the deficit. It comes right out of deficit spending.

I believe it is time to end the program. The States have money we gave them. We gave them $8 billion to address the problem of high unemployment in their States. Many States, including the State of Washington, have not used this money. Out of the $144 million the State of Washington received out of the $8 billion, they have only used about $1 million. So if the State of Washington cared about their unemployed, one would think they

would use that money, but they have chosen not to use it. So I think we have fulfilled our obligation during the recession and post-recession when unemployment was high, but it is time to start worrying about the deficit. For those who talk about being deficit hawks, it is time to vote against this program.

Now I do not know whether this was done purposely or not, but in drafting this bill, the author of the amendment drafted it in such a way that it is retroactive to the first of the year. So that means if one is working today, but they were unemployed at the beginning of the year and would have qualified for TEUC at the beginning of the year, they actually would get a check from the Federal Government. I do not think that is the purpose of this program. The purpose of this program was to help those who really could not get a job.

The other reason I do not believe this program should be extended is, during times of economic growth, if one is having trouble getting a job it may mean that they have to move. Well, we are in times of economic growth, but the more comfortable we make it for people on unemployment insurance—in other words, when they are getting these unemployment benefits—the more comfortable we make it to stay on unemployment, the less incentive there is to go out and do what it takes to get a job. It is called personal responsibility.

I believe we are during that time of economic growth—I think all of the statistics show that—and it is time that we end this program and we vote down the Cantwell amendment. The Cantwell amendment violates the budget. We know that. That is why there is a budget point of order that is going to be raised against the Cantwell amendment. The vote we will have will be to waive the Budget Act so that we will deficit spend.

If we want to make sure those jobs are out there for the people who are unemployed today, we have to have a strong economy. Alan Greenspan says the biggest threat to our economy is the size of the deficit. Let us do something about the size of the deficit by voting down this $8 billion program.

I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask to be recognized for the time I have under the unanimous consent agreement.

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. BAUCUS. The ancient Theban poet Pindar wrote: ''The test of any man lies in action.''

That was a very provocative, very prescient, and very wise statement. The test of any man, or woman, lies in action.

Today that test will be for the Senate. Today we will test whether the Senate can act to create and keep good manufacturing jobs in America. Today we will test whether the Senate can act to end European tariffs that hobble American businesses, and today we will test whether the Senate can act to extend vital benefits to the nearly 1.5 million jobless Americans who have exhausted their unemployment benefits.

The coming cloture vote is the defining test for the JOBS bill. If the Senate cannot vote today to complete action on this bill, then the majority leader will move on to other business. Yes, in a perfect world every Senator would have the opportunity to offer and debate every amendment. In a perfect world, every amendment would get a vote. In a perfect world, every Senator would get home for family dinner at 6. But by the standards of the modern Senate, I believe the Senate has given this bill fair consideration.

Over the course of 5 separate weeks, we have considered 28 amendments and adopted 17 of them. I think that is a respectable record. The coming cloture vote is now the test of whether we can pass the JOBS bill. The coming cloture vote is also a test of whether Senators on this side of the aisle can take yes for an answer. We on this side demanded a vote on Senator HARKIN's overtime amendment, and the Senate did consider that amendment. The Senate adopted that amendment. We demanded a vote on Senator DODD's offshoring amendment, and the Senate did consider that amendment and the Senate adopted that amendment as well. We demanded a vote on Senator WYDEN's trade adjustment assistance amendment, and the Senate did consider that amendment but regrettably did not adopt it. However, Senators WYDEN, COLEMAN, and I intend to bring that effort back to the Senate on another day. And we demanded a vote on Senator CANTWELL's unemployment insurance amendment. Under the unanimous consent agreement governing this bill, in order to get a vote on the unemployment insurance amendment the Senate needs to invoke cloture.

If we invoke cloture, the Senate will consider that amendment, and I hope the Senate will also adopt it.

I believe that invoking cloture to get a vote on the Cantwell amendment is now a fair deal for Democrats, and I think we should take it. We should say, yes, for an answer. We should vote to invoke cloture so that we may vote on unemployment benefits.

After the cloture vote, the vote to waive the budget for Senator CANTWELL's amendment will be a test for the entire Senate. Our vote on the Cantwell amendment is a test as to whether we can respond to the record number of jobless workers who have exhausted their benefits. America's free and open market economy has yielded unparalleled growth and vitality. Part of the genius of our economy is that we allow the private sector the freedom to adjust rapidly to changing circumstances. It helps our country grow. That freedom and vitality comes also with disruption and pain for workers who lose their jobs in hard economic times like those we have had in the last 4 years.

When, nearly 70 years ago, Congress created the unemployment insurance program, our society struck a deal. American workers agreed to participate in open and volatile markets, and the Government agreed to cushion the blow when markets turned rough. Unemployment insurance is the result of a vital social compact.

In past recessions, Congress has acted to extend those benefits, and the evidence is that in this recession more workers are remaining unemployed much longer than in previous recessions.

The share of the unemployed who have been unemployed for more than 6 months has hit its highest level in more than 20 years. Federal Chairman Alan Greenspan said recently ''an exceptionally high number'' of unemployed are losing their unemployment benefits, and he supported resuming temporary Federal benefits, saying:

> I think it's a good idea largely because of the size of the degree of exhaustions.

Thus, the coming vote on the Cantwell amendment will test whether the Senate can respond to this human need, keep our social compact, and extend these needed unemployment benefits. Finally, this coming cloture vote will be a test of whether the Senate can work.

This bill began as a venture of Democrats and Republicans working together in the Finance Committee. Its major provision, the heart of the provision—tax cuts for American manufacturing—is really a Democratic priority. Democrats sought all along to create and keep good manufacturing jobs here in America. This bill advanced in the Finance Committee as a cooperative venture. The chairman of the Finance Committee and I, working together, included many of the provisions of the bill in response to the request of Senators on this side of the aisle—on both sides of the aisle, but especially on this side of the aisle. This bill reflects an open, democratic process.

Once we came to the Senate floor, we tried to ensure the Senate consider the maximum number of amendments. Now the Senate has considered 28 amendments and adopted 17 amendments. Even after the Senate invokes cloture, the Senate may still consider germane amendments and there are going to be several of them, and I believe the Senate will be able to take them up and deal with them postcloture.

The time for talk is coming to a close. Soon will be a time for action. The coming vote will be a test of whether the Senate can act. Let us act to advance this bill to create good manufacturing jobs here in America. Let us act to extend unemployment benefits to jobless workers who need them. Let us act to show we can at least work together in the spirit of that great poet Pindar, again, who said, ''The test of any man lies in action.''

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, what is the parliamentary situation right now?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. SARBANES. Mr. President, I rise in very strong support of the pending amendment offered by my very able colleague from Washington, Senator CANTWELL, and by my able colleague from Ohio, Senator VOINOVICH. I commend both of them for their work on this issue. I particularly want to underscore the determination and the perseverance Senator CANTWELL of Washington has shown in pressing this issue forward.

This amendment, simply put, seeks to reinstate the Temporary Extended Unemployment Insurance Benefits Program which lapsed at the end of 2003. Long-term unemployment, the very problem this program of temporarily extending unemployment insurance benefits is intended to deal with, is at near record levels. There are 1.8 million long-term unemployed workers in America today. That is, they have been unemployed for more than 26 weeks, the period that is traditionally covered by unemployment insurance benefits.

Some of my colleagues have argued we do not need to pass this amendment because jobs are beginning to pick up. They assert we have an unemployment rate lag, after the end of a recession.

We have not even recovered the jobs we have lost, as we now move out of this recession. This administration is the first administration since the Hoover administration not to produce a net gain of jobs in the course of its tenure. Long-term unemployed workers today constitute 22 percent of all unemployed workers. That level is near a 20-year high. It has been above 20 percent for the last 19 months—in other words, of the unemployed, this large a portion have been long-term unemployed. That is the longest such stretch since the Department of Labor began keeping such statistics in 1948.

It has been 37 months since the recession began. The economy has 1.6 million fewer jobs today than it did 37 months ago. In no other recession since the Great Depression has the economy failed to recreate all the jobs it lost after 37 months. We are still down 1.6 million fewer jobs than when the recession began 37 months ago. In every other recession other than the Great Depression, the economy had recreated all the jobs that had been lost within 31 months. I stress this to make the point that the job market has not strengthened adequately in order to take care of these people. Job growth is far too slow.

It is not as though the level of benefits that is being sought is historically excessive. In previous recessions we have passed extensions beyond what is contained in this amendment. When we had a recession from July of 1990 to March of 1991, we extended unemployment benefits until April of 1994. At the program's peak, benefits were available for 26 to 33 extra weeks. It was in the previous Bush administration that this took place.

It is not as though providing these benefits is not supported by prominent economists. Federal Reserve Chairman Greenspan testified before the Joint Economic Committee on April 21, only a few weeks ago, that re-instating the extended unemployment insurance program is ''a good idea. I think it is a good idea, largely because of the size of the degree of exhaustions.''

We built up this unemployment insurance trust fund to fund these benefits. The money is in there, paid for, for this very purpose. I urge my colleagues to support this amendment from my able colleagues from Washington and Ohio.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time? If no one yields time, it will be charged equally to both sides.

The Senator from Montana.

Mr. BAUCUS. I ask the Senator from Oklahoma if he wishes to speak. There are several speakers on this side. As I understand it, on the other side of the aisle, the time is divided between 10 and 15. If the Senator from Oklahoma has 15 minutes, now will be an appropriate time for him to speak.

Mr. NICKLES. We have 10.

Mr. BAUCUS. You have 9 minutes left. Now would be an appropriate time. We have a lot of speakers here—not a lot, three more.

Mr. NICKLES. Mr. President, I am happy to speak, but I don't believe the Senator from Washington has made her speech. Usually I would respond to her.

Mr. BAUCUS. Maybe you can set a precedent here.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I rise in opposition to the amendment of my friend Senator CANTWELL for a lot of reasons. This is not a simple extension, as Senator ENSIGN earlier said. This is an expansion. Yet despite the fact we have good economic news, despite the fact we had a report last month, 288,000 new jobs, before that, 300,000—700,000 jobs in the last 2 months—we want to not only extend temporary Federal unemployment compensation, we want an expansion.

Change the definition. I started looking at the amendment. I thought it was not very well drafted. It does a number of things. It is retroactive back to January. It expands benefits, and then it goes retroactive.

Let us say somebody is unemployed in January and February, but they get a good job in March. They would qualify for 8 weeks or maybe 10 weeks of benefits. Are we going to write them a check even though they have had a job for the last month or so? We have never done that.

What would that be if you were in the State of Massachusetts? It would be as much as $760 a week. For 10 weeks, that is $7,600—a lump sum, even though you may have a job that is paying over $80,000 a year.

That doesn't make sense. But it would be legal. It would actually happen, and it would cost Federal taxpayers probably in excess of $1 billion if that happened. That makes no sense whatsoever. But that is in the amendment.

The amendment also, as Senator ENSIGN explained, basically says for the high unemployment States we are going to change things so more States will qualify for high unemployment benefits. In other words, we are going to expand this program. Why? Because most of the States don't qualify for it because States that do qualify for the high unemployment Federal benefit have to have increasing unemployment. And, frankly, we don't have that. We have decreasing unemployment, including the State of Washington, in which I believe the unemployment rate is 6.1 percent. You have declining unemployment in almost every State. The trend is down. The trend is for more employment. We should be grateful for that.

Some people evidently want this program to be a permanent Federal program. But it is a Federal temporary program that has expired.

I am looking at the statistics we have used in the past. We discontinued this program for a couple of years when we had it in the early 1990s. We discontinued that program when the unemployment rate was 6.6 percent. Now the rate is down to 5.6 percent. We were well below the rates when we discontinued this program in 1994.

When we had a Federal temporary program in the early 1980s, we discontinued the program when the rate was 7.4 percent. In the mid-1970s—1975–1977—we discontinued the program when it was 6.8 percent. Now the rate is 5.6 percent, and we are saying let's discontinue it. Some people say let's continue it for everybody. It makes no sense let's not only extend it, but let's expand it. That is in this amendment.

Finally, this amendment is not paid for. I am amused by the number of people who say, Yes, we want deficit reduction. We want pay-go, and 51 Senators voted for pay-go. Senator FEINGOLD had an amendment to the Budget Resolution. I didn't support it. This is going to make it tough on taxes and people do not pay enough attention to it on spending. I hear all these people: No, we want pay-go.

We had an amendment last week on trade adjustment assistance. Of the 51 Members who supported the pay-go amendment to the Budget Resolution on the floor, only 3 voted to sustain the pay-go point of order I made on the floor—only 3—and 48 Members reversed themselves. In other words, they said we don't want pay-go when it comes to creating or expanding a new program like trade adjustment assistance.

Senator GRASSLEY had a bill last week, the Family Opportunity Act. It

passed. A pay-go point of order could have been applied to this. A pay-go point of order will be applied, and I am going to make that pay-go point of order on this amendment.

I have tried to get cost estimates on this amendment. OMB estimates Senator CANTWELL's amendment costs $9.5 billion, and CBO estimates $9 billion. I don't have a letter from them because it is hard to compute how much this retroactive provision is going to cost. But I think it is fair to say it is a $9 billion program that is not paid for.

At the appropriate point, I will be making a budget pay-go point of order that this amendment, if it became law, would increase the deficit over the next 10 years by $9 billion. I urge my colleagues to vote against it.

The economic news is good news. There are almost 1 million new jobs this year. I think there are almost 900,000 new jobs in 2004 alone. There has been some positive, good news on the employment front. The unemployment rate is down.

When I was in the manufacturing business, if the unemployment rate was around 5 percent, it was almost full employment. I could hardly find people to work. Now the unemployment rate is 5.6 percent. It is going down. That is good news.

We don't need to reach back and extend the program that has already been going, I believe, for about 36 months at a cost of $32 billion. I think it would be a mistake.

At the appropriate point, I will be making a budget point of order and urge my colleagues to vote to sustain that point of order.

I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Ms. CANTWELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes.

Ms. CANTWELL. Thank you, Mr. President.

Let me start off by correcting a few things my colleagues have said on the floor. This is a debate about 1.5 million people who have lost their jobs and have not been able to find work and have been without benefits.

To be clear, the unemployment program at the Federal level does not exist today. It was terminated as of the 31st of December. This isn't a continuation of a program that has been in place for the last several months. It has not been in place.

As it relates to the Clinton administration and the economic numbers, say we cut the program off in better economic times and worse economic times, the whole point of this debate is the fact the economy and job creation has not taken place at the level that would have employed the number of people who have lost their jobs starting with over 2.6 million people. While we have had some job growth, we have not totally recovered. While the Clinton administration cut off the program at a time of higher unemployment, they actually had net job growth. That is why they terminated the program. We are not in that same situation.

In fact, it is no wonder Alan Greenspan basically, before a House committee, came to the same conclusion and said if you have a large number of exhaustees it makes sense to go ahead and use the program to take care of those exhaustees.

So here is one of our chief economists saying, Yes, the Clinton administration did something different, and they did it differently because they had job creation and net job growth going on. We do not have net job growth going on.

My colleague mentioned Alan Greenspan and the deficit and what we need to do to take care of the deficit moving forward. Alan Greenspan, who is also very concerned about the deficit, said exactly this. The number of exhaustees alone will tell you it is time for us to go ahead and take this program and take care of those 1.5 million exhaustees because of their large number.

Let us talk about where we are going to spend money. I think that is the reason we are in this debate. Some of my colleagues said it is about the deficit. Let us take this bill, for example. Let's take the underlying bill and talk about what we are spending money on. The Congressional Budget Office estimates the cost of my amendment at $5.8 billion. If the Senator from Oklahoma can get a larger number——

Mr. NICKLES. Mr. President, will the Senator yield?

Ms. CANTWELL. I only have 5 minutes. I will be happy to yield after I finish speaking, if I have time.

Mr. NICKLES. I don't think the Senator is correct.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. The issue is this underlying bill has a lot of tax credits and programs to help corporate America. Many of them I support. But I think it is important for my colleagues to realize what is in this bill.

As opposed to the cost of taking care of the unemployment in America, there is $9 billion in here for the oil and gas industry; $2.2 billion for the clean coal industry; $2.8 billion for synthetic fuel. Actually, this particular program is under investigation by two different agencies. There are $2 billion for green bonds, which I say and Taxpayers for Common Sense say could still inadvertently go to a Hooters Restaurant. These two programs alone would pay for the unemployment benefit program.

We basically went ahead and authorized these in this legislation. I don't know where we found the money for those programs. Yet, we are taking money out of the unemployment insurance trust fund, a fund that is supposed to be paid into by employees, and somehow saying, out of the $13 billion that is there, we do not have enough money for working families who have lost their jobs through no fault of their own, but, yes, we have money—$2.8 billion—for synthetic fuels, even though we are investigating whether the money should be spent there, and we have $2 billion for green bonds that could end up going to a Hooters Restaurant. Where are the priorities of my colleagues? Where are the priorities in passing this kind of legislation when we know that American men and women need our help and support?

Like my colleagues, I know this economy will get better. I have actually helped create jobs in the private sector. It will recover. But that is not the debate. The debate is, we have terminated a program in December and we now have data and information that shows the economy has not picked up to the degree in the last several months to take care of that huge number of unemployed who have exhausted their benefits. While everyone is talking about whether the economy is better, executive salaries are up, corporate profits are up, but total jobs lost is the issue. We are in a better economic situation, but we are leaving the American worker behind.

I ask unanimous consent for an additional 30 seconds.

Mr. BAUCUS. I yield 1 of my minutes to the Senator from Washington.

Ms. CANTWELL. Mr. President, take last month's number. Say we had an average of 300,000 jobs created each month for the next 6 months. At the end of this program in October we would still be at a deficit. Even with 300,000 jobs created, we would still have over 112,000 people who had not gotten a job.

So the question is, What are we going to do for a stimulus in the meantime as we are going through this job creation exercise in America? Are we going to say these are the only programs we support, programs for the oil and gas industry, for synthetic fuels, for green bonds, for bourbon distributors, for horse racing, for archery manufacturers? Those are the things we will support and we will not support the American workers?

I ask my colleagues to think about our priorities and support the Cantwell-Voinovich amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I clarify something for my colleague's amendment on cost. Her proposal in February was estimated by CBO to be $5.4 billion, but that proposal expired in June. This one expires in November. This one is retroactive. The one in February was not. So we have many more months, and we also have the retroactive provision. We have estimates that this proposal will cost $9 billion. It is not paid for. I will make a budget point of order.

I reserve the remainder of my time.

Mr. REID. How much time do we have remaining?

The PRESIDING OFFICER. There is 5 minutes 45 seconds.

Mr. REID. Senator VOINOVICH is not here, so if the Senator from Washington wants to use the time, she may.

Ms. CANTWELL. I am happy to respond to the issues raised.

One point is important to make. I am happy to modify my amendment if this would help clarify. This is not retroactive for someone who has gotten a job. If you got a job in March and you would have qualified for January and February unemployment, you do not get unemployment benefits. This only takes care of individuals who have lost their job and have not found a job.

I am happy to modify the amendment. That is not the intent of the amendment. The intent is only to take care of people who are still unemployed.

Mr. NICKLES. The intention of the Senator from Washington may be that it is not retroactive, but your amendment is retroactive. With the amendment before the Senate, an individual could be out of work in January and February, get a job in March, and receive payments. Read the amendment. It is there. It is retroactive. It may not have been the Senator's intention, but it is the fact.

The amendment is unnecessary even if it is prospective, but it is not. As written, it is retroactive. This is the middle of May. By the time this would get through conference, it would be in June, July, or later. Yet this amendment says, let's go back to January. So if someone gets a job in between then, they would be entitled to receive payments. It is grossly irresponsible and all the more reason our colleagues should not support the amendment.

Ms. CANTWELL. As I said, that is not the intent of the legislation. To make the Senator from Oklahoma comfortable, I am happy to consider whatever language he wants to clarify that point. This is not about someone who has gotten a job in the last 7 months; it is about the fact that we terminated this program in December and the fact that there are 1.5 million Americans who are without benefits. They are, basically, defaulting on mortgages, going into bankruptcy, not being able to take care of their own health insurance or the health care insurance of their family.

It is about giving them access to a fund that was created for these very economic times and giving them support during these economic times. It is stimulus that, as I said, is just as worthy as the other programs—I would say more worthy than a lot of the programs in the underlying bill.

I am happy to correct this perception by the Senator from Oklahoma and clarify it in any way so we can get this particular issue off the table.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 3 minutes 40 seconds remaining.

Mr. BAUCUS. I will not use all that time.

I compliment Senator CANTWELL. She has been dogged in her effort to bring up this amendment. I remember it was not too long ago when we were working, the chairman of the committee, Senator GRASSLEY, and others in the leadership, to try to sequence amendments, to figure out how we would process this bill.

The Senator from Washington said she wanted to offer her amendment and we told her, absolutely she could. We were trying to work out some other amendments and asked if she could delay in pressing her amendment even though she had the right to offer it, and she said she would. She has been very good in, first, pushing to get her amendment passed and, second, working with Senators to try to figure out the very best circumstances under which her amendment could be brought up and passed.

It has been somewhat difficult because Senators on this side of the aisle have been standing up for her rights. This Senator, certainly, and the minority leader, Senator DASCHLE, are standing up very strongly for her rights. Senator KENNEDY from Massachusetts also assisted her and worked with her to help get this amendment up.

There have been some Senators on the other side of the aisle who did not want to vote at all on Senator CANTWELL's amendment, but she has persevered. She has done a great job representing people who are out of work and unemployed, especially for her State of Washington. That is why we are here today. Were it not for the perseverance of the Senator from Washington, it is problematic whether we would be at this point. We will have a vote first on cloture and then a vote on her amendment. I thank the Senator for that.

I reserve the remainder of my time.

Mr. REID. Is all time used on the side of the majority?

The PRESIDING OFFICER. The majority has 48 seconds.

Mr. REID. If the majority yields back their time, we will yield back ours.

Mr. GREGG. I yield back.

Mr. REID. We yield back.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 381, S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

Bill Frist, Charles E. Grassley, Jon Kyl, Jim Bunning, Lindsey Graham, Mike Enzi, Trent Lott, Mitch McConnell, Craig Thomas, Orrin G. Hatch, Gordon Smith, Rick Santorum, Robert F. Bennett, John Ensign, Olympia J. Snowe, Kay Bailey Hutchison, Don Nickles.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 1637, the Jumpstart Our Business Strength (JOBS) Act, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The yeas and nays resulted—yeas 90, nays 8, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—90

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

NAYS—8

Corzine	Gregg	McCain
Feingold	Hollings	Sununu
Graham (FL)	Lautenberg	

NOT VOTING—2

Bayh	Kerry

The PRESIDING OFFICER. On this vote, the yeas are 90, the nays are 8. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3114

Mr. REID. I ask unanimous consent that prior to the next vote there be 2 minutes equally divided between proponents and opponents of the Cantwell amendment.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mrs. CLINTON. Mr. President, I rise today in strong support of the Cantwell-Voinovich amendment because it is the right thing to do for America's workers and the right thing to do for our economy. Although I am pleased that we are finally voting on this critical amendment, it saddens me that we are still talking about this issue. As many in this Chamber may remember, I worked with my colleagues, Senator FITZGERALD and Senator NICKLES, to craft an unemployment insurance extension as the first legislation passed by the 108th Congress. That was back in January of 2003. Now, I find myself feeling like its Groundhog Day.

A year and 5 months have gone by and times are still tough for the 8.2 million Americans who are out of work. Little over a month ago, on March 30, tens of thousands of Americans lost their unemployment benefits because the Government's temporary extension of unemployment insurance expired. Every week, 85,000 workers have been running out of benefits and 1.5 million have lost their benefits since January. Since President Bush took office, our country has lost over 2 million jobs.

I represent a State with one of the highest unemployment rates in the country. In March, New York State's unemployment rate was 6.5 percent. In New York City alone, unemployment has hovered around 8 percent since September 11, 2001. And, according to the Department of Labor, if New York City were a State, it would have the highest unemployment rate in the entire country. Almost 130,000 New Yorkers exhausted their unemployment insurance benefits between December of last year and today, none of whom qualified for Federal benefits.

Action to help New Yorkers—and all Americans—who are out of work is long overdue. That is why I am proud to cosponsor the Cantwell-Voinovich amendment. This amendment is virtually identical to a bill that I introduced with Senator GORDON SMITH in November of last year. The Cantwell-Voinovich legislation will do what my bill with Senator SMITH would have done: it will reinstate the Federal unemployment insurance program and probably every unemployed worker with an additional 13 weeks of benefits.

Ignoring the unemployed will not make them go away. In fact, today, despite Congress's inaction on this issue, long-term unemployment is at the highest level in recorded history. More than 2 million Americans have been our of work for 6 months or more, a higher percentage than ever before. According to the Children's Defense Fund, this represents an increase of 245 percent in the past 2 years alone. And if the past is any indication of the future, many of these jobs will never return. In past recessions, 50 percent of job loss is temporary, the other half is permanent. Economists estimate that today nearly 80 percent of job loss is permanent.

Permanent job loss isn't just a theoretical term. It is a father with a mortgage, a mother with car payments, and a young person with a college loan. We must never lose sight of that simple fact. While everyone wants to collect a paycheck, unemployment checks provide certainty in an economy that is anything but certain.

For months, administration officials have claimed that their tax package will grow the economy and create jobs. But the only thing it is certain to grow is our Nation's mounting debt. The last time their economic policies were enacted, Americans lost 2 million jobs. We cannot wait to see how this debate plays out while 10 million unemployed Americans struggle. They paid into this system—some for decades—and now, when they need those benefits the most, we should provide them.

It is long past time that we take care of unemployed workers in this country. We simply cannot keep repeating the past and let down American workers in these vulnerable and uncertain times. After all, Groundhog Day was officially February 2. And like more than 600,000 unemployed New Yorkers, I am ready to put it behind me.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, this next amendment is the Cantwell-Voinovich amendment which will say when it comes to our economy and producing jobs, the priority of the Senate ought to be taking care of those individuals who lost their jobs and lost their benefits.

This amendment is crystal clear. It only applies to people who have lost their benefits and are unemployed as of the enactment of this legislation, which means it only covers people who have lost their jobs and are unemployed. It is about whether we are going to say 1.5 million Americans are more a priority than simply passing this legislation with all the tax credits, all the incentives for various corporations in America, but leaving American workers out in the cold.

Thirteen billion dollars of the unemployment insurance trust fund should be enough security to give back to workers who have paid into this account and through no fault of their own are unemployed. So while this institution today is going to make decisions——

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

Ms. CANTWELL. I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I ask unanimous consent that both sides have 1 additional minute.

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

Ms. CANTWELL. So the question is whether we are going to continue to make a priority these kinds of tax credits in this legislation and leave the American workers out in the cold. I urge my colleagues, let us do both. Let us help those who have been left behind and continue to try to create a more positive economy.

I urge people to support the Cantwell-Voinovich amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. How much time is remaining?

The PRESIDING OFFICER. There is 2 minutes.

Mr. ENSIGN. Mr. President, I will take 1 minute and then the Senator from Oklahoma will take 1 minute.

Mr. President, a couple of quick facts. First, when the Democrats were in control in the early 1990s, following the recession, we had this same program. They were in control of the White House, the House and the Senate. The unemployment rate was at 6.6 percent and they voted to stop the program, again, when the unemployment rate was at 6.6 percent. Today the unemployment rate is one point lower at 5.6 percent and, yet, now they want to extend the program. This, at the cost of $9 billion. If one is a deficit hawk and they are worried about the deficit, they should vote against the Cantwell amendment.

This amendment is also retroactive. In other words, if a person has a job now, qualified for TEUC after it expired, then this would apply to them. They would get a check from the Government for the time after January they were unemployed.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge my colleagues to vote for this budget point of order that I am going to raise because this amendment is retroactive. This amendment costs 67 percent more than the last time. It costs $9 billion and it is not paid for. I am going to make a pay-go point of order. We did this last week and most of the people who say they support pay-go voted to waive pay-go. We are going to give them another opportunity to sustain pay-go and make sure this amendment does not pass because it would increase the deficit by $9 billion.

The pending amendment offered by the Senator from Washington, Ms. CANTWELL, increases mandatory spending and if adopted would cause an increase in the deficit in excess of levels permitted in the most recently adopted budget resolution. Therefore, I raise a point of order against the amendment pursuant to section 505 of the H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I move to waive the relevant section of the Budget Act and 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 Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—59

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

NAYS—40

Alexander	Domenici	Lugar
Allard	Ensign	McConnell
Allen	Enzi	Miller
Bennett	Fitzgerald	Nickles
Brownback	Frist	Roberts
Bunning	Graham (SC)	Santorum
Burns	Grassley	Sessions
Campbell	Gregg	Shelby
Chambliss	Hagel	Stevens
Cochran	Hatch	Sununu
Coleman	Hutchison	Thomas
Cornyn	Inhofe	Warner
Craig	Kyl	
Crapo	Lott	

NOT VOTING—1

Kerry

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

On this vote, the yeas are 59, the nays are 40. 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. REID. I move to reconsider the vote.

Mr. President, I ask unanimous consent that the following two amendments be in order subject to the following time limit beginning at 2:15; that the time be equally divided and controlled in the usual form: Senator MCCAIN for 60 minutes, and Senator HOLLINGS for 80 minutes. This has been cleared by both managers. I also ask unanimous consent that no other amendments be in order prior to the vote.

I don't have the number of the amendments, but they have been filed.

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:59 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Continued

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3129

Mr. MCCAIN. I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. GREGG, Mr. SUNUNU, and Mr. GRAHAM of Florida, proposes an amendment numbered 3129.

The amendment is as follows:

(Purpose: To strike provisions relating to energy tax incentives)

Strike title VIII.

Mr. MCCAIN. Mr. President, the amendment is rather straightforward. It strikes the energy tax provisions in this bill which are estimated to cost nearly $18 billion. I read from an April 19 article from the Washington Post:

Congress's task seemed simple enough: Repeal an illegal $5 billion-a-year export subsidy and replace it with some modest tax breaks to ease the pain on United States exporters.

This article is entitled ''Special-Interest Add-Ons Weigh Down Tax-Cut Bill.''

But out of that imperative has emerged one of the most complex, special-interest-riddled corporate tax bills in years, lawmakers, Senate aides and lobbyists say. The 930-page epic is packed with $170 billion in tax cuts aimed at cruise-ship operators, NASCAR track owners, bow-and-arrow makers, and Oldsmobile dealers, to name a few. There is even a $94 million break for a single hotel in Sioux City, Iowa. Even one of the tax lobbyists involved in drafting it conceded the bill ''has risen to a new level of sleaze.''

I agree with that lobbyist. This has risen to a new level of sleaze.

The lobbyist goes on to say:

''I said a few months ago, any lobbyist worth his salt has something in this bill,'' said the lobbyist, who would only speak on condition of anonymity. ''Now you see what I'm talking about.''

The Wall Street Journal, Wednesday, May 5, in an article entitled ''Export Tax Follies:''

But instead of solving the problem, congressmen are engaging in one of their epic tax-bidding wars . . . including a $482 million sop to the insurance company, $189 million in ''transitional assistance'' for Oldsmobile dealers, and an $8 million tax break for makers of children's bow and arrows.

Not only that . . . $15 billion in energy tax breaks were thrown in as an added sweetener. The Senate couldn't pass the energy bill as a stand alone measure, so he's looking for any shipwrecks that will sail this year. The measure includes an overhaul of tax treatment for ethanol and subsidies for ''clean'' fuels. . . .

Mr. President, there is an abundance of media coverage of this legislation. It reaches, as the lobbyist said, in my view, a new level of sleaze.

We have to consider what we are doing. We had a $170 billion tax break, which really is $170 billion that will not go into the U.S. Treasury. So Alan Greenspan, last week, says the greatest threat to our Nation's economy is the deficit, and that a free lunch you don't have to pay for hasn't been invented yet. Yet here we are with $170 billion worth of tax breaks, tacking on to it $18 billion in tax breaks on an energy bill that this body could not pass.

It is remarkable, with a half trillion deficit, and we are enacting new tax credits, for—guess who—the oil and gas industry in America which, the last time I checked, is doing pretty well.

The majority of my colleagues on this side of the aisle just voted against an extension of the unemployment benefits for Americans who remain unemployed and haven't profited by this reemerging and strengthening economy. My God, we won't give them an extension of their unemployment benefits. But if the ethanol people of Archer Daniels Midland need it, by God, we will give it to them. Mr. President, $170 billion in tax credits but no extension of unemployment benefits for people who have been out of work, it is a remarkable commentary.

Out of all the provisions that have been added to this bill since it was first brought to the floor of the Senate on March 3, I find the energy tax title the most egregious. That is why I am offering this amendment to strike it. What do these provisions have to do with the underlying bill? Nothing. What do they have to do with ensuring that tariffs that have been placed on our Nation's manufacturers since March 1 are lifted? The answer is nothing.

I understand how sweet this is—how sweet this is—for these lobbyists who are doing so well here in Washington. But if the Senate is to consider an energy tax incentive bill or an energy authorizing bill, we should be following regular order, bringing legislation to the Senate floor, and debating it in its own right. Instead, a 319-page energy tax title was incorporated without a vote.

The proponents of this bill contend it is ''revenue neutral'' and that all the tax cuts in the bill are paid for with offsets. How many times have we played that game? How many times have we used the same old offsets on the same old bills, and somehow, with all these offsets, we now have a half-trillion-dollar deficit? It is hard to imagine. For example, 66 provisions of offsets are identical to provisions that were included in the highway bill. So we are using the same offsets for the highway bill, the same offsets for the energy bill. And as some more pork

comes rolling in here—squealing in here—we will probably use those same offsets again. I understand the duplicative offsets total about $5 billion. Of course, if these bills ever get to conference and conference agreements are reached, only one measure could include these offsets.

Again, the amendment I am offering would strike title VIII of the pending bill.

By the way, I have no illusion as to how this vote is going to turn out. The Senator from Michigan just came up to me and said: Well, don't take away my tax break. I want to take away every tax break, I say to the Senator from Michigan.

The oil and gas subsidies are estimated to cost about $5 billion and are illustrative of what TIME magazine referred to as the great energy scam on the American taxpayers. This graphic is from an investigative report on synthetic fuel credits which appeared in the October 2003 issue of TIME magazine. While synthetic fuel credits are only one indefensible part of this energy tax title, the entire oil and gas subtitle is a shameless scam that benefits the already enormously profitable oil and gas industries with little or no benefit to the American public.

I would like to highlight a few provisions that defy both fiscal and common sense. First, there is about $835 million provided to wealthy oil and gas corporations to write off the cost of looking for domestic oil and gas reserves. As if the oil and gas companies do not have sufficient incentives or resources of their own, we are going to make the taxpayers pay for the basic cost of doing business. This provision sweetens the already generous tax treatment and would allow businesses to recoup their costs for both successful and unsuccessful projects. So failure will be as financially sweet as success.

I suppose some of my colleagues may maintain that providing this opportunity for greater riches to oil and gas corporations could result in more supply for the American public. Well, the Energy Information Administration reports that such claims are not backed by the facts. According to a February 2004 EIA report, these subsidies do not impact supply. The EIA report states:

> The tax provision is expected to have a negligible impact on oil and gas production because . . . year-to-year cash flow can be at least 35 times larger than the tax value and consequently the provision is unlikely to appreciably sway drilling decisions.

In other words, these companies are too rich to pay attention to a paltry $835 million.

Another provision of this bill, which is perhaps even more egregious than picking up the tab for oil and gas exploration, would provide nearly $2 billion for the extension and modification of tax credits for producing fuel from a nonconventional source. ''Nonconventional'' is the operative word when we talk about synthetic fuels. There is nothing conventional about this so-called fuel, a creation of Congress in 1980. Now that this tax credit scam has been exposed by not only TIME but by our own IRS, Congress has no excuse to perpetuate this expensive hoax, which has cost the taxpayers $4 billion since 1999.

If there is anyone who does not know how synthetic fuel is made, the process conjures up images of Rumplestiltskin turning straw into gold, except in this case it is not turning something into anything different. But this is not a fairytale.

Here is how the process goes. First, you start with coal, and then, since IRS rules require a chemical change to occur, you must spray the coal with something other than water—usually it is diesel fuel or pine tar—and, magically, you now have a ''synthetic fuel,'' which sounds better than ''sprinkled'' coal, I guess. The company then sells the coal to a user, such as a powerplant, for a slightly lower cost than untreated—or unsprinkled—coal and claims a huge tax credit for ''manufacturing a synthetic fuel.'' If anyone missed a step of this miraculous process, it is coal, to sprayed coal, to gold.

I would like to show you how golden this tax credit can be. This graphic shows the reduced tax rate of one multinational hotel corporation that also produces synthetic fuel. This corporation is not the biggest beneficiary of the synthetic shelter, but it is illustrative of the point that one does not need to be in the oil or gas business to strike it rich with synthetic fuels.

The IRS has struggled mightily with this tax shelter that grows ever more expansive and expensive. It has undertaken two formal reviews of synthetic fuel production and testing facilities and concluded that there is not any synthetic fuel being produced. This remarkable finding is presented in a November 2003 IRS bulletin, and I quote:

> The Service believes that the processes approved under its long-standing ruling (that a synthetic fuel must differ significantly in chemical composition from the substance used to produce it) do not produce the level of chemical change required.

Incredibly it goes on to say:

> Nevertheless, the Service continues to recognize that many taxpayers and their investors have relied on its long-standing ruling to make investments.

So basically the IRS is going to give this lucrative hoax a ''wink and a nod'' while it waits for Congress to end this sham, which is very unlikely.

Another objectional provision would provide subsidies for the highly profitable gas production method called coalbed methane. According to the Department of Energy, coalbed methane accounted for 57 percent of the growth in U.S. natural gas production between 1990 and 1999. Coalbed methane wells are proliferating in western coalfields and wherever else coalbeds exist, without a tax incentive.

As you can see from these tables, the number of wells drilled in the Powder River Basin in Wyoming has skyrocketed. The tremendous growth in production from 1993 to 2002, with 10,718 wells in this Wyoming field, occurred without a tax credit, and the BLM expects that another 40,000 new wells will be drilled in this area over the next decade. So I think it is clear that this industry has not been waiting around for taxpayer dollars.

If any of my colleagues believe that by making a very profitable industry even more profitable, these tax breaks will help increase gas supply and bring down prices, they are wrong. According to the Congressional Research Service:

> [V]irtually all of the added gas output (from coalbed methane) has substituted for domestic conventional gas rather than imported petroleum, meaning that the credit has basically not achieved its underlying policy objective of enhancing energy security.

In other words, the gas industry has turned from conventional production to coalbed methane with its higher margin of profitability without an increase in total supply.

Additionally, the Congressional Research Service found:

> that from an economic perspective, the Sec. 29 credits compound distortions in the energy markets rather than correcting for preexisting distortions due to pollution, oil import dependence, ''excessive'' market risk, and other factors.

Therefore, one must ask, what is the American public actually receiving from these tax incentives? Economic distortions which translate into higher gas prices. I am certain my colleagues do not want to perpetuate the perverse price effect of this tax credit.

In the Western U.S., most lands operate on the doctrine of ''split estates'' with different owners of the surface property rights and underlying mineral rights. As the number of coalbed methane wells has skyrocketed, the conflicts with thousands of property owners has intensified. That is due to the extensive environmental damage caused by coalbed methane production, which involves pumping massive volumes of groundwater to release the methane held by hydraulic pressure.

Clean coal. The energy tax title would provide an estimated $1.6 billion for the so-called clean coal program. Since 1984, the Department of Energy has already invested $1.8 billion in the clean coal program to ''explore technologies,'' making it the largest environmental technology development effort the Federal Government has ever conducted. But we cannot stop there. This bill would provide an additional $1.6 billion toward the development of still more clean coal technologies. Before we require the taxpayers to pay even more for this program, should we not first consider what we have received in return for the first $1.8 billion?

According to the Department of Energy, the $1.8 billion worth of investments went to Bechtel, Westinghouse, General Electric, Texaco, and other companies that produced technology patents and products that have been

sold around the world, generating billions of dollars for these companies. Besides the enormous profits these companies made by using taxpayer dollars for their research and development, serious deficiencies in the program explain why a new project has not been added in the last 5 years, and why this program should not be funded again.

One of the primary goals of the clean coal program was to produce technologies that scrub emissions from powerplants that result in cleaner air. However, according to a 2001 GAO report, new technologies produced from the $1.8 billion allocated for new clean air technologies have ''limited potential for achieving nationwide emission reductions when used at existing coal-burning facilities.''

The clean coal program management shows more deficiencies. The GAO reports many of the clean coal technology demonstration programs have shown severe problems in meeting costs, schedule, and performance goals.

Biomass. Nestled within the provisions of this bill is one of the more ironic and bizarre U.S. policies to be considered. Under the false guise of exploring environmentally friendly alternative energy sources, this bill extends and expands a subsidy offered to facilities that burn animal droppings. I realize a handful of States are facing legitimate environmental challenges stemming from massive amounts of poultry manure and need to find a way to manage the toxic substances that are a byproduct of these droppings. I favor determining the most effective method of addressing this environmental concern within the proper land management context. However, it would be ironic indeed if, in ordinary to satisfy the need for a clean, renewable energy source, the Senate passes legislation subsidizing the burning of animal droppings, a process which has been found to emit toxic heavy metals such as lead, mercury, and arsenic.

No less green an organization than Friends of the Earth opposes burning these droppings as an energy source because the process ''cause[s] serious environment and community health problems.'' Moreover, EPA studies have suggested these facilities have the potential to cause more air pollution than a coal plant. On top of all this, these facilities drive up prices on natural fertilizers used on American farms, actually detracting from an environmentally friendly farming process that requires no Government subsidy.

Why on earth are we wasting valuable money on such a ridiculous, irrational program, especially when such dire financial and energy needs are facing this country today?

Another interesting provision concerns the proposed Alaska natural gas pipeline. There is a good deal of support for this new pipeline from Alaska to the lower 48 States, but to what extent are we willing to mortgage the Federal budget to help ensure its reality? The energy tax title would provide a huge subsidy to the natural gas companies proposing the construction of the Alaska natural gas pipeline. In the case of a drop in the price of natural gas, the energy title establishes a price floor—how many manufacturers in America would like to have a price floor for their product?—of $1.35 per thousand cubic feet. If the market price falls below that amount, the Federal Government would have to pay the difference to the private companies for a maximum benefit of 52 cents per thousand cubic feet. The credit would be in effect for the next 25 years. Even the conferees on the energy conference committee refused to include this provision in its final agreement on H.R. 6, which, considering the wasteful special interest giveaways included, should make one wonder about the merits of this provision.

I could go on and on about this bill. I could cite many examples, such as dog-track owners and all the other provisions. But this is probably the most egregious we have and it is quite remarkable. It is a very unfortunate way of doing business, because if we establish this precedent of tacking on anything we want to legislation that is totally irrelevant, then I fear the process has broken down even more badly than I first suspected.

Let me again put this in the context of the environment in which we exist today. This bill, which was designed to provide $5 billion in order to satisfy our European friends' concerns, has now grown into a $170 billion ''Christmas tree'' of goodies for every conceivable special interest. When we are running multitrillion-dollar surpluses, I guess you could argue it wasn't such a bad idea.

Last week Alan Greenspan said the greatest danger to America's economy is these burgeoning multitrillion-dollar deficits. We have never enacted tax cuts while we are in a war. If one thing has been made abundantly clear, it is the cost of the Iraq war is going to be incredibly high—far higher than we ever anticipated. Around here, it is business as usual—well, it is not business as usual; this is probably about the worst I have seen.

I won't say the worst because I probably could think of something. It is as bad as anything I have ever seen. We have no fiscal discipline in this body, and our kids are going to pay a very high price for it. When the bow-and-arrow manufacturers and all of the other things that are stuffed into this, such as horse and dog-track owners, and all of the others—cars, automobiles, Oldsmobiles, all of these things are now amassing. I urge my colleagues to vote for the amendment.

I yield the floor.

Mr. GRASSLEY. Mr. President, Senator MCCAIN has filed a motion to strike all of the Energy tax provisions from the JOBS bill. Senator MCCAIN has a right to his opinion, but I overwhelmingly disagree with his opinion and I urge all of my fellow Senators to vote ''No'' on this amendment.

In order to secure our country's economic and national security, we need to have a balanced energy plan that protects the environment, supports the needs of our growing economy, and reduces our dependence on foreign sources of energy.

Every man, woman and child in the United States is a stakeholder when it comes to developing a responsible, balanced, stable, long-term energy policy.

The events of September 11 have made very clear to Americans how important it is to enhance our energy independence. We can no longer afford to allow our dangerous reliance on foreign sources of oil to continue.

But ''wait'' we do, and we do it well. It has been over 10 years since we have passed energy legislation.

And if we wait until we get that ''perfect'' bill, the wait will be forever.

Today, we have the opportunity to correct that because we have added all of the Energy Tax provisions to this JOBS bill. Our energy tax provisions obviously are not perfect. And to those who complain about various provisions, I say, so what do we do? Do nothing? Wait for the ''perfect'' bill?

These provisions may not be perfect but let me tell you what we do have. We have energy tax provisions that were crafted from inception in a bipartisan manner. From the beginning, both Democrat and Republican staffs from both Finance and Energy Committees worked side by side to craft a fair and balanced energy tax package.

I may not personally believe in every one of these provisions, but the process has worked to craft an energy tax package that is good for all 50 States and all forms of energy production, both renewables and traditional oil and gas and conservation and energy efficiency.

Some of the amendments pending on this bill suggest the energy tax provisions will pick winners and losers. Is that true? Am I OK with that?

The answer is a definite ''yes.'' Remember, the winners we pick in this bill are all Americans, all of whom have a stake in reducing our dependence upon foreign energy. We do this by favoring domestic producers over foreign producers.

It is well past time to get serious about implementing energy efficiency and conservation efforts, investing in alternative, renewable fuels and improving domestic production of traditional resources.

As you know, Mr. President, I support a comprehensive energy policy consisting of conservation efforts, development of renewable and alternative energy resources, and domestic production of traditional sources of energy.

And we will have an opportunity under Senator DOMENICI's leadership to address the energy policy issues at a later date, but for now we will only be considering the energy tax provisions.

As my colleagues well know, I have long been a supporter of alternative and renewable sources of energy as a way of protecting our environment and increasing our energy independence.

I strongly support the production of renewable domestic fuels, particularly ethanol and biodiesel. As domestic, renewable sources of energy, ethanol and biodiesel can increase fuel supplies, reduce our dependence on foreign oil, and increase our national and economic security.

As Chairman of the Senate Finance Committee, I continue to work closely with the ranking member, Senator BAUCUS, to defend an energy tax title that strikes a good balance between conventional energy sources, alternative and renewable energy, and conservation.

Among others, it includes provisions for the development of renewable sources of energy such as wind and biomass, incentives for energy efficient appliances and homes, and incentives for the production of non-conventional sources of traditional oil and gas.

I believe the energy tax provisions included in the JOBS bill does a good job to address our Nation's energy security in a balanced and comprehensive way.

I am also pleased that with the JOBS bill we have finally gotten to a point to address this important issue that has such a direct impact on our national and economic security.

For the sake of our children and our grandchildren, we must implement conservation efforts, invest in alternative and renewable energy, and improve development and production of domestic oil and natural gas resources. And we need all of the energy tax provisions to be included in the JOBS bill. I urge you to vote ''no'' on Senator MCCAIN's effort.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, we have so many Members on this side who want to speak in opposition to the amendment, as well as Senators on the other side, but we are quite restricted as to the time to allocate. First, I will begin with Senator BUNNING, 4 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise in strong opposition to the McCain amendment. We need these energy tax provisions now more than ever. The price of energy has risen sharply and is only expected to keep going up and up.

The average price of a gallon of unleaded gasoline now is $1.84 a gallon. Natural gas prices are 70 percent higher than they were a year ago. Coal prices are up 30 percent since last year. These high prices are affecting Americans' pocketbooks at a time when our economy is on the rise.

If Congress does nothing to encourage more production, Americans will continue to struggle financially and our economic recovery will evaporate.

The energy tax package in the JOBS bill will help our country meet its future energy needs and will help kick our economy into gear.

Whether you are a Republican or a Democrat, we all know we need more production. Having a cheap, ready supply of energy is now more critical than ever to our economy. These tax incentives in this bill are crafted to help this production supply. Striking them from the bill will only lead to higher prices and more energy inflation.

The energy tax incentives will also mean more jobs and more money in Americans' wallets. I am certain every single Senator has talked to his or her constituents recently about the need for the economy to create more jobs. It is a staple of the Presidential race. It is what the American people are talking about. We know the energy incentives in this bill will induce and boost industries like the coal community in my State and put people to work.

There is nothing wrong with that. Passing this bill and these energy amendments will give us all a chance to put our money where our mouth is.

Congress has been playing political football with an energy bill for years now. I think it is time to end the game. Many of us would prefer to pass a stand-alone energy bill. We have been trying and trying, with no effect. But for one reason or another, this bill has not passed, and this is probably our last and best shot to pass changes that will make a difference right away to our Nation and to our economy.

Finally, and most importantly, this is a national security issue. We all talk the talk when it comes to promoting America's energy independence and reducing our reliance on foreign oil and sources of energy. Here is a chance to actually do something about that. By beating this amendment and passing the base bill, we will provide a significant boost to domestic energy production.

We have a lot of problems in Iraq, but we cannot bury our head in the sand. We have to recognize that continuing to rely on energy supplies from that part of the world is a threat to our national security. We cannot change that overnight. We can start taking the first steps now by passing the energy tax provisions and stepping up domestic production.

I urge a ''no'' vote on the McCain amendment. As a member of both the Energy Committee and the Finance Committee, I helped write the energy incentives in this bill. The incentives are good legislation and will help our economy. Our workers and our country need this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Michigan, Ms. STABENOW.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I also rise to oppose this amendment. I first wish to thank those involved in the underlying bill and the tax bill for focusing on major provisions for manufacturing. I thank both the Senator from Iowa, the chairman, and the Senator from Montana, for their leadership on this bill.

These tax credits in this bill relate directly to support for manufacturing. It is very important that the energy tax credits for consumers that are in this bill be passed so that we can lower purchase prices for vehicles and energy-efficient appliances and be able to help build market demand for more efficient, environmentally beneficial cars, appliances, and other products.

Many of these credits are for consumers to help lower the prices because we know until there is a large demand and large production, the prices initially will be high. That is the reason for the hybrid vehicle tax credit for consumers, alternative fuel vehicle credits for consumers, and fuel cell credits.

The Federal Government must partner with American businesses and consumers to encourage the development, purchase, and use of energy-efficient technologies, and that is what is done through these energy tax credits.

All of us want our automobiles to be more fuel efficient—and certainly, as we look at the skyrocketing gas prices, this has never been more clear—so we can be less reliant on foreign sources of energy as well, but we need to be doing those things that will encourage the production of alternative fuel vehicles to move us away from that dependency on foreign sources of energy.

U.S. automakers have already invested hundreds of millions of dollars in developing better, cleaner technologies. For example, a hybrid version of the Ford Escape SUV, which has a fuel economy of 40 miles per gallon, will be available to consumers the end of this summer. It is very important that we put this in place as part of supporting that new effort. A hybrid electric version of the GM Sierra full-size pickup truck will also be available to consumers this year. And DaimlerChrysler will be producing a hybrid version of the Dodge Ram pickup truck starting this year as well.

These moves into alternative fuel vehicles are part of the way we move away from foreign oil dependence. We need to partner to help create that market and help give consumers the ability to purchase these vehicles in order to make them available. Developing fuel cells and other more fuel-efficient technologies really does require a partnership with the Federal Government and with industry. In order to achieve maximum fuel efficiency, the Federal Government must take the role as partner, along with our companies, engineers, and workers, to make this happen. That is what the energy tax credits for fuel-efficient vehicles in this bill do.

I should also indicate that it is necessary to invest in infrastructure, such

as hydrogen refueling stations, to support the development of fuel cell technology. Again, there are tax credits in this bill that allow that to happen.

There are other important provisions, of course, for ethanol, of which I am very supportive, as well as the efforts to address energy-efficient appliances. Again, we have consumer tax credits in this bill to help encourage the purchase and the development of energy-efficient appliances as well as items related to the home.

Mr. President, I will strongly oppose this amendment, and I hope my colleagues will join in a bipartisan way to defeat it.

Mr. BAUCUS. Mr. President, I yield 3 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague from Montana. As always, he is generous in yielding to other Members on these issues. I also join the previous two speakers in opposing the amendment of the Senator from Arizona.

The energy tax incentives that are part of this bill is a package of incentives that we reported out of the Finance Committee and added to the Energy bill essentially in the same form we have in the 107th Congress, and we have done it again in the 108th Congress. It is my strong belief that there is broad bipartisan support in the Senate for this set of energy tax provisions.

I cannot tell you that every single one of them is exactly as I would want it to be, but there are incentives to encourage more use of renewable energy, to encourage continued production of oil and gas and increase production in some cases, to provide incentives for a shift toward more use of hybrid cars and advance vehicles. All of those items are positive.

As far as renewable energy is concerned, one very important provision contained in this bill that relates to my State and many States is the extension of the tax credit—1.8 cents per kilowatt hour tax credit—for wind energy and other types of renewable energy. There are many wind energy projects that are ready to go around this country; people are waiting to see whether Congress will go ahead and extend this production tax credit for renewable energy that covers them. I think this is a good policy. We need to do that as part of this bill.

There are other provisions that provide incentives for energy-efficient homes, energy-efficient commercial buildings. They provide incentives for efficient appliances, smart meters which consumers can use to reduce their use of energy. There are a great many provisions in this bill that I believe would be useful and would move us in the right direction.

This is not a silver bullet. This does not solve our energy problems. I do not want to represent that to anyone. These are, on balance, very positive actions that we can take, and this clearly, in my mind, is some of the most useful language that we are proposing to enact as part of this overall bill.

Mr. President, I appreciate the chance to speak. I appreciate my colleagues allowing me to go ahead of them, particularly the Senator from Idaho, who yielded time to me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I thank the Senator from Montana.

Mr. President, the Senator from Arizona, in his amendment, suggests to those of us listening and to those who might be observing us on C–SPAN that the oil industry is the most profitable industry in the country and somehow we are subsidizing them beyond reality or respect.

Let me tell you what the oil industry did this last quarter.

Their net earnings went up .6 percent to 6.9 percent. That was their net earnings. It is much more profitable owning a Starbucks on the street corner than it is to own a major oil company in America today. He did not say that the profit margins of the banking industry are 19.6 percent return on investment. So let us get real and, most importantly, let us be honest.

Let's talk about section 29, the synthetic fuels. What was just represented by the Senator from Arizona is not in this bill. What is in this bill, if one deals with synthetics, is there has to be a reduction in the stocks and the NO_X by 20 percent or there has to be a reduction in mercury by 20 percent to qualify for the tax credits in this provision. That is the reality of what we are talking about.

If we want to get America producing again, if we want to satisfy the consumer who in anger paid over $2 at the pump today, then we have to incentivize an investment community to get back into the business of producing.

Fifteen years ago, there were 325 refineries in America. Today, there are less than 125. Why? Too much regulation, too much cost, going offshore. How do we get them back? Incentivize them to come home; incentivize them to begin to produce in this country. Because of Government regulations and costs, they either go offshore to produce or they quit producing.

America's refineries today are at 94-percent capacity. What this tax incentive does is incentivizes our country to get back into the business of producing.

Want to incentivize offshore deep oil drilling? When we did that for the gulf a decade ago, production went up 500 percent. Why? Because it was terribly expensive to drill out there, and so we said if they drill out there and if they find oil, they can write this off.

Our country relies on almost 30 percent of our capacity now in the gulf and in the deep waters. It worked for America and it worked for America's consumers.

So to suggest we are doing something wrong is not representing the reality of the energy sector of this country today as a piece of our economy and our willingness to incentivize it. That is why we are here. That is why this provision is in the FSC bill and that is why the McCain amendment ought to be rejected.

I yield the floor.

VISIT TO THE SENATE BY MEMBERS OF SUMMIT OF NATIONAL CONGRESSES OF THE AMERICAS ON FREEDOM OF THE PRESS

Mr. STEVENS. Mr. President, I ask the Senate to permit me the honor of introducing to the Senate Members of National Congresses of the Americas who are here in Washington for a conference on the freedom of the press. I have representatives of the National Congresses of the Americas from Argentina, Senator Guillermo Jenefes, Senate, and Representative Carlos Federico Ruckauf, Congressman, House of Representatives; Bolivia, Senator Alfonso Cabrera, Senate, and Representative Oscar Sandoval Moron, House of Representatives; Brazil, Senator Helio Costa, Senate, and Representative Celso Russomanno, House of Representatives; Chile, Senator Andres Zaldivar Larrain, Ex-President of the Senate, Senator Alberto Espina Otero, Senate, and Representative Pablo Lorenzini, President of the House of Representatives; Colombia, Representative Alonso Rafael Acosta Osio, President of the House of Representatives; Costa Rica, Representative Mario Redondo Poveda, Ex-President of the National Congress; the Dominican Republic, George Andres Lopez Hilario, Senate Meetings Coordinator; Ecuador, Representative Jaime Estrada Bonilla, National Congress, and Representative Pedro J. Valverde Rubira, National Congress; El Salvador, Representative Ciro Cruz Zepeda Pena, President, National Congress, Representative Ileana Rogel, National Congress, and Representative Francisco Merino Lopez, National Congress; Guatemala, Representative Ruben Dario Morales, First Vice President, National Congress; Honduras, Representative Samuel Bogran Prieto, Vice President, National Congress, and Representative Gilberto Goldstein, National Congress; Jamaica, Deika Morrison, Senator and Minister of State, and Michael Anthony Peart, Speaker of the House of Representatives; Mexico, Representative Francisco Arroyo Vierya, Vice Presidente, House of Representatives; Nicaragua, Representative Carlos Noguera Pastora, President, National Congress; Paraguay, Senator Modesto

Luis Guggiari, Senate, and Representative Rafael Filizzola, House of Representatives; Peru, Representative Carlos Almeri Veramendi, National Congress, and Representative Enith Chuquival Saavedra, National Congress; United States, Senator TED STEVENS, Senate Pro-Tempore, U.S. Senate; Uruguay, Senator Luis Hierro Lopez, Senate President and Vice President of Uruguay, and Representative Jose Amorin Batlle, President, House of Representatives; and Venezuela, Ricardo Antonio Gutierrez Briceno, First Vice President, National Congress.

RECESS

Mr. STEVENS. I ask unanimous consent that the Senate stand in recess for not to exceed 5 minutes so Members might greet my friends from the Congresses of the Americas.

There being no objection, the Senate, at 2:53 p.m., recessed until 2:57 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Continued

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield 5 minutes to the senior Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. First, I thank the chairman and the ranking member for their kindness and generosity as we work on this bill. I am speaking now of the energy tax parts of this bill. The rest of it is the jurisdiction of the Finance Committee, and they essentially have done that. We have helped with the energy provisions because we were trying to put together a comprehensive energy package.

It is good that in the Senate, after one Senator talks and states his position, there is an opportunity for somebody else to state their position, and I want to do that because actually earlier today the distinguished Senator from Arizona talked about a bill that I do not even recognize, talked about things wrong with this bill that I am not even sure are in this bill, but certainly failed to mention anything that is good about it. So I would like to talk about some of the good parts.

It is estimated that this part of the bill will create 650,000 jobs. Those jobs will be in construction and the operation of infrastructure vital to the energy security of this country. Tax provisions will allow us to build an Alaska pipeline, which is supported by the Senate and will bring us American-owned gas all the way from Alaska. It will not do any environmental damage, and in the next 5 years we will add substantially to our inventory of natural gas.

The package provides incentives for electricity produced from clean coal. If there is anything that we need in America, it is a vital, growing, prospering energy grid in the United States. We have to have a stronger energy grid if we are going to have a stronger America. Everybody says that. This bill provides for incentives so that will happen.

Third, this package puts incentives in for biomass, geothermal, and solar.

Last, but not least, we have the renewables. We have wind energy that is to break and come through in large quantity. It is all stopped now until this bill passes and the incentives in this bill are adopted.

If you have a major solar energy facility, construction is stopped until this bill is produced. Then that will grow faster than any renewable we have ever had. In addition, clean coal technology is applied so that we can have other alternatives for the production of electricity. If there is anything we need, it is alternatives. Clean coal will be an alternative.

If we tell the world we are producing alternatives, they will believe we are worried and they will believe we can do something for ourselves, instead of continuing to put our hands out and rely upon foreign sources of energy.

There are tax provisions related to the restructuring of the electricity industry that are being imposed by the Federal Energy Regulatory Commission. It is absolutely imperative that if the Government forces utilities to sell assets as part of deregulation, it will not also turn around and punish utilities for those sales through the Tax Code.

Some of the critical incentives in this package that will encourage domestic oil and gas production are in this bill. We know it. Everybody who has studied it knows it. There may be some provisions that Senators do not like because when you put a package together you just cannot have everybody liking everything. But I submit, to come here with a Time magazine that was talking about a different bill and a different time—there are things that are alluded to that are not in this bill—is truly not something the Senate should bank on with reference to whether they vote for this. They ought to vote for this. It is half an energy package and it is better than none.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. THOMAS. Mr. President, we are dealing with an issue that is probably the most important that we have before us, in terms of jobs, in terms of meeting the needs in this country. We are dealing with an issue we have talked about for 2 years or more. We have finally come up with some solutions. This is an issue that has already been on the floor that passed with 58 positive votes. The Senator from Arizona indicated it hasn't been discussed or talked about or voted on. That is absolutely not the case. It has been, and that is where we are.

There are two major issues involved. I am not going to get into the details. We are creating a policy for our future energy needs. As we look around at our families and our businesses and everything we do, there is nothing that affects our lives all day long more than energy. Whether it is lights, whether it is air-conditioning, whether it is heat, whether it is cars, whether it is receiving goods in your community, that all takes energy. So we are developing a policy, not necessarily for what is going to happen next week or next year, but down the road, where are we going to be?

The second portion deals with some of the issues that are troublesome now: The price of fuel, and the idea we are going to run short on some of the kinds of fuel we are using. All those things are there. This was part of an energy bill. It is not all of it, but it is a good part of it that we have worked on for a very long time. It is backed up by the facts. Unfortunately, to say we talked about no facts, here that is not true. This is a broad policy, for one thing, that deals with alternative sources of energy. It deals with renewables, the cleanliness of coal, with pipelines. It deals with all those things that are so important to do this job.

One thing that always strikes me, probably because we in Wyoming are the largest coal producer in the country, is that coal is the largest fossil fuel resource that we have available to us. At the same time, some other things have been easier. All the electric-generating plants over the last 15 years use natural gas. Natural gas can be used for many things where coal really is only available for this purpose, coal and nuclear. But we want to make coal energy clean so the air will be clean. This is what this bill does. It allows us to use that fuel most available to us and have it for the future.

We have been taking a look at energy usage, and what strikes us is that consumption continues to go up at a rather fast rate. We are using more in our cars; we have bigger homes; we are doing things so that consumption of energy goes up. But the production level is going down. If that doesn't create some kind of crisis in the future, I don't know what possibly could.

It was mentioned, and it should be mentioned again, that this is a jobs bill. That is really what we are trying to do. We can create more jobs in this particular provision, not only immediate jobs for the development of nuclear powerplants or power lines or coal mines or whatever, but the jobs created for other industries, of course, have to have energy available for them.

The amendment proposed here certainly would do away with one of the most important things we have done for a good long time, something we have worked on for a good long time,

something that not only deals immediately with problems but addresses the future of our families, yours and ours, and jobs. So we ought not pass this amendment. I urge my colleagues to vote against it.

I yield the floor.

Mr. GRASSLEY. Mr. President, the press and some in this body have unfairly defined this legislation as a ''porky'' tax bill. There have been articles in all the major papers following that line of attack.

One Member of the leadership on the other side said on April 20 he is worried that the sheer amount of tax breaks in the bill could end up impeding its progress. ''They've loaded this truck up and the tires are about to explode,'' he said, calling the efforts to pile sweeteners onto the bill ''haphazard.''

That Member went on and cautioned, ''any time you load it up as vigorously as they have, you create as many problems as you solve.''

Well, let's talk about the so-called ''porky'' provisions in this bill. It is a bit irritating that the complaints come from folks who say they support the bill. Every provision in the bill is the result of a joint recommendation of myself and Senator BAUCUS. We responded to requests from every Senator, including those who are critical of the bill.

I guess I would ask anyone, including the critics a question. That question would be, ''Are you willing to throw aside the provision you asked us to put in the bill?'' Are you willing to go back to your constituents and tell them you don't think their interest has merit?

I don't think I will hear any of the critics respond yes. I haven't had any takers yet and don't think I will by the time the bill's done.

Let's look at the bigger picture.

This bill has about $60 billion dedicated to the replacement of the FSC/ETI benefit. This bill has another $40 billion dedicated to international tax reforms to make our domestic manufacturers more competitive overseas.

There is another roughly $20 billion in domestic manufacturing incentives, including the research and development tax credit.

Some of that package deals with issues such as the unfair tax on bows and arrows which has a domestic job impact. There's another $8 billion dealing with the extenders, including a permanent tax credit directed at hiring hard-to-place workers. There's another $10 billion dealing with housing, rural areas, hard hit urban areas, Indian tribes, and other sectors of our economy. We're directing resources at economic development, plain and simple.

Finally, there's another almost $20 billion for the bipartisan Finance Committee energy incentives package which has passed the Senate twice.

All of this is offset with corporate loophole closers and measures aimed at curtailing tax shelters. The dollars involved in the much-criticized provisions are very small—perhaps less than 3 percent of the total cost of the bill. Members and the ''big city'' press need to keep their eyes on the ball: ending the euro tax and helping domestic manufacturers.

Senator Daniel Patrick Moynihan responded to the New York Times regarding the 1997 bipartisan tax relief bill. The press had made much of a few narrow provisions, such as a provision to provide tax relief for parachuter trainees. There is an excise tax on air travel. The tax is meant to apply to commercial travel. Read literally, the tax applied to parachute training flights even though those flights are not commercial transportation.

Senator Moynihan described the Finance Committee provisions that were designed to deal with these inequities this way: ''You will never see representative government more specific than in the Senate Finance Committee . . . It's a form of accommodation, and in between you think about the national interest, because there are things we all share.''

Like the 1997 tax relief bill, the bill before us includes a number of provisions that, at face value, may seem to be trivial. It is important to keep in mind, however, that each of these provisions was added in response to specific requests from fellow Senators who are looking out for the vital interests of their constituents. That is what representative government is all about.

The Federal tax system is vast. It touches virtually every aspect of life. From birth to grave. There are excise taxes to fund our airports and highways. There is a corporate and individual income tax to fund defense and general welfare. There are payroll taxes to fund Social Security and Medicare benefits. There is an unemployment payroll tax to fund unemployment benefits.

Now, when you go through this bill, you can find some provisions that involve animal manure or windmills. If you don't look beyond the superficial humor of the subject matter, you can have a lot of fun. Of course, big city papers like to make fun of these rural provisions. I always have to remind these folks that food doesn't grow in supermarkets. It grows on farms. The byproducts of those farms can give us clean energy. What's so bad about that?

Part of what we hear out in the heartland is get us some insurance that jobs are coming back. Especially, they say, in the area of manufacturing. The economy is coming back. The U.S. economy, the mightiest in the history of the planet, is adding jobs at a healthy rate. The people want an insurance policy.

Growing jobs in our diverse economy is not a cookie cutter exercise. This bill has general policies for the most part. Some are proactive, like the manufacturing deduction. Others are reactive, like responding to the Euro tax. Still others are particular. They may relate to small isolated communities or a single industry. When you take a look you'll find a common thread through nearly all of them: job creation.

That is what this bill is all about. Creating jobs, plain and simple.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. How much time remains on our side?

The PRESIDING OFFICER. The opposition has 6 minutes 44 seconds, and the proponents have 8 minutes 30 seconds.

Mr. BAUCUS. I yield 3 minutes 22 seconds to the Senator from Delaware, and 3 minutes 22 seconds to the Senator from Alaska following the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 3 minutes 22 seconds.

Mr. CARPER. I thank the Senator for yielding me 3 minutes 22 seconds.

Mr. President, as we gather for this debate, about 60 percent of the oil we use in this country comes from other places. We are importing all that oil. It adds to a huge trade deficit, about $500 billion and growing. About a third of that trade deficit is related to the importation of oil.

We have the opportunity with the energy provisions that are part of this bill to do some good things with respect to energy independence in this country. We have the opportunity to urge people to buy more energy-efficient cars, trucks, and vans. We have the opportunity to nurture an automotive industry which will provide fuel-cell-powered vehicles that will provide for vehicles that are powered by a combination of electric and internal combustion—maybe a combination of diesel and electric. We have the opportunity to provide incentives for people to use solar energy more frequently and more effectively, to use geothermal energy more effectively, more broadly. We have the opportunity to encourage people to use wind power as a source of electricity, and other forms of energy, through this bill.

Some would say we ought to have a comprehensive energy bill, and these elements ought to be part of the comprehensive energy bill. I will tell you I don't know if we are going to have a chance to debate a comprehensive energy bill. We do have the opportunity today to encourage solar energy, wind power, fuel cells, hybrid vehicles, and we have a chance to do this today.

About 100 miles from here there are fields on the Delmarva Peninsula—in Delaware, Maryland, and Virginia—where we are growing soybeans. We use soybeans in my part of America to feed the chickens. We take the hull and we feed the chickens and raise more chickens in Delaware, I think, than anyplace in the country. We use the corn we raise to feed the chickens. We have a lot of soybean oil we don't know what to do with, and one of the things we figured out to do is take soybean oil and mix it with diesel fuel—80-percent

diesel, 20-percent soybean oil—and we use it to power our DelDOT vehicles in the State of Delaware. We use it to power more farm equipment in the State of Delaware that is diesel power.

It works, it is energy efficient, and it is environmentally friendly. People tell me it smells like french fries.

That is one of the things we are more likely do with this bill. The intent and encouragement of this bill is to reduce our dependence on foreign oil and move to biofuels, including soy diesel. Good results come out of using soybeans for this purpose. It reduces our reliance on foreign oil, it is environmentally friendly, and it gives the folks who are raising soybeans—whether it is Delaware, Idaho, or any other place—the opportunity to have another market for their commodity. That is good for farmers, actually paying them to grow a commodity rather than paying them not to do that. This makes a whole lot of sense.

I wish the Senator from Arizona in offering his amendment had focused on section 29. That is a more narrowly crafted amendment. My hope is this will be defeated and we may reconsider it and come back to address that.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, we talk about energy all the time. There is a certain, not confusion but a real consternation about what is going on in the Senate right now and why we can't get specific provisions of the Energy bill through the Senate.

We understand energy in Alaska, whether it is gas or whether it is oil, whether it is renewable energy or thermal. What we have before us is an opportunity to make some of the energy policy a reality in the country.

Last week I had the opportunity to testify before the House Subcommittee on Energy and Air Quality about the proposed Alaskan natural gas pipeline. I talked about the role which this pipeline can play in meeting the needs of some very critical areas in the country—specifically, our national security, the health of our economy, job creation, and achieving and maintaining a healthy environment for ourselves and our families.

Whether we are talking about the creation of hundreds of thousands of jobs across the Nation from this project or providing a secure and stable domestic supply of energy, whether it is providing the critical feedstock we have heard about on the floor here today at a reasonable price for the chemical, agricultural, and other important sectors of the economy or providing an abundance of clean-burning, environmentally friendly fuel, there is no doubt about it, this project is not only in the best interests of Alaska, my State, but across the entire country.

As we talk about the project in Alaska, it has been suggested with the price of natural gas as it is, we don't need to have the incentives that are included in this legislation before us right now. With the specific proposals which are pending, why do we need the incentive? Yes, in fact, the proposals are out there, but they will tell you we need the assistance. They have stressed the necessity of Congress enacting the fiscal incentives contained in this bill in order for construction of the pipeline to go forward.

We need these provisions to achieve all of the positives a gas pipeline has to offer. It is essentially a futures contract with the American people. We provide the incentive to build the pipeline and you will receive all the benefits the gas pipeline has to offer. The Alaska natural gas pipeline is one of those rare examples of a project that is a win from every perspective. It helps us achieve our environmental goals, it helps the economy by creating a great number of good-paying jobs, and it enhances our national security. But if the McCain amendment is adopted and the energy tax provisions are stripped from this bill, the relief Alaska's natural gas can provide remains stuck in the ground.

I urge my colleagues to oppose the McCain amendment and retain the financial incentives needed to construct the Alaska natural gas pipeline.

I thank the Chair. I yield the floor.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that all time be yielded.

The PRESIDING OFFICER. Without objection, it is so ordered. All time is yielded.

Mr. GRASSLEY. 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 amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The results was announced—yeas 13, nays 85, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—13

Biden	Graham (FL)	Lautenberg
Boxer	Gregg	McCain
Corzine	Hollings	Sununu
Dodd	Kennedy	
Feingold	Kyl	

NAYS—85

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

NOT VOTING—2

Edwards	Kerry

The amendment (No. 3129) was rejected.

Mr. DOMENICI. 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, I ask unanimous consent that following the disposition of the Hollings amendment, the next amendments to be offered are the following in the order provided: Senator KYL, No. 3127, 60 minutes equally divided; Senator LANDRIEU, 60 minutes equally divided; Senator LEVIN, 20 minutes equally divided; further, that there be no second-degree amendments in order to the amendments prior to the vote.

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

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, as has been ordered, after the Hollings amendment, there are three more. I am not sure any votes are needed on the three amendments the chairman just mentioned, by Senators KYL, LANDRIEU, and LEVIN. We have times, but we are trying to work with the Senators. For example, it is my understanding that the Kyl amendment will be offered and withdrawn. We may be able to work out the others as well. Nevertheless, that is the order.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senators from Pennsylvania, the senior and the junior Senators, have 5 minutes apiece to discuss something very personal to their State.

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

The Senator from Pennsylvania, Mr. SANTORUM, is recognized.

MURDER IN IRAQ

Mr. SANTORUM. Mr. President, I rise today to talk about a death in Iraq. There has been a lot of death in Iraq. We can all come to the floor and give a story about a brave man or woman who sacrificed their life for freedom in that country. Today I rise to talk about not a soldier who has bravely fought in battle over there but a civilian who was brutally murdered by a group of al-Qaida terrorists. We are now seeing this displayed on our television screens across America.

This civilian's name is Berg, Nicholas Berg. He is 26 years old, from West

Chester, PA, outside of Philadelphia. As described by an AP article that came across my desk, a group of five al-Qaida terrorists, one of them purporting to be Abu Musab al-Zarqawi, the No. 2 man of the Islamic terrorist group, wearing ski masks and scarfs, standing over Mr. Berg, who had just given a statement as to who he was and where he was from. They read a statement and then proceeded to push this man on his side and to cut off his head with a large knife, and then they held the head out before the camera.

If anybody wants to know what we are fighting and why we are fighting this war on terror, this is a very good example of it. Those who have seen the tape on television have described it as revolting and sickening, and I will describe it as an outrage to the civilized world, and one to which we must strongly condemn and respond. We must continue to respond as aggressively as possible in rooting out these terrorist cells and going after them where they are. Where they are, in this case, is in Iraq. This occurred in Iraq. He was a civilian contractor working in Iraq. His body was found a couple of days ago on a bridge in Iraq.

First and foremost, I express my sympathy to his parents, Michael and Suzanne, who I know have gone through a very harrowing experience over the past couple of months when they didn't know where their son was on more than one occasion. They did not know his whereabouts for the past month. And to find out about this tragedy, the loss of their son, in such a violent and horrific way and to not know until, I am sure, seeing it on television and hearing it described, is a nightmare for any parent.

The Bergs certainly have my prayers and I know all in this Chamber share the sorrow.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. SPECTER, is recognized.

Mr. SPECTER. Mr. President, I join my colleague, Senator SANTORUM, in expressing sympathy for the parents and family of Mr. Nick Berg, who was the victim of a brutal assassination. Actually, it was a decapitation.

It is hard to express the shock of this kind of barbaric conduct. It is subhuman what they did—taking a video of this man, who identifies himself, identifies his mother, his father, his siblings, and then, in view of the video, they decapitate him, with the anguish of a man being brutally murdered. It is just subhuman conduct.

We ought to put on notice these murderers, assassins, that whatever it takes, the civilized world will bring them to justice. The news reports are that they were wearing masks and hoods to conceal their identities. I have seen investigations succeed even where people were wearing masks and hoods. They will talk about it, or someone will talk about it. In a cruel, barbaric world, this conduct descends to new levels.

This incident will unleash as intensive a manhunt as has ever been witnessed, with the United States leading the way—obviously, because it is an American citizen from a Philadelphia suburban town. We will be joined by all of the civilized world in bringing these malefactors, these perpetrators to justice. Just because they are wearing hoods, because their identities are disguised, doesn't mean they cannot be identified and apprehended. I know every last thing will be done to bring them to justice.

And then, beyond the identification of these specific assassins, these specific terrorists will renew our determination, which is already at the 100-percent level, to bring the terrorists to justice. They already murdered thousands of Americans on September 11, 2001, and Iraq is a magnet for terrorists from all over the area.

This underscores the necessity to confront the terrorists in Iraq. If we don't confront them there, we will be doing it again in the United States.

This is an incident which will receive enormous attention to try to determine the perpetrators and to bring them to justice.

There are some other matters which have been suggested as to Mr. Nick Berg's being in custody, one report taken into custody by the Iraqis and held by U.S. military personnel. I am advised a lawsuit was started, and then Mr. Berg was released. We are now making an effort to identify the attorneys in the matter to try to get some background before we talk to the parents and the relatives of the victim of this atrocious conduct.

There is also a question of bringing back the remains of Mr. Berg. We shall do our best to facilitate that and to help the family.

This atrocity is obviously going to receive widespread attention. In a cruel, brutal world, this descends to new depths.

Again, our sympathy to the parents. We will pursue the matter to bring these specific perpetrators to justice and to bring the terrorists to justice, generally.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 3134

(Purpose: To strike the international tax provisions that are unrelated to the FSC/ETI repeal and eliminate the phase-in of the deduction for qualified production activities income)

Mr. HOLLINGS. Mr. President, I call up my amendment No. 3134 and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 3134.

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

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

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

The PRESIDING OFFICER. There are 40 minutes to each side.

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, the underlying bill gives a 5-percent domestic manufacturing deduction to the manufacturing industry. Of course, that is woefully insufficient. My amendment would provide a full 9-percent domestic manufacturing deduction.

The underlying bill slowly phases in the domestic manufacturing provision over a 5-year period, but instantly it gets the full effect of the overseas industry, the outsourcing. They immediately get some tax breaks over the period of the bill covering some 39, almost 40 billion bucks.

Can you imagine that? Here is a bill entitled—this is the committee report—the Jump-Start Our Business Strength, JOBS, Act. It jump-starts the jobs in Shanghai and Guadalajara and not in Philadelphia, PA, I can tell you that right now.

What my amendment does is provide the right incentives. It eliminates the tax breaks for corporations that have moved American jobs offshore and gives those tax breaks to the employers of jobs in America today.

I wish to thank, first, the distinguished ranking member, Senator BAUCUS, of our Finance Committee and his outstanding staff. They have been very helpful in trying to make this amendment not only relevant but budget neutral. I am not sure about its budget neutrality, but I am told now we do have a relevant amendment. If we have to get into the arcane discussion with respect to budget neutrality, I will be glad to join it.

I want to get to the point. We are still in a post-World War II culture, what they call up here an environment or pedigree. What happened was, after World War II, we had our finest hour with the Marshall plan. We sent money overseas. We sent expertise overseas. We sent equipment overseas. In the cold war, capitalism defeated communism. It worked. All during that almost 50-year period since World War II, we all enjoyed it because we fudged when it came to trade. We treated fair trade more or less as foreign aid, but we knew what we were doing. We had to sacrifice a certain amount of our industry, our jobs, our economic strength to prevail in this cold war.

Now what has occurred is the competition has regeared, they have rebuilt, they have industrialized, and they have become outlandishly competitive. And here amidst a trade war, we hear those in the national Congress running around and saying: Woo, we might start a trade war; free trade, free trade, I am for free trade, when they know free trade is like dry water. There is no such thing. If you trade, you are trading something, you are

swapping an article with various countries, free trade, but we know that is not going to come to pass.

The example we set of a capitalistic free market and our endeavor in the last 50 years, the Japanese did not follow suit. They have the financing, they have the subsidies, they have the nontariff barriers, and we have yet to get into downtown Tokyo with American sales. Come on, quit kidding each other. It worked that way for Japan. Korea followed. And now China is following the same Japanese pattern of restricted and competitive trade, not free trade.

Today we are in real trouble. We are losing jobs like gangbusters overseas. We have lost 68,000 jobs in the little State of South Carolina in the last 3 years, over 3 million jobs nationally. I can tell you, 58,000 of those jobs are our textile jobs, and they are not going to be replaced. You can put all this statistical information from the Federal Reserve and Greenspan about how we are creating jobs, but they are not coming to South Carolina.

As Abraham Lincoln said some years ago: The dogmas of the quiet path are inadequate to the stormy present. As our case is new, we must think anew, we must act anew, we must disenthrall ourselves, and then working together we can save our Nation. That is the reason for this amendment.

One does not put up an amendment to this finance bill with hope. The chairman of the Finance Committee knows there are not going to be any amendments. But we might be able to disenthrall our colleagues because the country has to develop a competitive trade policy in order to subsist and survive.

I can point out survival in the very beginning of this Nation started with Alexander Hamilton. Of course, I will not read the book—Ron Chernow's ''Alexander Hamilton.'' They will not give me that much time, but I recommend to everyone this particular edition. You will find the mother country, England, prevented manufacture in the Colonies, later the United States of America. In fact, they arrested and jailed anyone with any manufacturing talent who would move from England to the Colonies.

We had a veritable struggle in the earliest days, and we had just barely 1 hour of freedom when the mother country said: Under this David Ricardo doctrine of comparative advantage, we will trade with you what you produce best and you trade back with us what we produce best.

As a result, Alexander Hamilton wrote his famous treatise, ''Report on Manufacturers.'' I will not read that and put it in the RECORD, but I will say in a phrase exactly what Hamilton told the Brits: Bug off. He told the Brits, we are not going to remain your colony, shipping you our timber, iron ore, rice, cotton, indigo, and natural resources, and importing the manufactured articles and remaining a banana republic; we are going to build up our own manufacturing.

It caused me to listen to our friend Akio Morita, the former head of Sony. Some 20 years ago in Chicago, while lecturing third world countries, he said you have to develop a strong manufacturing sector in order to become a nation state. Then he pointed to me and said: Senator, that world power that loses its manufacturing capacity will cease to be a world power.

It is economic strength that counts in this terrorism war. It is diplomacy. It is negotiation. It is not military strength. We have to disenthrall ourselves and realize when we are going around talking about we might start a trade war, it was Hamilton himself and the United States of America some 228 years ago that started the trade war.

The very first bill—well, Pat Moynihan used to correct me on that. He said the first was a resolution for the United States Seal. So let's say the second bill that passed this Congress in its history on July 4, 1789, was a tariff bill, protectionism, a 50-percent tariff on 60 different articles. We started a trade war.

When Abraham Lincoln was President, they were going to build a transcontinental railroad. They said, we are going to get the steel from England. President Lincoln said, we are going to build our own steel plants, and he put import restrictions on that British steel and we built the steel plants.

When Franklin Roosevelt was President in the darkest days of the Depression, we did not practice any comparative advantage. He put on the most successful initiative ever with import quotas and subsidies for America's agriculture. That farm crowd that is now heading up our Finance Committee gets $180 billion worth of all kinds of subsidies. Then they run around here and tell this poor little textile Senator, protectionism, protectionism, you are going to start a trade war.

We do not get a subsidy. We do not have those things the farmers have. I favor what the farmers have, I say in the same breath. I vote for it because I think it is a very successful program.

President Eisenhower, in the mid-1950s, put on oil import quotas. Yes, John F. Kennedy—I sat there with Andy Hatcher and we would grind out the mimeograph machine—and we got the seven-point Kennedy textile program of restrictions on textile imports in 1961.

Who else other than Ronald Reagan, the best of the best, he put import quotas on steel, machine tools, semiconductors, motorcycles. Last night, I was near Myrtle Beach and they told me there were 100,000 motorcyclists—I think I ran into 99,000 of them out on the highway—but do my colleagues remember what old Ronnie Reagan did? He started a trade war of motorcycles. He put a 50-percent import tariff on motorcycles. Harley Davidson now has recovered its health and we have them all running up and down the beach at Myrtle Beach, SC. So do not come now and tell me about starting a trade war.

We have had that trade war and we know simply and clearly what happens. I want to read starting on page 20 of ''Theodore Rex'' by Edmund Morris, because this is so interesting. I will read what protectionism did at the turn of the century, this is under Teddy Roosevelt, when we did not have an income tax. For the first 100 and some years, we financed this great United States of America with protectionism. I am trying to get that through so this crowd will wake up and quit pulling off this charade of the multinationals, because that is who we are facing. We are facing the U.S. Chamber of Commerce, the Business Roundtable, the National Association of Manufacturers, the Conference Board, the United Federation of Independent Businesses. The newspapers make a majority of their money on retail advertising and grind out this free trade, free trade, do not let us start a trade war.

Well, here is what the trade war gave us:

> This first year of the new century found her worth twenty-five billion dollars more than her nearest rival, Great Britain, with a gross national product more than twice that of Germany and Russia. The United States was already so rich in goods and services that she was more self-sustaining than any industrial power in history. . . .
>
> More than half of the world's cotton, corn, copper, and oil flowed from the American cornucopia, and at least one-third of all steel, iron, silver, and gold.

Here we are having trouble manufacturing steel. We were exporting one-third of the world's steel.

> Even if the United States were not so blessed with raw materials, the excellence of her manufactured products guaranteed her dominance of world markets. Current advertisements in British magazines gave the impression that the typical Englishman woke to the ring of an Ingersoll alarm, shaved with a Gillette razor, combed his hair with Vaseline tonic, buttoned his Arrow shirt, hurried downstairs for Quaker Oats, California Figs and Maxwell House coffee, commuted in a Westinghouse tram (body by Fisher), rose to his office in an Otis elevator, and worked all day with his Waterman pen under the efficient glare of Edison light bulbs. ''It only remains,'' one Fleet Street wag suggested, ''for [us] to take American coal to Newcastle.'' Behind the joke lay real concern: the United States was already supplying beer to Germany, pottery to Bohemia, and oranges to Valencia.
>
> As a result of this billowing surge in productivity, Wall Street was awash with foreign capital. Carnegie calculated that America could afford to buy the entire United Kingdom, and settle Britain's national debt in the bargain. For the first time in history, transatlantic money currents were thrusting more powerfully westward than east. Even the Bank of England had begun to borrow money on Wall Street. New York City seemed destined to replace London as the world's financial center.

Well, in the year 2004, we are broke. We have come from the greatest creditor nation to the greatest debtor nation. The Japanese are financing over $460 billion of my deficit. The Chinese are financing my debt—not me financing any other country like we started

with protectionism. The Chinese have over $200 billion of my deficit. We will end up this year in September, in a few short months, with a deficit that will approximate $700 billion.

We are spending around $2 billion a day more than we are taking in. Can you imagine that? In the early 1980s when I talked about budget matters, I spoke about how it took us 200 years of our history to get to $1 trillion in debt. The cost of the Revolution, the Civil War, Spanish-American War, World War I, World War II, Korea War, Vietnam War—it took us 200 years and the cost of all the wars to reach a $1 trillion debt.

In the last 3½ years—because we don't want to pay for our war and want to give tax breaks instead—we have already piled up $2 trillion in debt; $2 trillion in the last 3½ years.

This crowd has to sober up. We have to get hold of ourselves. We have to disenthrall ourselves and we have to start competing. Remember, it is our standard of living. That is the most frustrating thing around here. Here we add on these requirements: the minimum wage, Social Security, Medicare, Medicaid, plant closing notice, parental leave, safe working place, safe machinery, the old age act, the discrimination act, and this act and that act—all of that goes into the cost of production. It is not just the minimum wage; it is our high standard of living. Every Republican and every Democrat favors clean air and clean water. So we are not going back on our standard of living. So fundamentally we have to protect, and that is the fundamental role of Government.

I will never forget when we swore in President Ronald Reagan for his second term. It was inclement weather and we did it in the Rotunda. He raised his hand to preserve, protect, and defend. We came back and we were debating trade, and we said: Oh, we don't want to protect, we don't want to protect. The fundamental oath that we take as public servants is to protect. We have the Army to protect us from enemies without, the FBI to protect us from enemies within. We have Social Security to protect us from old age, Medicare to protect us from ill-health; clean air, clean water—antitrust laws to protect the freedom of the market. We can go right on down the list. Are we going to pass a wonderful high standard of living and then run around like ninnies hollering: Wait a minute, wait a minute, free trade, free trade. We don't want to start protectionism—they get that garbage from the Business Roundtable and the U.S. Chamber of Commerce.

I talk as one having received all of their awards. In 1992, I was man of the year of the National Chamber of Commerce. By 1998 they were sending out leaflets against me. So I speak advisedly. That crowd is not any longer interested in Main Street America. They are interested in Main Street Beijing. That is where you make the money, and the country can go to hell as far as they are concerned. So it is our duty to protect the economy and open up the markets and everything else like that.

Don't tell us more about retrain, retrain, retrain. I continually hear that. Oh, we have to retrain. I went through another little town yesterday, Andrews, SC. It brings to mind Oneida. I brought that plant in. They make little T-shirts. They closed to go to Mexico. At the time of closure they had 487 employees. The average age was 47 years.

We have done it, Senator, your way. We have retrained them and we have 487 highly skilled computer operators. Are you going to hire the 47-year-old highly skilled computer operator or the 21-year-old highly skilled computer operator? You are not going to take on the retirement, the pension cost of the 47-year-old. You are not going to take on the health cost of the 47-year-old. You are going to get the 21-year-old. So don't tell me about retraining.

We have the most productive economy—that is what Alan Greenspan says. He is sobering up himself. He came down here with this administration saying we were paying down too much debt. ''We are paying down too much debt.'' He sanctioned all these tax cuts. Now he says debt and deficits matter, and he is worried about interest rates now and everything else of that kind, and paying bills.

It is time we speak out as much as we can, early on, so we will know exactly where we stand. Where we stand is that we have to reorganize—begin to organize, I should say—our trade effort, not just the Department of Commerce, but a Department of Trade and Commerce. I have been serving for almost 38 years on what was originally the Committee of Foreign and Interstate Commerce because article I section 8 says that Congress—not the President, not the Supreme Court—but the Congress of the United States shall regulate foreign commerce.

But, instead, it is over in the hands of a deep six group known as the Finance Committee. What they do is they work out their little deals. You might get a stadium, you might get a courthouse, you might get any kind of visions of sugarplums dancing in their head.

Forget about trade. They put on fast track. After they make their deal, the vote is fixed. Then it comes to the floor of the most deliberative body that cannot, under fast track, deliberate. And we enjoy it. We have tied our hands with fast track because we don't want to take the responsibility. That is what the polls will tell you: Don't say you are for or against, just say you are concerned.

So we say we are concerned and we keep getting reelected and the country goes to hell in an economic hand pot. I can tell you right now we are in real trouble, and we have to disenthrall.

What happens is that we need to organize a Department of Trade and Commerce, take that special Trade Representative, put it under that Secretary, do away with the International Trade Commission, which is a fix. You can find the damage done by the International Trade Administration over in Commerce. Then you go over to the Commission and they find out—oh, there is never any injury because you have growth. The GNP now is 3 or 4 percent, so there is no injury. So we keep sending the jobs out of the country like gangbusters, and we ought to do away with that particular fix of the Finance Committee. Then come in and get an Attorney General—an assistant, let's say, to enforce the trade laws.

Many a trade lawyer in this city has gone all the way to the Supreme Court and found out that, well, politically it is set aside. It was that way in the Zenith case, when they were gathered around the Cabinet table and President Reagan walked in and he said: I have to take care of Nakasone. We are going to have to reverse that decision, after 3 years and millions of dollars of legal costs.

So we ought to put in, like we have for antitrust, like we have for equal employment—we have to put in an Assistant Attorney General to enforce those laws, get the Customs agents, and finally when we get right down to it, do like the others do, play their game. If you are going to sell it here, you have to make it here. Isn't that wonderful? That is exactly what China really controls.

They said, if you want to sell it here you have to make it here. I haven't gotten them that far along, I am just trying to flex their minds so we will get away from this trade war and protectionism nonsense, so we can put in a competitive trade policy and save our industrial backbone.

Mr. President, how much time do I have remaining? My distinguished colleague from Florida, Mr. BOB GRAHAM, wants to be heard.

The PRESIDING OFFICER (Mr. CHAFEE). There is 12 minutes.

Mr. HOLLINGS. Let me yield at this time to the proponents and the distinguished leadership of our Finance Committee. I retain the remainder of our time.

The PRESIDING OFFICER. The Senator from Iowa.

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

Senator HOLLINGS asks us to take $39 billion of international reforms and put it towards more domestic manufacturing relief.

I have told my colleagues so many times I shouldn't have to repeat it. But this bill is all about encouraging domestic manufacturing.

The level of spending in this bill is already over three to one in favor of domestic issues. We dedicate over $75 billion to domestic manufacturing relief.

FSC/ETI currently benefits manufacturing by $50 billion. Obviously, you can see this bill is a much stronger

commitment to manufacturing than the old FSC/ETI bill we are replacing. We have already accelerated the phase-in of the manufacturing tax rate. That is thanks to a bipartisan amendment by Senator BUNNING and Senator STABENOW. We have modified the transition rules to provide stronger relief in transition for manufacturing companies which presently get the old FSC/ETI benefits this bill replaces.

I hope it is easy for my colleagues to conclude that there is very little to be gained by the amendment proposed by the Senator from South Carolina.

It is time we had our rational discussion of the international reforms in this JOBS bill because we have been spending so much time on nongermane amendments. The amendment before us is not one of those nongermane amendments but it has kept us from discussing so much which is very basic with this legislation. Maybe people think there is no reason to discuss it because this bill was built from the ground up in a bipartisan way, coming out of our committee on a very overwhelming vote of 9 to 2.

I think Members will be surprised to learn that some of our international tax rules actually harm the domestic operations of U.S. companies. When foreign income is brought home, the United States allows an offset against U.S. tax for any foreign taxes paid on that income. That is why it is called the foreign tax credit. Foreign tax credits ensure that we do not double tax foreign earnings. Accordingly, the foreign tax credit plays a vital role in preserving the international competitiveness of our companies.

In the Tax Reform Act of 1986, Congress enacted a provision that causes foreign tax credits to expire every 5 years. That was done for a reason that is not very well justified because it is often used around here—to make that 1986 tax bill revenue neutral.

Some claim this is a good rule because it forces foreign earnings to be repatriated within 5 years. But that conclusion does not comport with reality. The reason companies don't bring back foreign earnings is because of double taxation. That is what occurs with foreign tax credits expiring.

I will give you an example. A U.S. company sets up new operations in Poland to serve Eastern Europe at this time when Eastern Europe is being integrated with the European Union. That happened last week. For the next 8 years in this hypothetical—quite reasonably—it takes all of the capital generated by the Polish subsidiary to expand the company's presence in Eastern Europe. At the end of 8 years, it finally has some extra cash which it can send home.

What happens? It discovers the taxes it paid to Poland from years 1 through 3 are no longer eligible for the foreign tax credit because they are more than 5 years old. The Polish tax rate is 28 percent. This means if a company repatriates those early earnings, it will pay combined Polish and U.S. taxes of 63 percent. It is really almost confiscatory. That means, of course, the money is not coming home for reinvestment in the United States. We lose the benefit.

If those early tax credits had not expired, the United States would actually pick up some tax revenues. The subsidiary would owe the difference between the 28-percent Polish rate and the 35-percent U.S. rate. That happens to be a gain of 7 percentage points of taxation into our U.S. Treasury from that company.

To ensure that double taxation no longer occurs, our JOBS bill extends the carry-forward period for foreign tax credits from 5 years to 20 years. Twenty years is the amount of time companies have to utilize net operating losses. It is only appropriate, then, that the key mechanism for avoiding double taxation should have the same shelf life.

Our JOBS bill mostly fixes problems in the foreign tax credit area. The only time a company benefits from a foreign tax credit is when it brings that money home.

To repeat a very elementary point, foreign tax credits are a benefit to that company only when that company brings foreign earnings home for reinvestment. When the credit expires, this impedes capital mobility because of double taxation, and it blocks reinvestment of foreign earnings in the United States.

Another example of guaranteed double taxation is our rule that only allows 90 percent of a company's AMT to be offset with foreign tax credits. This rule guarantees that the company will be double taxed on 10 percent of the alternative minimum tax. The JOBS bill allows what is common sense—a 100-percent offset.

To give you a real-life example of how these two changes will help U.S. operations make investments in America and create jobs in America, the largest American manufacturer in this example of a particular automobile part is bringing dividends back from its profitable foreign operations to cover losses in its U.S. operations. Their U.S. losses, when combined with the foreign dividends to fund the U.S. operations, has created huge unused foreign tax credits with a 5-year expiration period. Because of their ongoing U.S. losses, it is unlikely these credits will be used within those 5 years.

This company also has a growing alternative minimum tax because their foreign tax credits can only be offset by 95 percent of their AMT liability.

The limit is creating an annual alternative minimum tax liability because the additional 10 percent of the AMT cannot be offset with the foreign taxes that have already been paid on that income. The company is guaranteed to incur double tax on foreign earnings brought back to support the U.S. operation. This may be unbelievable to anyone listening, but this is actually happening under U.S. tax laws.

The company's foreign competitors in the United States are not equally hindered in the same way by the 90-percent alternative minimum tax, foreign tax credit limit. If a foreign competitor loses money, they get a 20-year U.S. net operating loss compared to the 5-year foreign tax credit carryforward. Our Tax Code, then, is harming a company that has operations in all 50 States and employs 38,000 people in 16 different manufacturing facilities.

This example shows why the 20-year foreign tax credit carryforward and the repeal of the 90-percent AMT foreign tax credit limits are in this very important jobs in manufacturing bill. The current rules harm U.S. operations and we need to fix it.

I also have some comments on another provision, the interest allocation provisions, to give another example of how our international rules harm U.S. operations. As I said earlier, foreign tax credits can only offset foreign income; they cannot offset income from U.S. activities. In determining the amount of foreign income, certain U.S. expenses, such as interest expense, are partially allocated to foreign income. This is used in calculating the amount of foreign tax credit a U.S. company is allowed to claim on its return. The United States arbitrarily allocates U.S. interest expense to foreign earnings, but the foreign government does not recognize that interest expense for its tax purposes. It is as if the interest expense somehow disappears into the clear air.

The interest allocation rules artificially reduce the foreign tax credits that can be used, and when the credits cannot be used the credits expire. It may surprise many Senators to hear that our interest allocation rules create a competitive disadvantage for U.S. multinationals that try to expand their operations into the United States and maybe do not get expanded here.

A portion of the interest expense on debt incurred to invest in the United States is allocated to foreign source income. A foreign corporation making the same U.S. investment is not impacted by these interest allocation rules. It gets to fully deduct the interest costs within the United States and thereby has a lower cost of capital than a U.S. company making that same investment. Therefore, the interest allocation rules actually work against U.S. multinational companies that invest in the United States. It has put some at a competitive disadvantage with foreign companies operating in the United States. I hope this is very clear, that this is not the right thing for the U.S. Tax Code to do to foreign manufacturers. Why should we encourage international competition in the United States against our own domestic manufacturer?

We have Senators demonizing the JOBS bill international provisions. This gives me an opportunity to emphasize once again how anything gets done in the Senate—only in a bipartisan way. This is a bipartisan bill.

Democrats and Republicans agree to everything in this bill, and the international provisions we agreed to were provisions that actually help U.S. job creation and help our own economic growth.

I ask the Senate to support Senator BAUCUS and this Senator in this bipartisan bill. I hope Members will not buy the distortion. None of the international changes caused jobs to go offshore. Just the opposite. These were selected to bring the foreign money back for real investment in the United States, creating jobs in the United States, creating manufacturing jobs in the United States because this is a manufacturing bill. These changes level the playing field between the United States and foreign companies operating inside the United States. They were specifically selected because they tend to help U.S.-based manufacturers more than other sectors of our economy.

The entire JOBS bill is geared towards creating jobs in manufacturing—jobs in the United States, not overseas—because American manufacturing overseas does not benefit from this bill.

It is quite simple. These are the only kinds of international provisions we could ever get bipartisan agreement on because it is so obvious. It is so obvious, it came 19–2 out of our committee. We should not allow international rules to remain in place if they harm U.S. operation. Once again, we are talking about commonsense international tax reform. In fact, if anyone wants to condemn this bill, it is that maybe we do not do anything radical in this bill. We just fix problems. We fix problems with current law. We fix problems with current law that happens to be harming U.S. domestic interests.

So I ask Members to vote against the amendment of the distinguished Senator from South Carolina.

I yield the floor.

Mr. HOLLINGS. Mr. President, I yield 8 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, we are here for two fundamental reasons. One, we are here to remove from our Tax Code a provision that has been declared illegal by the World Trade Organization, and certain industries in America are now being sanctioned for that illegal provision.

We would not be here debating an international tax law change but for the fact that the WTO declared illegal our system of encouraging U.S. manufacturers to export. I don't think any Member would challenge that statement. These international tax changes are totally being carried by the need to eliminate this WTO-offending sanctions-creating provision.

There is a second step we ought to be taking. We ought to remove the incentive for U.S. firms to take jobs from the United States overseas. There are a lot of incentives that are already out there. There are incentives of lower labor costs, lower environmental standards, lower standards in terms of human rights. All of those are already in place. However, we do not need to be giving a further economic incentive to move jobs out of the United States.

Let me state briefly what I believe we ought to be thinking about as we consider this matter. Just a couple of hours ago, as I was walking to the Capitol, I ran into a large group of folks. I stopped and asked them who they were. They were machinists from Wichita, KS. Do you know what they told me? In Wichita, KS, machinists used to be 27,000 strong. Do you know how many they have in Wichita today? Only 16,000. Eleven thousand jobs have left Wichita from that one union. I asked, where did the jobs go? Did they disappear? No longer producing airplanes? No, the 11,000 jobs are still in place, but they just happen to be in places such as China, India, Brazil, and other countries which are now building the airplanes that used to be built in Wichita.

When I told that group of Wichita machinists why, in part, those jobs had left Wichita to go offshore, they were stunned. So let me tell the Senate what I told the Wichita machinists. We have a fancy provision in the international tax law called ''deferral.'' In fact, this Senate voted about 20 years ago to repeal this deferral. But that effort failed.

''Deferral'' basically means the income earned by the foreign subsidiary of a U.S. multinational is not subject to tax. They do have to pay whatever their local taxes are to China or India, but they do not pay any tax to the U.S. Government.

Do you know what that costs us every year in lost revenue for our Government? According to the Treasury Department, it costs us $11 billion a year. That is the incentive we are giving. That $11 billion, incidentally, is about what it would take to do two things we debate a lot around here: fully fund the No Child Left Behind law and fully fund our veterans program.

Over the years, this benefit has produced substantial savings to American corporations. Let me give you a few examples. Citigroup has saved, on an accumulated basis, $6 billion as a result of this provision; ExxonMobil, $22 billion; Hewlett-Packard, $14 billion; IBM, $18 billion.

Aside from taking advantage of this extremely generous tax break, which creates a positive incentive to move jobs from the United States overseas, every one of those firms appears on Lou Dobbs' ''Exporting America'' list. Every one of the firms that is getting this tremendous benefit is doing what the benefit is designed to do, which is to encourage the relocation of jobs outside the United States of America.

So in light of that, what are we doing in this bill to reduce or eliminate the incentive for jobs to leave America? Do you know what we are doing? We are increasing it by $3.7 billion per year.

I respect greatly and consider Senator GRASSLEY to be one of my friends who I most respect and admire in the Senate, but I wish he were here to answer this question. If this bill does not give greater incentives to American firms to leave America and move jobs offshore, why does it cost us $3.7 billion? Why are we going to have an additional revenue loss of that magnitude other than the fact that we are encouraging jobs that would not otherwise have left America to do so and, therefore, create more of this deferral tax benefit?

But it does not end there, as with my friends from Wichita. There is a second provision. It has the fancy name ''repatriation.'' What does that mean? That means after a company has deferred paying U.S. taxes on the $18 or $14 or $22 billion they have accumulated, and they finally decide, ''Well, I want to move some of it back to the United States,'' for whatever purpose, we are now going to say for 1 year they can do that, not at the same tax rate they would have paid had they kept those jobs in the United States—which is approximately 35 percent—they are going to be able to move that money back to the United States at 5.25 percent, which is approximately an 85-percent benefit, tax gift over what they would have paid had they kept those same jobs at home.

What is this going to cost us? What is the difference between a 35-percent and a 5.25-percent tax rate? Well, the cost to the Federal Treasury is going to be approximately $16 billion in the year this window is opened.

Now the proponents of this window are going to say: Oh, this is a temporary window. We are going to shut that thing tight after 1 year. Friends, I would be willing to make a substantial wager of Florida oranges that once this window gets in the tax law, it is going to be like all those other tax practices that were supposed to be temporary.

I say to the Senator, do you remember when the President came down here in 2001 and said: ''I want you to pass all these tax benefits, but they are only going to be temporary so we can stimulate the economy''? Now what is the President's tax plan? To make all those temporary taxes permanent.

What do you think is going to be his tax plan when it gets to be 2005, if he is still the occupant of 1600 Pennsylvania Avenue? He will be down here wanting to make this window a permanently open window.

I could not imagine, at a time when we are so concerned with the loss of jobs, we would pass legislation that would create even additional incentives for American jobs to pick up—maybe on aircraft made by Americans in Wichita, KS—and fly away to other lands.

We should support Senator HOLLINGS' amendment. And then we should vote no on final passage of this bill.

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

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There is 3½ minutes.

Mr. HOLLINGS. Mr. President, I yield whatever time I have to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I am going to support the amendment to strike this section. I do that because the Senator from South Carolina is absolutely right. So is the Senator from Florida. The fact is, there are several provisions that incentivize the movement of U.S. jobs overseas. At a time when we are trying to create new jobs in this country, to say to companies—which, by the way, have moved their jobs overseas already—''Repatriate your income to this country now, and we will give you a 5.25-percent tax rate,'' how about a 5.25-percent tax rate for every American? How about a 5.25-percent tax rate for those who live in North Dakota or South Carolina or Florida?

Why should we provide incentives for companies that want to move their jobs overseas? I have talked at length about Huffy bicycles. They are gone. They are now made in China. They used to be made in the United States. Radio Flyer, the little red wagons, they are gone. They used to be made in the United States. Those little red wagons are now made in China. The U.S. taxpayers provide an incentive for those companies to close their U.S. plants, fire their workers, and move their jobs overseas.

Now this bill comes to the floor of the Senate and says to those companies that moved their jobs overseas: We will give you a good deal. Repatriate some of that money, and we will lower your tax rate to 5.25 percent. Well, that sends a signal to everybody that when you decide next to move your jobs overseas to access lower labor costs, at some point in the future somebody will get behind a closed door and come up with this goofy idea that they will reduce your tax rate again—maybe to 5.25 percent, maybe to 1.25 percent. How about zero?

My question is this: If it is good enough for these companies, why is a 5.25-percent tax rate not good enough for every American? Why is it not good enough for working families?

But the Senator from South Carolina has it right. We ought not, in any circumstance, provide any additional incentive to move more American jobs overseas. They are moving overseas to access lower labor costs and less restrictions with respect to safe plants and environmental restrictions. Why on Earth would we want to give them a tax benefit as they leave this country? This makes no sense to me.

There are some provisions in the international tax section which I think are all right. But there are some that are, in my judgment, a colossal waste of money and fundamentally the wrong incentive with respect to American jobs. Because of that, because of this pernicious provision that reduces the tax rate to 5.25 percent for the repatriation of earnings for those that have already moved their jobs overseas, I am going to support the amendment that is offered by the Senator from South Carolina. He is right on track.

As you know, we had a vote a few days ago on my amendment that would have done more than this amendment, essentially. My amendment was taking out of existing law the provision that encourages companies to move overseas. The Senator from South Carolina supported that. The Senator from South Carolina now says they are creating a new piece of legislation that, in the long run, will have even more incentive to move American jobs overseas. He says: Let's stop that. Let's not do that. I agree with him completely. I think the Senator from South Carolina does a service to this Chamber by offering this amendment. I intend to support his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I say to the Senator, if you do not have any more time, then I will yield back my time and we can then vote.

Mr. HOLLINGS. Good.

Mr. GRASSLEY. Is that OK?

Mr. HOLLINGS. Yes.

Mr. GRASSLEY. Mr. President, I yield back all time on this side.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 3134. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 23, nays 74, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—23

Akaka	Dorgan	Inouye
Byrd	Durbin	Jeffords
Clinton	Feingold	Kennedy
Conrad	Graham (FL)	Kohl
Dayton	Harkin	Leahy
Dodd	Hollings	Levin
Mikulski	Reed	Reid
Rockefeller	Sarbanes	

NAYS—74

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

NOT VOTING—3

Edwards	Kerry	McCain

The amendment (No. 3134) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I have a unanimous consent request that has been cleared on both sides. I ask unanimous consent the pending Kyl amendment be recalled.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senator from Texas, Mrs. HUTCHISON, have 2 minutes for an amendment that she wants to offer.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3138

Mrs. HUTCHISON. Mr. President, I call up amendment No. 3138 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] for herself, Mr. SMITH, and Ms. LANDRIEU, proposes an amendment numbered 3138.

Mrs. HUTCHISON. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To make certain engineering and architectural services eligible for the deduction relating to income attributable to United States production activities and to limit an employer's deduction for entertainment expenses of covered employees to the amount which the employee includes in income)

On page 35, between lines 11 and 12, insert the following:

SEC. 103. DEDUCTION FOR UNITED STATES PRODUCTION ACTIVITIES INCLUDES INCOME RELATED TO CERTAIN ARCHITECTURAL AND ENGINEERING SERVICES.

(a) IN GENERAL.—Paragraph (1) of section 199(e) (relating to domestic production gross receipts), as added by section 102, is amended to read as follows:

''(1) IN GENERAL.—

''(A) RECEIPTS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

''(i) any sale, exchange, or other disposition of, or

''(ii) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

''(B) RECEIPTS FROM CERTAIN SERVICES.—

''(i) IN GENERAL.—Such term also includes the applicable percentage of gross receipts of the taxpayer which are derived from any engineering or architectural services performed in the United States for construction projects in the United States.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined under the following table:

''In the case of any taxable year beginning in—	**The applicable percentage is—**
2004, 2005, 2006, 2007, or 2008	25
2009, 2010, 2011, or 2012	50
2013 or thereafter	100.

(b) LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES WITH RESPECT TO COVERED EMPLOYEES.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities—

''(A) in the case of a covered employee (within the meaning of section 162(m)(3)), to the extent that the expenses do not exceed the amount of the expenses treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to such covered employee on the taxpayer's return of tax under this chapter and as wages to such covered employee for purposes of chapter 24 (relating to withholding of income tax at source on wages), and

''(B) in the case of any other employee, to the extent that the expenses are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to such employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act, and section 15 of the Internal Revenue Code of 1986 shall apply to the amendment made by this subsection as if it were a change in the rate of tax.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to expenses incurred after the date of the enactment of this Act and before January 1, 2006.

Mrs. HUTCHISON. Mr. President, this is an amendment that is a matter of fairness and equity. It is cosponsored by Senator LANDRIEU, Senator SMITH, and myself. It is to put one sector that was in the original FSC/ETI coverage back into the bill. It is architects and engineers. We know there has been a huge outsourcing of professional jobs overseas. This is becoming more common. Our architectural and engineering firms are particularly vulnerable to foreign competition. This amendment is a pared-down amendment that would give them some of the tax deduction back. It is the only sector that was originally covered that is not covered in the bill before us.

My amendment would phase in the coverage over a 10-year period. It is offset, so there will be no cost. It is a matter of fairness. We should not lose our engineering and architectural jobs in this country. They have lost 31 percent of their margins in the last year.

I hope we will be able to agree to this amendment. It is a matter of simple equity. I believe with this phased-in tax deduction we will have an incentive to do our designing and engineering in our country, for buildings that are in our country. This is not applied to buildings built overseas, only buildings built in our country.

I urge the adoption of the amendment, but if it needs to be set aside for further consideration——

The PRESIDING OFFICER. Is there further debate on the amendment?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent the amendment by the Senator from Texas be temporarily set aside so the Senator from Louisiana may offer her amendment.

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

AMENDMENT NO. 3123

(Purpose: To improve the credit for Ready Reserve-National Guard employees, to provide a credit for replacement employees of Ready Reserve-National Guard employees called to active military duty, and for other purposes)

Ms. LANDRIEU. Mr. President, I appreciate the opportunity to speak for just a few minutes on a very important amendment to this underlying bill, an amendment I offer on behalf of Senator MURRAY, Senator JOHNSON, Senator CANTWELL, Senator CORZINE, Senator KERRY, Senator DURBIN, and Senator DODD. They offer this amendment with me. It is an amendment I understand the chairman and ranking member have looked at and both support. In just a moment, I want to ask each of them, if they would, to make some comments about this amendment. We have to dispose of it one way or the other in the next few minutes. We may not need a rollcall vote. I understand their wishes to move through this bill, but I am anxious to hear from the chairman and the ranking member about the importance of making sure this amendment is carried through the process.

This amendment has to do with the Guard and Reserve and the people who employ them stateside. It has to do with our responsibility as a government—or our obligation, if you will, our commitment to the concept of a total force that relies, now, heavily on our Guard and Reserve. This amendment provides some much-needed tax relief to patriotic employers who try to help fill the pay gap between what a man or a woman might earn when they are stateside at their regular job—and then they put on the uniform to defend us and to fight this war that we are engaged with today.

There are maybe 1,000, maybe 2,000, good, compelling stories I could share with you about our current situation. But let me begin by saying the underlying bill moves around about $120 billion. The underlying bill doesn't cost the Treasury because we are raising some fees and taxes and modifying others.

AMENDMENT NO. 3123

(Purpose: To improve the credit for Ready Reserve-National Guard employees, to provide a credit for replacement employees of Ready Reserve-National Guard employees called to active military duty, and for other purposes)

Ms. LANDRIEU. Mr. President, I call up amendment No. 3123.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU], for herself, Mrs. MURRAY, Mr. JOHNSON, Ms. CANTWELL, Mr. CORZINE, Mr. KERRY, Mr. DURBIN, and Mr. DODD, proposes an amendment numbered 3123.

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

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

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

Ms. LANDRIEU. Mr. President, the underlying bill moves around about $120 billion in tax relief, tax increases, changes in our Tax Code to hopefully increase employment opportunities, increase and strengthen employment across the board, and strengthen our economy here and abroad. That is the intention of the underlying bill.

This amendment moves around only $2 billion of that $120 billion. Every Senator could come here and argue that section A is more important than section C or section D. But I can tell you that, to my knowledge, this is the only section of $120 billion that deals specifically with tax credits for guys and gals who are putting on the uniforms, who are not working for the pay but are working because of their patriotism, and working in some of the most horrific and very difficult situations. The least we can do while we are debating a tax bill is to provide some much needed relief.

I could give you 2,000 stories. Because time is short, let me give you 2.

This is a family from Louisiana. It is the subject of an article. There were hundreds of articles written. This one happens to be from the Washington Post. Kathy Kiely did a beautiful job of writing this article. She starts off:

Drastic pay cuts. Bankruptcy. Foreclosed homes. They aren't exactly the kind of challenges that members of America's military reserves sign up for when they volunteered to serve their country.

But for many, the biggest threat to the home front isn't Saddam Hussein or Osama bin Laden. It's the bill collector.

Janet Wright is from Louisiana.

Kathy Kiely writes:

Janet Wright says she ''sat down and cried'' when she realized how little money she and her children, Adelia, 5, and Carolyn, 2, would have to live on when her husband was sent to the Mideast. In his civilian job with an environmental cleanup company, Russell Wright makes $60,000 a year—twice what he'll be paid as a sergeant in the Marine Forces Reserve. Back in Hammond, LA, his wife, who doesn't have a paying job, is pouring the kids more water and less milk. She is trying to accelerate Carolyn's potty training schedule to save on diapers.

Let me ask: Could we do a little better for our Guard and Reserve members who have to take a cut in pay to serve in the military for us? They knew the responsibilities when they signed on to the Guard and Reserve. They understood their commitment to training. They understood their commitment to their monthly responsibilities. And, yes, they understood it wasn't going to be a ''paid vacation,'' but because our policy in Congress is relying on their work and relying on them for longer periods of time than either they or, I might add, at least according to the generals who have testified before the Armed Services Committee, we anticipated, the least we could do in a tax bill is to give them some minimal relief.

This amendment helps families just like the Wright family in Hammond, LA, by allowing the employer to pay the difference between the $30,000 that this Marine Reserve officer will earn when he is serving our country and putting himself in harm's way, and if they pay that gap up to $30,000—it is not mandatory; it is voluntary. Many of our companies, but not all, are doing it for obvious reasons. There is a strain particularly on small businesses. But for those employers that—and I note Boeing is a good example of a very large employer with a wonderful policy, and much better, I might add, than our own Government which today has refused to adopt this policy. But at least there are some employers out there that are doing more than hanging the flag and saying the Pledge of Allegiance. They are actually taking out their checkbook in a very patriotic manner and keeping their Guard and Reserve families whole. The least we could do is give them a 50-percent tax credit, which is what our amendment does.

Let me read another example. I have 2,000; I am only going to read 2.

This is a firefighter from the Pacific coast. He earned a decent living before being called up in 2002, but active duty meant a $700 or a $1,000 a month pay cut and some very painful choices. He said:

My wife said ''We cannot live here anymore. It is too expensive.''

He said he rented a 12,100 square foot home. He moved the whole family into a two-bedroom apartment where his wife has to sleep on a couch.

I understand we all have to make sacrifices. Most certainly the men and women who sign up for our All-Volunteer Force don't sign up because they think they are going on vacation or for the pay or the benefits. They sign up because they are patriotic. They believe in the ideals of this country.

When we are passing a $120 billion bill, if we can't take $2 billion or $3 billion or $4 billion and support the hundreds of thousands of men and women who are away from their jobs stateside and away from their businesses—not 3 months, not 12 months but 18 months under very tough conditions—so their children don't have to drink more water in their cereal in the morning and the wives have to sleep on couches, I think we can do better.

That is why I have waited for several months actually to offer this amendment and to have support from both sides of the aisle.

There is a cap on the credit. So the cost is very reasonable. We have taken the necessary precautions to make sure this amendment is affordable.

According to DOD, 98 percent of the reservists have a pay gap. Sometimes it is only $1,000 a month. Sometimes it could be $500 a month. But in some cases it is more than that. But 98 percent have pay gaps under $30,000.

This amendment will cover almost the entire Guard and Reserve population. Our Guard and Reserve on deployment would not have to worry about their bills being paid and could focus on the job before them, and do it well, as the vast majority of them do day in and day out, night in and night out.

That basically is what amendment does.

There is also a replacement worker tax credit for small businesses, many of which would be affected in the State of the Presiding Officer, with 50 employees or less. It is not just helping to fill the pay gap for employers that continue to pay the salaries, but it also gives some help to small business owners that in many instances take the brunt from their service, particularly when it is extended.

I will end my remarks. I see some of my colleagues on the floor who may want to add some comments.

This affects thousands of people in all of our States. I am proud our Guard and Reserve are right there stepping up on the front lines.

We have an outstanding Guard and Reserve unit. In about a month, we will have over 5,000, almost 6,000, men and women serving in Iraq; again, some of them for much longer periods of time than they were initially told.

I understand the chairman is prepared to accept the amendment. But before I waive my right to a recorded vote, I would like to have some comments from the chairman, who has negotiated this bill beautifully through this process. If he could, I would like for him to comment about the importance of this amendment and the outlook for keeping this amendment in the conference report as we move this bill to the President's desk for his signature.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Iowa.

Mr. GRASSLEY. Madam President, I can comment very positively about the motivation behind the amendment, and the good policy of giving equity to people who are called away from jobs and away from family to go to a far-off land to defend America in a war against terrorism and doing it in a way that has never been done for guardsmen and reservists to this extent, I think going back to the Korean war. What we are doing now has not been done for a long period of time.

The Senator from Louisiana needs to be complimented on her efforts to recognize that and, particularly, to recognize that through employers who show very patriotic fervor in cooperating in this whole program.

I can say that very positively about the amendment of the Senator from Louisiana. She is asking me to predict what might happen in conference. It is very difficult to do that. I have a reputation for defending the position of the Senate and working as best I can to work through this. Obviously, I cannot make any promises to the Senator from Louisiana.

Ms. LANDRIEU. I can appreciate that. I appreciate the comments of the chairman. He has shown himself to be a great leader, a man of his word. I know he will uphold and fight for our position.

I think it would be a real shame to move a $120 billion tax bill through this Congress at this time and have not a part of it specifically directed to some of the men and women who are carrying the greatest burden right now.

I know our businesspeople of all sizes and shapes are contributing to the overall economy and creating jobs, but there would not be any country to create jobs for if it were not for the men and women in uniform who protect us here and abroad.

I appreciate the remarks of the chairman.

I ask unanimous consent to have printed in the RECORD three articles involving enlisted reservists of the National Guard, and a letter from the National Guard Association that represents thousands of current and retired guardsmen and reservists.

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

NATIONAL GUARD ASSOCIATION
OF THE UNITED STATES,
Washington, DC, May 10, 2004.

Hon. MARY LANDRIEU,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LANDRIEU: On behalf of the membership of the National Guard Association of the United States (NGAUS), thank you for your unwavering support of the men and women of the National Guard. Today, there are more than 94,000 National Guard personnel serving on active duty in support of the global war on terrorism. These men and women, who are serving in harm's way, contribute over 40% of our fighting force in the Global War on Terrorism. This number also reflects those personnel serving abroad and away from their families, communities, and employers.

Members of the National Guard must take time off from their civilian employment to perform military duties. Increased operational tempo dictates that National Guard and Reserve Component members must be placed on active duty ever more frequently. This increased operational tempo places additional financial burdens on employers, to a much greater extent than in past years. We at NGAUS believe employers should not be expected to bear the increased financial burdens that increased Guard deployments place on them.

Assisting employers with a tax credit provides them the ability to inject those funds back into their businesses in order to offset the effects of the temporary loss of their National Guard employees.

The National Guard Association of the United States urges the Members of the United States Senate to support your efforts to recognize the civic duty of those employers who, in the face of financial constraint, continue to support their National Guard employees.

Sincerely,

RICHARD C. ALEXANDER,
Major General (Ret.), AUS,
President.

[From the San Mateo County Times, Dec. 18, 2003]

WAR CARRIES A HIDDEN COST; RESERVISTS' ''PAY GAP'' OFTEN FORCES DIFFICULT CHOICES ON FAMILIES

(By Justin Jouvenal)

PACIFICA.—Scott Hellesto endured snipers and artillery fire, but one of the most difficult battles during the Navy reservist's service in Iraq came on the homefront—losing his three-bedroom home.

The Pacifica firefighter had earned a decent living before being called up in January 2002, but active duty meant a $700– to $1,000-a-month pay cut—and some painful choices. ''My wife said, 'We can't live here anymore, it's too expensive,''' Hellesto said of his rented 2,100-square-foot home in Antioch. ''So we moved the whole family into a two-bedroom apartment, where my wife had to sleep on the couch.''

This ''pay gap'' is a hidden cost of war that likely affects thousands of the state's reservists and National Guard troops as they transition from more lucrative civilian jobs to active duty. It is an extra burden for families already dealing with the pain of separation and the stress of having a loved one in a combat zone.

''There's fewer Christmas gifts and other cuts,'' said Lt. Col. Terry Knight, a California National Guard spokesman. ''Often you have a spouse left behind that ends up getting a second job.''

The pay gap has become especially difficult for reservists and National Guard troops since the 2001 terrorist attacks, as more are serving and many are going for longer stints on active duty.

About 10,000 California National Guard troops have been deployed since 9/11—the largest mobilization since the Korean War. About 4,000 are currently on active duty, including 1,600 in Iraq. They earn between $1,700 and $2,800 a month.

Hellesto, who served with the 23rd Marines Echo Company, swept into Iraq with the first wave of troops last March. He made it to Nasariyah and helped secure a Baghdad neighborhood on April 9, the day the statue of Saddam Hussein fell in Iraq's capital.

''I saw the best and the worst of humanity,'' Hellesto said.

He ran missions as a decoy to draw out Saddam's Fedayeen soldiers and withstood SCUD missile alerts. Hellesto also recalls with warmth the Iraqi soccer star who gave him his gold medal from the Asian Games because Hellesto cared for the man's son.

Hellesto said he doesn't want people to think he is bitter about his service—he said he knew what he was getting into and would do it again. Still, the financial strain was difficult.

He said he could hear the edge in his wife Michelle's voice when he would secretly call home on a satellite phone supplied by a Fox News reporter.

''Sometimes, I wondered what I got my family into,'' Hellesto said.

Hellesto was able to get by with a little help from his friends and family. He turned to fellow firefighters for help when he was buying Christmas gifts for his three children last year.

The apartment—he dubbed it the ''shoebox''—was in a rough neighborhood, and someone slashed the tires and broke a window on his truck last spring. Fortunately, a friend of Hellesto's was able to pay to fix up the truck.

Scott Hellesto was called to active duty in January 2002. He served at Camp Pendleton outside San Diego for a year, before his tour of duty was extended and he was sent to Iraq.

Like many companies and local governments, the city of Pacifica kept up Hellesto's regular salary and health benefits for the first five months he was on active duty, but after that, he was on his own.

Michelle Hellesto had to go on the Navy's health plan, which meant giving up the family doctors. She also had to get government assistance to pay for formula for her children.

''It put a strain on us; it was like supporting two households when he was done at Camp Pendleton,'' she said. ''We couldn't have done it without the help of friends and family.''

Hellesto estimated that about 30 to 40 percent of the reserves he served with were in the same financial bind, but the pay gap does not affect every soldier. Many earn more on active duty than they do in their civilian jobs.

The National Guard Association estimates about a third of the Guard earn less on active duty than in their civilian jobs, while another third earn more.

Congressman Tom Lantos, D-San Mateo, introduced a bill in March that would close the gap for some troops. Specifically, the bill would entitle a reservist who is also a federal employee and on active duty for more than 30 days to receive the difference between his military and civilian pay.

The bill also would give state and local governments strong incentives to make up the pay and give private companies tax breaks if they continue to pay employees while they are on active duty.

The bill is currently before the House Subcommittee on Civil Service and Agency Organization. The U.S. Senate passed a pay-gap provision for federal employees, but it was cut out of the final version of a supplemental appropriations bill.

''It is a heavy enough sacrifice to pick up and go to Iraq,'' Lantos said. ''There is no reason to have a financial hardship as well.''

Fortunately for Hellesto, his financial burden has eased. After returning home in July, he was able to work overtime to get his family's finances back on track. He recently bought a home in Antioch and has a fourth child on the way.

But he knows things could change quickly again.

''If they asked me to go back today, I would do it,'' Hellesto said. ''But if I didn't get my per diem allowance, I would have to sell my house.''

[From the Silicon Valley/San Jose Business Journal, Apr. 26, 2004]

HE HELPED REBUILD IRAQ, NOW HE MUST REBUILD HIS BUSINESS

(By Timothy Roberts)

When Army Reservist Michael Malone left his new bride and his home in San Jose for Iraq 16 months ago, his computer business had seven employees and an office on Taylor Street. Today the employees of Star Technologies are gone, and his business partner and he have the furniture from their vacated office stacked in their garages.

He's still in business, but struggling.

''The world came crashing down,'' says Mr. Malone, ''and he (partner Erik Johnson) had to try to hold it up like Atlas.''

Says Mr. Johnson: ''First we had the tech bust, then the impact from 9/11 and then Mike got call up. That was a whole lot of blows one right after the other''.

Reservists know they may be called to action at any time, but with military resources stretched thin in Iraq and Afghanistan, the Pentagon is increasingly relying on the reserves to make up for shortages in the regular, volunteer forces. The 34-year-old Mr. Malone, who has served in the reserves for 16 years and holds the rank of captain, anticipated a short-term assignment.

''It's one of the challenges of being a small-business owner,'' he said of his Army Reserve commitment. ''You plan for it—just not for 16 months.''

Naval Reservist Frank Jewett, a small business consultant with Compass Consulting Group in San Jose, is expecting to head overseas for training soon, but wonders if he won't also be deployed for something more than training.

''You have to have a plan,'' says Mr. Jewett, who is also the vice president of the Board of Trustees of West Valley-Mission College. ''You need to talk with your employer and make sure they will support you.''

Some companies in the Valley have recently expanded their support of reservists. Up until the war on terrorism, Intel offered full salary to reservists for 30 days a year. Now it offers 180 days a year of full pay. It also has expanded child care benefits, says spokesman Mark Pettinger.

But the challenge to small businesses became apparent in the late 1990s, when the military began to tap the reserves for troop commitments in the Balkans. In 1999, Congress created the Military Reservists Economic Injury Disaster Loan to be offered by the U.S. Small Business Administration. Business owners with essential employees returning from active duty have 90 days from the reservist's discharge to apply for up to $1.5 million offered at what is now 2.7 percent interest.

The first loans were made in Aaugust 2001. When reserve units were called up for the war in Afghanistan, the loan program was expanded to include reservists from that and subsequent wars.

Since then the SBA has made $114.5 million in such loans, although according to the SBA's Western District office only $1.2 million in loans has been made to Californians. Only 11 loans have been issued to small businesses with California addresses. The only address close to Silicon Valley is in Watsonville.

''We've had this program since 2001, and frankly that's not a whole lot of loans for three years,'' says SBA spokesman Karl Whittington in the Sacramento office, which handles disaster loans for the Western states.

Mr. Malone went to the University of Washington to earn a degree in mathematics on a ROTC scholarship. He was committed to at least eight years of reserve service. Liking the camaraderie of what he describes as the ''entrepreneurs and go-getters'' among the troops, he stayed in for twice that long. He serves in the 1397 Terminal Transport Brigade, which is based in Mare Island, although he was assigned to the 368 Engineer Battalion, based in Londenderry, N.H., in Iraq.

Mr. Malone started Star Technologies in 1995 with Mr. Johnson. They began with tech support and later expanded to include Web hosting, a move that helped give them a steady source of revenue. In 2000, a client came to them and asked them to solve a problem: keeping track of real estate appraisals. With that inquiry, Star Technologies launched into software development and created eAppraisal Flow.

Today, however, Mr. Malone is focused on just getting word out that Star Technology is still around and looking for customers. He just joined the San Jose Silicon Valley Chamber of Commerce and has been making visits to small businesses to offer his Web hosting and tech support services.

''You have to talk to people,'' he says. ''That's how you get business.''

In his spare time he's giving thought to designing a battle-ready lap-top computer that would allow officers to connect to secure and standard networks at the same time and provide position data with map overlays.

He still likes the Army, although with a new wife and three children from a previous marriage and a business to rebuild, he's not eager for any more overseas assignments.

''If Uncle Sam calls again, I'll go,'' says Capt. Malone. ''But it would be the last time—if it's any time soon—because I have to rebuild my business.''

[From USA Today, Apr. 22, 2003]

RESERVISTS UNDER ECONOMIC FIRE

(By Kathy Kiely)

WASHINGTON.—Drastic pay cuts. Bankruptcy. Foreclosed homes. They aren't exactly the kind of challenges that members of America's military reserves signed up for when they volunteered to serve their country.

But for many, the biggest threat to the home front isn't Saddam Hussein or Osama bin Laden. It's the bill collector.

Four in 10 members of the National Guard or reserves lose money when they leave their civilian jobs for active duty, according to a Pentagon survey taken in 2000. Of 1.2 million members, 223,000 are on active duty around the world.

Concern is growing in Congress, and several lawmakers in both parties have introduced legislation to ease the families' burden.

Janet Wright says she ''sat down and cried'' when she realized how little money she and her children, Adelia, 5, and Carolyn, 2, would have to live on when her husband was sent to the Middle East. In his civilian job with an environmental cleanup company, Russell Wright makes $60,000 a year—twice what he'll be paid as a sergeant in the Marine Forces Reserve. Back in Hammond, LA, his wife, who doesn't have a paying job, is pouring the kids more water and less milk. She is trying to accelerate Carolyn's potty training schedule to save on diapers.

She doesn't know how long she'll have to pinch pennies. Like his fellow reservists, Russell Wright has been called up for one year. he could be sent home sooner, or the military could exercise its option to extend his tour of duty for a second year. Even so, Janet Wright considers her family lucky: She can still pay the mortgage, and the children's pediatrician accepts Tricare, the military health plan.

Ray Korizon, a 23-year veteran with the Air Force Reserve and an employee of the Federal Aviation Administration, says his income will also be cut in half if his unit ships out. Korizon, who lives in Schaumburg, IL, knows the financial costs of doing his patriotic duty from bitter experience. Before the Persian Gulf War in 1991, he owned a Chicago construction company with 26 employees. He was sent overseas for six months and lost the business.

Still, he never considered leaving the reserve. Korizon says he enjoys the work and the camaraderie. But he worries about whether his two kids can continue to see the same doctor when he shifts to military health coverage. ''It's hard to go out and do the job you want to do when you're worried about things back home,'' he says.

Once regarded as ''weekend warriors,'' they have become an integral part of U.S. battle plans. Call-ups have been longer and more frequent.

''The last time you'd see this type of mobilization activity was during World War II,'' says Maj. Charles Kohler of the Maryland National Guard. Of the Maryland Guard's 8,000 members, 3,500 are on active duty. Kohler knows several who are in serious financial trouble. One had to file for bankruptcy after a yearlong deployment, during which his take-home pay fell by two-thirds.

Stories like that are the result of a shift in military policy. Since the end of the Cold War, the ranks of the full-time military have been reduced by one-third. The Pentagon has increasingly relied on the nation's part-time soldiers. More than 525,000 members of the Guard and reserves have been mobilized in the 12 years since the Persian Gulf War. For the previous 36 years, the figure was 199,877.

The end of fighting in Iraq isn't likely to lessen the pressure on the Guard and reserves. They'll stay on with the regular military in a peacekeeping role. Nobody knows how long, but in Bosnia, Guard members and reservists are on duty seven years after the mission began.

Korizon, who maintains avionics systems on C–130 cargo planes, has been told his Milwaukee-based reserve unit may be called up for humanitarian missions.

Some of the specialists who are in the greatest demand—physicians and experts in biological and chemical agents—command six-figure salaries in civilian life. The average pay for a midlevel officer is $50,000 to $55,000.

''They were prepared to be called up. They were prepared to serve their country,'' Sen. Barbara Mikulski, D–Md., says. ''They were not prepared to be part of a regular force and be away from home 200 to 300 days a year.''

Concerns are growing on Capitol Hill. As the nation's reliance on the Guard and reserves has increased, ''funding for training and benefits simply have not kept up,'' says Republican Sen. Saxby Chambliss of Georgia, a member of the Armed Services Committee.

The General Accounting Office, Congress' auditing arm, is studying pay and benefits for Guard members and reservists. A report is due in September. Meanwhile, members of Congress are pushing several bills to ease the burden:

Closing the pay gap. Some employers make up the difference in salary for reservists on active duty. But many, including the federal government do not. A bill sponsored by Democratic Sens. Mikulski, Dick Durbin of Illinois and Mary Landrieu of Louisiana would require the federal government to make up lost pay. Landrieu is doing that for one legislative aide who has been called up for active duty.

She has also introduced a bill to give private employers a 50% tax credit if they subsidize reservists' salaries.

Closing the health gap. Once on active duty, reservists, Guard members and their families are covered by Tricare.

But for the 75% of reserve and guard families living more than 50 miles from military treatment facilities, finding physicians who participate in Tricare can be difficult.

A measure sponsored by Sen. Mike DeWine, a Republican from Ohio, would give reservists and Guard members the option of making Tricare their regular insurer or having the federal government pay premiums for their civilian health insurance while they are on active duty. Several senior Democrats, including Senate Minority Leader Tom Daschle of South Dakota and Sen. Edward Kennedy of Massachusetts, support the idea.

Keeping creditors at bay. The Soldiers and Sailors Relief Act caps interest rates on mortgages, car payments and other debts owed by military personnel at 6% while they are on active duty. But Sen. Lindsey Graham, a South Carolina Republican who is the Senate's only reservist, says the act doesn't apply to debts that are held in the name of a spouse who is not a member of the military. He plans to introduce legislation to cover spouses.

Despite a groundswell of support for troops, none of the bills is assured of passage. There's concern among some administration officials about the cost of some of the proposals. In addition, some at the Pentagon think morale would be hurt if some reservists end up with higher incomes than their counterparts in the regular ranks.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I compliment the Senator from Louisiana. This is a very important amendment. The reservists clearly, particularly under the current circumstances, deserve at least the provision suggested by the Senator from Louisiana. The Senator can be assured this Senator will fight vigorously for her amendment in conference. It is a very important amendment.

Madam President, I believe there is no more debate on this amendment.

The PRESIDING OFFICER. Do the parties yield back all time?

Mr. BAUCUS. All time is yielded back.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.

• Mr. KERRY. Mr. President, the continuing activation of military reservists to serve in Iraq and the war on

terror has imposed a tremendous burden on many of our country's businesses, especially our small businesses. Too many small businesses, when their employees are asked to leave their jobs and serve the Nation, are unable to continue operating successfully and face severe financial difficulties, even bankruptcy. That is why I am pleased to join Senator LANDRIEU to provide all American businesses with a tax credit to help them continue to pay their employees who are called to active duty and to help small businesses temporarily replace reservists who are called up.

This amendment expands upon the Small Business Military Reservist Tax Credit Act that I introduced last year which provides help to small businesses in paying the difference in salary for their reservist employees called up to active duty. My legislation, S. 1595, also provided a tax credit to help small businesses cover the cost of temporarily replacing that employee while he or she is serving our Nation.

I worked with Senator LANDRIEU to develop this amendment which honors all patriotic employers who continue to pay the salaries of their employees who are members of the National Guard and Reserve and are called up to active duty in the war on terror in Afghanistan, Iraq and elsewhere. I believe this amendment will encourage all employers, especially small businesses, to pay their reservist employees when they face a reduction in salary due to their activation. Employers who continue to pay their reservists will be eligible to receive a tax credit up to $15,000 of the wages they pay to members of the Guard and Reserve for as long as the reservist is on active duty status. The JOBS Act, which we seek to amend, only provides a tax credit for reservists on active duty status for 1 year and does not provide any assistance for small businesses to help temporarily replace their reservists. I believe this approach is insufficient and that our amendment is needed to help reservists for each day of their service to our Nation and to provide important assistance to small businesses.

I am very pleased that Senator LANDRIEU has included provision of my bill to help small businesses cover the cost of temporarily replacing the reservist employee while he or she is serving our Nation. Today, many small employers are currently having a difficult time hiring temporary workers to replace their employees who have been called up to active duty in the national Guard or Reserve. The United Sates Chamber of Commerce estimates that 70 percent of military reservists called to active duty work in small- or medium-size companies. The Landrieu-Kerry amendment will provide a tax credit of 50 percent up to $6,000 to help small employers defray the costs of hiring a worker to replace a guardsman or reservist who has been called up to active duty. Small manufacturers will be eligible for a tax credit of 50 percent up to $10,000 to assist in hiring a temporary worker.

To fight our wars and meet our military responsibilities, the United States supplements its regular, standing military with reservists, citizen soldiers who serve nobly. Not since World War II have so many National Guard members been called to serve abroad. President Bush authorized the activation of up to 1 million military reservists for up to 2 years of active duty. Today, there are about 170,000 reserves on active duty in the war against terrorism—nearly half of the more than 350,000 called to duty since the attacks of September 11, 2001. Many are serving admirably around the world, performing critical wartime functions in Iraq, Afghanistan, and elsewhere. Our Nation does not go into battle without members of the National Guard and Reserve, and we are all grateful for their service.

Just this week, the Bush administration authorized the activation of an additional 47,000 reservists. The extension will cause significant economic difficulties for the reservists, their families and their employers that are left behind. Beyond the hardship of leaving their families, their homes and their regular employment, more than 41 percent of military reservists and National Guard members face a pay cut when they are called for active duty in our Armed Forces. Many if these reservists have families who depend upon that paycheck to survive and can least afford a substantial reduction in pay.

The large number of reservists being called up to active duty has hurt many small businesses across the Nation and may impact the number who are willing to re-enlist in the National Guard and Reserve in the future. In January, the Commission of the Army Reserve, Lt. General James R. Helmly, warned of a recruiting-retention crisis in the future for the National Guard and Reserve. A recent U.S. military questionnaire of returning Army National Guard soldiers projected a resignation rate of double what it was back in November 2001. From October to December 2003, almost one-quarter of the Guard members who have had the opportunity to re-enlist have opted not to do so. Recently, the U.S. Army developed a plan to pay reservists up to $10,000 to re-enlist to stop a developing problem.

That is why the Federal Government must take action to help businesses weather the loss of an employee to active duty and protect employees and their families from suffering a pay cut to serve our Nation. It is imperative that we help families of reservists maintain their standard of living while their loved one serves our Nation. We must also ensure that the cost of that service does not force businesses into financial ruin. We must ensure that our great tradition of citizen soldiers does not fade or cease because of the effect that service has on work and family. The Landrieu-Kerry amendment will help achieve their important goals and I urge my colleagues to vote in favor of this amendment.●

Mr. MCCAIN. Mr. President, we continue to be increasingly reliant on the men and women of our Reserve forces and National Guard. In fact, 40 percent of all the ground troops in Iraq and Afghanistan are composed of National Guard and Reserve forces as well as nearly all of the ground forces in Kosovo, Bosnia, and the Sinai. Many of these soldiers, sailors, airmen, and marines leave behind friends, families, and careers to defend our Nation. Accordingly, it is the responsibility of policy makers to ensure we look after the needs of our patriots.

Many reservists that are called to active duty end up making less money with the military than they did in their civilian job. This drop in pay has placed a hardship on many of the men and women serving in the Reserve components who are called to active duty. When the military calls reservists and guardsmen to active duty, the last thing our Nation wants is to hurt the reservist's families as a result. This amendment is designed to address this problem by allowing private companies to pay the difference between the servicemember's Reserve pay and his civilian pay. If the employer chooses to pay this benefit, the Federal Government will give the company a tax credit of 50 percent of the difference in pay, up to $3,000.

Our Nation's reservists and guardsmen are an amazing resource of experience, knowledge and dedication. If we are going to continue to rely on our citizen soldiers, we must make sure that they receive their fair share of benefits and that their families are provided for in their absence. I will always support responsible legislation that accomplishes this important goal.

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

The amendment (No. 3123) was agreed to.

AMENDMENT NO. 3138

Mr. BAUCUS. I call for regular order with regard to the Hutchison amendment.

The PRESIDING OFFICER. That is the regular order. Is there further debate on the amendment?

Mr. BAUCUS. I believe there is no further debate.

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

The amendment (No. 3138) was agreed to.

Mr. GRASSLEY. I ask unanimous consent Senators HATCH and PRYOR be added as cosponsors to the Hutchison amendment.

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

Mr. BAUCUS. Madam President, I move to reconsider the vote on the previous two amendments en bloc.

Mr. GRASSLEY. I move to lay the motions on the table en bloc.

The motions to lay on the table en bloc were agreed to.

Mr. GRASSLEY. I promised the Senator from South Carolina we would have a little colloquy on an issue he was concerned about. Could we do that right now?

Mr. NICKLES. Sure.

Mr. GRASSLEY. I ask the Senator from South Carolina be recognized.

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

Mr. GRAHAM of South Carolina. I thank Senator GRASSLEY.

CHINESE CURRENCY

I rise today to express my deep concern about the Chinese government's continued manipulation of its currency. In my mind, the Chinese government's adherence to a currency valuation system that does not rest on market-based principles is wrong and constitutes an unfair competitive advantage. It is time for the unfair valuation of the yuan to stop. I understand the administration has taken steps to address the problem and some progress has been made. But this is a serious problem. Clearly more needs to be done.

Mr. GRASSLEY. As Chairman of the Senate Finance Committee, I join my colleague from South Carolina in expressing concern about the way in which the Chinese currency is valued. I certainly agree that it is a serious problem that needs to be taken seriously. A fairly valued currency is in China's own long-term interests, and is key for moving to a market driven economy. I was pleased to hear that Secretary Snow was assured that interim steps are being taken and that progress in this area will continue.

Mr. GRAHAM. I appreciate the fact that the Chairman recognizes the serious nature of this problem. Unfair manipulation of currency cannot be tolerated. I would like to see additional progress on this issue in the next 60 to 90 days. If progress is not forthcoming, I hope the Chairman would join me in supporting Senate hearings. However, these hearings should only be the first step. Should China fail to make substantial progress and the Senate fail to address this issue substantively, appropriate and responsible legislation may then be necessary, and I reserve the right to attach our China currency amendment to any available legislation that comes before the Senate.

Mr. GRASSLEY. I do appreciate the importance of this issue. If we do not see substantial progress toward adoption of a market-based currency valuation system, I would support Senate hearings at the appropriate time.

Mr. GRAHAM. I thank the Senator from Iowa, and look forward to working with him to continue to pressure the Chinese government to adopt a market-based currency valuation system.

SECTION 29

Mr. SANTORUM. Mr. President, my amendment, cosponsored by Senators VOINOVICH and DEWINE, extends the Section 29 credit to new coke facilities to encourage the construction of new facilities. This provision is important because the U.S. currently produces below the domestic demand for coke, and the situation will likely worsen in the future. Much of the country's coke capacity is over 20 years old, and most existing ovens are near the end of their useful lives. I understand that the Finance Committee chairman, Senator GRASSLEY, prefers to address this issue during conference and not at this time. I thank the chairman for his commitment to this provision and urge his strong support for extending the Section 29 credit to new coke facilities in conference.

Mr. GRASSLEY. Mr. President, I would like to thank the Senator from Pennsylvania for his commitment to the Section 29 extension to new coke facilities. Although I am supportive of the provision, the most appropriate time to address it is during the conference. I look forward to working with Senator SANTORUM and the two Senators from Ohio to include this amendment in the conference report.

PRIVACY

Mr. BAUCUS. Mr. President, my colleague from New York and my colleague from Minnesota have filed a noteworthy amendment to the Jumpstart Our Business Strength Act, S. 1637. The amendment raises the very important issue of how in this global economy we can protect the privacy of personally identifiable information that is transmitted abroad. Senator CLINTON and her staff have worked diligently with me and my staff to find a way for the Senate to address these issues. The amendment raises significant issues that I believe will benefit from being made part of any appropriate hearing this session in the Finance Committee. They have graciously recognized the importance of moving forward on the JOBS bill. That is why I have agreed to invite Senators CLINTON and DAYTON to testify on this issue during the Senate Finance Committee's hearing on offshoring. My hope is that we will schedule that hearing soon.

Mrs. CLINTON. Mr. President, I compliment my colleague from Montana for his legislative skill and determination in managing the JOBS bill on this side of the aisle. I also thank him for the patience and consideration he and his staff have shown in working with me on the Clinton-Dayton privacy amendment. I and my colleague Senator DAYTON look forward to testifying on this issue in front of the Finance Committee because it is vitally important to maintain the privacy of our constituents and Americans throughout the Nation.

NEW MARKETS TAX CREDIT AND ECONOMIC SUBSTANCE DOCTRINE

Mr. ROCKEFELLER. Mr. President, I would like to enter into a colloquy with my good friend, Senator BAUCUS, regarding the economic substance provision of the Jumpstart Our Business Strength, JOBS Act, S. 1637.

I ask my colleague to explain what, if any, impact the codification of economic substance doctrine would have on the new markets tax credit.

As my colleague knows, the new markets tax credit, NMTC, was signed into law in 2000 and is the largest Federal economic development initiative to be authorized in 15 years. The credit promises to spur some $15 billion in new private sector investment in economic development activity in poor communities throughout the country.

The idea behind the credit is that there are good viable business and economic development opportunities in poor communities that lack access to capital. The NMTC is designed to address this capital gap by providing the incentive of a Federal tax credit to individuals or corporations that invest in Community Development Entities, CDEs, working in these communities.

While many of the businesses that receive financing through the credit will present good business opportunities, it is possible that some projects, because of their market, will present only limited economic return on top of the credit. In many cases, the investor's chief incentive will be the tax benefit available through the new markets tax credit.

There is some concern among investors and potential NMTC investors that legislation crafted to codify the economic substance doctrine and curtail transactions that are simply motivated by tax incentives would apply to and have negative impact on the NMTC.

With $2.5 billion in new markets tax credits having been allocated to CDEs around the country and another $3.5 billion expected to be awarded within the next several months, it is critical that the investor markets get some clarification on this issue.

The NMTC holds great promise for communities throughout West Virginia where economic revitalization and business development are sorely needed. It is my understanding that the economic substance doctrine contained in S. 1637 does not apply and I would appreciate my colleague's comments on this issue.

Mr. BAUCUS. I appreciate the comments of the Senator and share his commitment to the new markets tax credit.

The Senator is correct. The intent of the economic substance provision in the JOBS bill is clearly to uphold and protect congressionally mandated tax benefits while curtailing unintended abuses of the tax code. I assure the Senator that the new markets tax credit would not be adversely affected by this provision.

As the Senator knows, our intent in codifying the economic substance doctrine is to curtail the use of abusive tax shelters that have no economic substance or business purpose other than reducing the Federal tax liability of the taxpayer. This is clearly not the case of the new markets tax credit.

We attempted to clarify the intent of this provision in the Finance Committee report, 108–192, in a footnote that states:

If tax benefits are clearly contemplated and expected by the language and purpose of the relevant authority it is not intended that the tax benefit be disallowed if the only reason for the disallowance is that the transaction fails to meet the economic substance doctrine as defined in this provision.

The report also specifically identifies the low income housing tax credit and the historic rehabilitation credit as examples of tax benefits that would not be taken into account in measuring potential tax benefits. These credits were noted as examples of the types of tax benefits that would not be considered in applying the economic substance doctrine.

The new markets tax credit was authorized with the clear intent of using a tax subsidy to attract private investors to business and economic development opportunities in poor communities—investment opportunities that otherwise might not be able to secure such investment capital. It is our intent that the NMTC be treated like the LIHTC and the HRTC and protected as a congressionally mandated tax benefit.

CANADIAN SOFTWOOD LUMBER DISPUTE

Mr. SMITH. I came to the floor today to introduce an amendment to the FSC/ETI bill relating to the U.S. approval of NAFTA panel decisions. The handling of the current case before the NAFTA panel regarding Canadian softwood lumber imports gives me cause for concern. There are substantial allegations that one panelist judging the case is, at the same time, appearing as a private lawyer in two other antidumping cases before the International Trade Commission which involve similar issues as the Canadian lumber case. This creates at the very least the appearance of impropriety and a conflict of interest. Indeed, the USTR has taken the position that the panelist is in violation of the code established to prevent conflicts of interest involving panelists. However, it seems that Canada has been able to block any action to remove this panelist from the case.

This situation is unacceptable and indicates that fundamental reform of the NAFTA panel process is required. We cannot allow NAFTA panelists with a conflict of interest to rule in these cases, especially since their rulings are equivalent to a Federal Court order. At the very least, such panel decisions should be subject to Presidential review before being implemented. I have an amendment that would implement such a review procedure. However, while this is an urgent matter that affects the outcome of the largest trade case in U.S. history, I recognize that the Senate is close to completing the FSC/ETI bill. I do not want to beleaguer that eventuality, so I am willing to withdraw this amendment, and agree instead to work with my colleagues, particularly on the Senate Finance Committee, to have this issue firmly addressed by the Senate in the near future.

Mr. BAUCUS. I want to join my colleague from Oregon in support of this amendment, which cannot be considered for inclusion in the legislation at hand. I concur that action must be taken to ensure the integrity of the Chapter 19 Panel Process. There is a clear breakdown of due process with respect to Chapter 19. The decision by the NAFTA Panel to reject the UTC's injury analysis in the softwood lumber dispute between the U.S. and Canada proves to me that the credibility of the NAFTA Panel process is in serious jeopardy. By imposing an impossible standard for proving ''material injury'', this NAFTA Panel seems to be saying that it will reject any antidumping or counterveiling duty in any circumstance. If the ANFTA dispute panel process wants to maintain its credibility, the panelists themselves must respect the limits of their responsibility. No country will allow the dispute panel process to undermine the integrity of perfectly valid trade remedies. Action must be taken to address this situation, and I can give my colleague my assurance that I will work to find an opportunity for the Senate to consider his amendment in the near future.

Mr. CRAIG. I want to echo the concerns my colleagues from Oregon and Montana have on this issue. Resolution of the Canadian softwood lumber dispute has gone on far too long. Meanwhile our domestic industry continues to suffer from subsidized and dumped Canadian lumber.

Mr. CHAMBLISS. The forestry industry is important to the State of Georgia. Let's take a look at the facts: Georgia's total land area covers 36.8 million acres of which 66 percent of that is forested; my home State has the sixth largest percentage of forested lands in the country which is twice the national average; and, commercial forest land in Georgia covers approximately 23.8 million acres, more than any other state. Georgia's forest industry generates 177,000 jobs where employees directly or indirectly work in industries supporting forest products manufacturing.

This is why I sponsored a resolution in the House of Representatives in 2001 that highlighted the problems associated with the importation of unfairly subsidized Canadian lumber and urged the administration to vigorously enforce U.S. trade laws with regard to the importation of Canadian lumber. One of my highest priorities has been to see this trade issue resolved and limit the injuries caused to the U.S. timber and lumber industries by the importation of unfairly traded lumber.

Today, Georgia's forestry industry is in serious jeopardy. That is why I echo the comments of my colleagues regarding the conflict of interest involving a NAFTA Panelist who will be hearing the Canadian Softwood Lumber case. This case is very important to the future of Georgia's forestry industry. This issue and the need to reform the NAFTA panel process must be handled in an expedient manner. I urge my colleagues to address this issue as soon as possible.

Mr. SMITH. I thank my colleagues. This is a critical matter that the Senate needs to exercise its oversight responsibilities upon. If this issue cannot be addressed in the very near future, my colleagues and I will have no choice but to bring this amendment back to the floor on another bill to have an forthright discussion about ensuring the constitutionally afforded due process U.S. citizens and interests must have in NAFTA disputes. I also want to applaud the administration in particular the U.S. Trade Representative, as well as the International Trade Commission, for acting steadfastly to enforce U.S. trade law. But their efforts are being thwarted by the current NAFTA Panel rules. This must be changed.

Mr. SMITH. I would like to engage the Senator from Iowa in a colloquy regarding section 102 of the bill in order to clarify the Senator's intentions.

Mr. GRASSLEY. I would be pleased to engage in a colloquy with the Senator from Oregon.

Mr. SMITH. I want to thank you for your strong leadership on this very important piece of legislation and call your attention to one specific provision in S. 1637 known as the domestic production activities deduction. As you know, your bill includes a provision that allows for a deduction for income from manufacturing done in the United States. However, as I understand, the provisions phases in the deduction much more slowly for companies that also manufacture abroad. At a time when American manufacturing jobs are leaving our country in record numbers, we need to support all companies that employ Americans, not penalize them. I know that we agree that multinational companies should not be penalized merely because they also manufacture abroad. Thus, I would like to clarify that it is your intent to urge your colleagues during the Senate/House conference deliberations on this bill to eliminate this penalty in the final bill that is sent to the President for his signature.

Mr. GRASSLEY. The Senator is correct. It is my intent to urge my colleagues to minimize this penalty in the final bill that is sent to the President for his signature.

INCOME FORECAST METHOD PROVISION

Mr. BREAUX. Mr. President, I would like to engage in a brief colloquy with the distinguished chairman and ranking member of the Finance Committee, Senator GRASSLEY and Senator BAUCUS, regarding a provision in the bill that provides needed clarification and helps to insure an accurate reflection of taxpayers' income.

The provision I refer to resolves certain uncertainties that have arisen recently regarding the proper application of the income forecast method, which is the predominant cost recovery method for films, videotapes, and sound recordings. The provision merely reinforces the continued efficacy of existing case law and longstanding industry practice. For example, the provision clarifies that, for purposes of the income forecast method, the anticipated costs of participations and residuals may be included in a property's cost basis at the beginning of the property's depreciable life. This was the holding of the Ninth Circuit in Transamerica Corporation v. U.S. (1993). The provision also clarifies that the Tax Court's holding in Associated Patentees v. Comm., 4 TC 979 (1945), remains valid law. Thus, taxpayers may elect to deduct participations and residuals as they are paid. Finally, the provision clarifies that the income forecast formula is calculated using gross income, without reduction for distribution costs.

I would like to confirm my understanding with Senator GRASSLEY and Senator BAUCUS that by providing these clarifications and eliminating uncertainty the provision was intended to put to reset needless and costly disputes.

Mr. GRASSLEY. I am happy to confirm the understanding of the distinguished Senator from Louisiana. The provision was adopted to provide needed clarifications in order to eliminate the uncertainties that have arisen regarding the proper application of the income forecast method. I believe the disputes that have arisen regarding the mechanics of the income forecast formula are extremely unproductive and an inefficient use of both taxpayer and limited tax administration resources. By adopting these clarifications, I believe the committee intended to end any disputes and prevent any further waste of both taxpayer and Government resources in resolving these disputes. Any existing disputes should be resolved expeditiously in a manner consistent with the clarifications included in the bill.

Mr. BAUCUS. I agree with the distinguished chairman of the Finance Committee, Senator GRASSLEY. The disputes resulting from any uncertainty regarding the proper application of the income forecast method are extremely unproductive and wasteful. To avoid further waste, resolution of any disputes must be resolved in a manner consistent with the clarifications contained in the bill.

Mr. BREAUX. I thank both of my distinguished colleagues for this important clarification. I hope this puts to rest any uncertainty and wasteful disputes regarding the proper application of the income forecast method.

KIDDIE TAX

Mr. FRIST. In February of this year, a constituent wrote me to express his concerns about the negative impact expansion of the ''kiddie tax'' would have upon his family, and more specifically his quadriplegic daughter. His daughter's assets are in a trust administered by an independent third party trust department of an investment firm. The assets were awarded to his daughter by a court by law pursuant to a settlement agreement after she suffered from injuries at birth. The assets in his daughter's trust are to be used to provide her income after she should have been able to move into the work force. The funds will help pay for medical care and personal caregiver services.

The situation is described in more detail in a letter to me from my constituent, Mr. Gary Domm. At this time, I ask unanimous consent this letter be printed in the RECORD.

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

GARY W. DOMM, CFP,
Germantown, TN, February 10, 2004.

Subject: The planned continuation of the U.S. ''Kiddie Tax'' laws until age 18. How Tennessee Individual Income Tax is more fair. Enough is Enough!

Attention: Legislative Staff.

Dr. BILL FRIST, MD,
Memphis, TN

DEAR DR. FRIST: As you are surely aware, the Internal Revenue Code has a provision taxing unearned income of children under age 14 at their parents upper tax rates. This regulation is often referred to as the ''Kiddie Tax.'' Obviously, the whole theory behind this law is to stop investments from being transferred to the children at a lower tax rate by the parents or maybe grandparents. Fair enough. However, the law as interpreted in a court case in 1992, said that it did not matter what the source or the purpose of those assets were. This is a court ruling that needs to be overturned by legislation. If the ''Kiddie Tax'' is suppose to be a tax on assets transferred from relatives, then it should be administered in that way but not applied to all unearned income owned by children.

My quadriplegic daughter, who can not speak and will always be dependent on full time care, is subject to the ''Kiddie Tax'' law. My wife and I would be considered to have above average income, both earned and unearned. Therefore my daughter's unearned income is taxed at a much higher tax rate than if she was the child of lower income parents. My daughter's assets are in a trust administered by an independent third party trust department of an investment firm. These assets were awarded to my daughter by a court of law. My daughter's assets were never mine or under the control of relatives. I probably need not mention that the federal trust tax rates are even higher so there is no benefit to these assets being taxed instead in a trust tax return.

In my case, the assets in my daughter's trust are to provide her income after she should have been able to move into the work force under normal circumstances. They will pay for her medical care, personal caregiver services, and other expenses that most people do not have to endure until late in life but certainly not for their entire life. My wife and I rarely request reimbursement of expenses from these assets for the extra care that our daughter requires. Our plan is to financially provide for our daughter until she is at least 21 years old. Yet, my daughter's assets are not allowed to grow based on their own tax level. They are instead subjected to usurious tax rates rather than progressively higher tax rates as the income increases.

The State of Tennessee has had an exemption to state income tax since the mid 1990's on unearned income derived from assets for a quadriplegic person. Apparently, the state recognized that people that are disabled and incapable of ever working, need a tax break in order not to be more dependent on government and its agencies.

It is my understanding that Congress is now considering extending the age for the ''Kiddie Tax Law'' until age 18. Enough is enough. I have waited patiently for my daughter to reach the age of 14. She will be 14 this year and will no longer be subject to being taxed at a rate higher than her income level. That is, unless Congress changes the laws.

In my case, leaving the ''Kiddie Tax'' regulations alone would solve my problem, but that would avoid collecting the extra tax dollars for four more years on families that have transferred wealth to their children. My problem can also be solved by removing the ''Kiddie Tax'' in the case of quadriplegics and other people that will never be able to work and support themselves. The federal tax laws need to consider the Tennessee tax regulations and provide exemptions where needed. I have no doubt that if my daughter could, she would gladly give away her investments in exchange for a normal life. Instead the government is subjecting her investment income to highest taxes just because of her parents.

Correcting this injustice will not gain many votes politically, but I am sure you can see that it is the right thing to do. I am more than willing to discuss this by telephone with anyone who wishes more specific information. Being a Tennessee resident and senator, I am sure you can obtain copies of the exemption regulations for the state. It is item 3, under the exemption section in the rules mailed with the Tennessee tax forms. Also the exemption box is clearly shown on the first page of the Tennessee Tax Return.

Sincerely,

GARY DOMM.

Mr. FRIST. According to Mr. Domm, current tax law permits taxation of this unearned trust income in excess of $1,600 at the child's tax rate upon the child's 14th birthday. Up until the age of 14, the income was taxed at the parent's rate of taxation. This year, Mr. Domm's daughter will turn 14 and will no longer be subject to a tax rate higher than her income level.

Unfortunately, however, a proposed change in S. 1637 would call for taxing any unearned income in excess of $1,600 at the parent's income tax rate until the age of 18 instead of 14. I ask my colleague from Iowa, is that accurate?

Mr. GRASSLEY. Yes.

Mr. FRIST. Thank you for confirming that, Mr. Chairman. I believe that it would be good policy to provide some type of exemption to this so called ''kiddie tax'' for Mr. Domm's daughter and others like her. That way, we encourage independence and self-sufficiency and do not penalize individuals who have already had to overcome tremendous obstacles. Based on that assumption, Mr. Chairman, would you be willing to work with me and my staff to create an exemption from this tax for Mr. Domm's daughter and others similarly situated?

Mr. GRASSLEY. I agree with the Senator from Tennessee that such an exception to the ''kiddie tax'' would be

good public policy. I commit to you that my staff will work with the Treasury Department, the Social Security Administration and your staff during conference negotiations to craft language that addresses Mr. Domm's concerns but also contains solid anti-abuse language. My hope is that we could place such language in the final version of S. 1637 or another appropriate tax bill.

Mr. FRIST. I thank the Chairman for that commitment both personally and on behalf of my constituent.

BROWNFIELD REVITALIZATION

Mr. LAUTENBERG. Mr. President, I rise to engage several of my colleagues in a colloquy regarding an important provision in the manager's substitute amendment to S. 1637. Section 641 of the manager's amendment was filed by me as an amendment to S. 1637, and it was co-sponsored by Senators CHAFEE, DOLE and LIEBERMAN.

The language of my amendment is based on S. 1936, the Brownfield Revitalization Act of 2003, a bipartisan bill that was introduced last year by Senator BAUCUS and cosponsored by Senators INHOFE, DOLE and ROCKEFELLER. However, the version of my amendment that is included in the manager's substitute contains several modifications which improve it.

My amendment relieves tax-exempt entities that invest in, clean up, and then re-sell certain brownfield properties from an obscure but significant provision in the Internal Revenue Code.

First, what is a ''brownfield?'' There are various definitions of this term. In the Federal Superfund law, a ''brownfield'' is defined as ''real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.''

My own State of New Jersey uses a different definition. It defines a ''brownfield'' as ''any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant.''

Brownfields are not necessarily highly contaminated sites. Often, they are moderately or lightly contaminated industrial and commercial sites that could be productively re-used if they were cleaned up. In fact, the perception of contamination might be the only thing holding back a brownfield site from redevelopment.

Reuse of a brownfield site is desirable because it preserves an open ''greenfield'' and can provide an economic stimulus to an inner city or close-in suburban area.

Our colleague, Senator DOLE, is fully aware of how serious the problem of brownfields is across the nation.

Mrs. DOLE. Mr. President, the North Carolina Department of Environment and Natural Resources estimates that there are tens of thousands of potential brownfield sites in North Carolina. To date 44 of these sites have $600 million in committed private investment which was raised with less than $500,000 in Federal funds. These 44 sites represent a good step forward to address this issue; however, there are many more steps necessary before we can declare victory. The critical component to this equation is the greater availability of private capital. Currently, the State of North Carolina has 55 more brownfield sites in the pipeline for remediation and the availability of private capital will be essential to this effort.

The Nation's mayors have estimated that there are half a million brownfield sites in the United States. Others have said that there may be as many as a million such sites. EPA, in an analysis conducted with George Washington University, has estimated that remediation costs for all brownfield sites in the country exceed $650 billion. The Chamber of Commerce estimates that, at the current rate of cleanup, it could take ten thousand years to clean up all these sites.

According to Environmental Defense, a leading environmental group, New York City alone has over 4000 acres of vacant industrial lands, the equivalent of almost four Central Parks' worth of land lying unused in the core of our largest metropolitan area.

That is why I am a strong supporter of legislation to make available greater sums of private capital to brownfield remediation efforts. This is why I am proud to join with my colleagues, especially Senators LAUTENBERG, CHAFEE, LIEBERMAN and JEFFORDS to support this proposal to allow non-profits to invest in brownfield remediation efforts. I yield back to Senator LAUTENBERG.

Mr. LAUTENBERG. In fact, in my own State of New Jersey, the Department of Environmental Protection oversees ten thousand potential brownfield sites, but admits that many more sites may exist in the State that have not yet been identified.

I ask Senator LIEBERMAN if he is aware of any barriers in our Tax Code that may be hindering the remediation of brownfields sites.

Mr. LIEBERMAN. As my colleagues know, much has been done at both the national and State levels, including our own States, to help clean up contaminated brownfield properties. However, the Federal Tax Code contains a potential roadblock.

Section 512 of the Internal Revenue Code establishes an unrelated business income tax, or UBIT, on the income that a tax-exempt entity derives from a trade or business that is not substantially related to its exempt purpose.

The UBIT applies to gains from the sale or exchange of property held primarily for sale to customers in the ordinary course of such a trade or business. The UBIT also applies to gains from the sale or exchange of any debt-financed property.

These UBIT provisions have reduced the economic attractiveness of investments in remediation and redevelopment of the nation's brownfield sites by tax-exempt entities like university endowments and private pension funds.

According to the Chamber of Commerce, tax-exempt entities hold about $7 trillion in financial assets. This is a very large pot of money that could be tapped for brownfield cleanups.

Mr. LAUTENBERG. This large potential funding source for brownfields remediation is what my amendment will address by removing one barrier to brownfields redevelopment.

My amendment allows tax-exempt entities to invest in brownfield sites without the risk of incurring UBIT liability, provided that certain conditions are met.

First, the appropriate State environmental agency must certify that the property is a brownfield site within the meaning of the Federal Superfund definition.

The amendment does not set up a new certification procedure for this purpose, but rather piggybacks on a process already in place under section 198 of the Tax Code to provide tax incentives for commercial brownfield developers. In fact, another provision of the manager's substitute amendment extends section 198 through the end of 2005.

Second, the remediation effort must be a significant one. It must cost more than $550,000, or 12 percent of the fair market value of the site, determined as if the site were not contaminated. By establishing relatively high thresholds for eligibility, the amendment excludes incidentally contaminated property and focuses new capital investment at sites that are most in need of assistance.

Third, the site must be cleaned up to comply with all environmental laws and regulations.

Finally, after the cleanup the state environmental agency or EPA must certify that the property is no longer a brownfield site. In requesting such a certification, the tax-exempt entity must attest that the anticipated future uses of the property are more economically productive or environmentally beneficial than the previous use of the property. The tax-exempt entity must also attest that it has given public notice of its request for certification.

Senator JEFFORDS, the ranking member on the Environment and Public Works Committee, has been very helpful in developing modifications to this amendment. Could the Senator from Vermont describe the modifications we have made that are designed to prevent abuse?

Mr. JEFFORDS. I am happy to fully support this amendment, as modified. There are three significant modifications:

First, a savings clause has been added to make clear that this amendment to the Tax Code has no impact on anyone's liability under the Superfund statute or any other Federal or State environmental law. Just because a tax-

entity receives a tax certification signifying that it is not subject to the UBIT tax does not mean that it can avoid environmental liability.

Second, the amendment has been modified to include a definition of ''substantially complete.'' An entity is eligible for a tax certification if its remedial actions at a brownfield site are complete or substantially complete. As originally drafted, the amendment did not include a definition of the key term ''substantially complete.'' This could have created a loophole that allowed entities to get a tax advantage without fully cleaning up a property. The modification we have made fixes this problem by borrowing EPA's definition of ''construction complete'' from the Superfund program to define this term.

The third modification expands the public notice provision that was already in the amendment. It makes clear that not only must there be public notice, there must also be a meaningful opportunity for public comment. In addition, it makes clear the agency that makes the tax certification, whether EPA or a State agency, must respond to any significant public comments.

In addition, the amendment has been carefully drafted to prevent abuse. For example, the taxpayer cannot be the party that caused the pollution and cannot be otherwise related to the polluter. In addition, all transactions, such as purchase and sale of the property, must be made at arms-length with parties unrelated to the taxpayer.

Mr. LAUTENBERG. I thank the Senator for that explanation and for his help in crafting the amendment. As I mentioned earlier, my amendment is based on S. 1936, a bipartisan bill introduced by Senator BAUCUS last year. That legislation was endorsed by groups as diverse as the Chamber of Commerce, Environmental Defense, the National Taxpayers Union, and the U.S. Conference of Mayors. I yield the floor.

ENERGY TAX INCENTIVES

Mrs. LINCOLN. Mr. President, I want to congratulate Chairman GRASSLEY and Senator BAUCUS on their decision to include a package of energy tax incentives in this bill. These tax incentives will promote the future development and production of renewable fuels, which we hope one day will lessen our dependency on foreign oil.

The package of energy tax incentives now before us was first reported by the Finance Committee last year as part of H.R. 6, the Energy Tax Policy Act of 2003, and the Senate considered H.R. 6 in July of 2003. During floor debate of that legislation, I raised two concerns that I hoped would be addressed in the House-Senate conference of the energy bill. Chairman GRASSLEY agreed with my points and assured me he would use his best efforts to resolve these matters. True to his word, as always, the chairman addressed my concerns in the conference version of H.R. 6. But as we all know, the conference version of H.R. 6 failed to gain enough votes to pass the Senate.

Now, the chairman has decided to move a text that is essentially the same finance Committee package of energy tax incentives, not the conference version of the bill, as part of the FSC/ETI bill. One of my concerns, relating to the definition of a landfill gas facility, has been resolved by virtue of the fact that the provision in the Finance Committee package has been dropped. But the other concern remains. So now again, I feel compelled to raise this concern, and once again, request the chairman's assistance to address it in a House-Senate conference. So please bear with me again while I explain my concerns for the record.

On February 11 of 2003, I introduced S. 358, the Capturing Landfill Gas for Energy Act of 2003. The bill is cosponsored by Senators SANTORUM and HATCH and would provide a credit under either Section 29 or 45 of the tax code for the production of energy from landfill gas, or LFG.

In the past, Congress recognized the importance of LFG for energy diversity and national security by providing a Section 29 credit in 1980 and extending it for nearly two decades. However, the Finance Committee bill before us fails to recognize the importance of LFG in its creation of a new Section 45 credit. In contrast, the President proposed a generous Section 29 credit for LFG, and the House has passed a Section 45 credit for LFG as part of its energy bill. Both of these proposals would provide meaningful tax incentives to encourage the collection and use of LFG. Thus, this version of energy tax incentives falls well short of recognizing the importance of dealing with LFG, and I urge the chairman to address this shortfall in the House-Senate conference by affording the same incentive for LFG that other renewable energy sources are given under the final legislation.

The potential energy and environmental benefits of future LFG projects are substantial, but they will be lost if we do not provide adequate provisions to support project development. I want to thank Chairman GRASSLEY and Senator BAUCUS for their past work and support in addressing these important concerns. Further, I hope and request that they once again work with me to make sure Americans garner all of these important benefits.

Mr. GRASSLEY. Mr. President, I want to assure Senator LINCOLN that I will continue to work with her to make sure adequate incentives for LFG are included in any final package from the upcoming House-Senate conference. Her concerns are my concerns as well. She has stated them well and I will devote my best efforts to resolving them as we move forward on discussions and deliberations with the House of Representatives.

CAR PROVISION

Mr. BAUCUS. Mr. President, I raise an issue with regard to the car donation provision included in the JOBS bill. Under the provision donors are limited to deducting the actual sale price of the vehicle that is donated to charity, unless the charity uses the car, in which case donors a get fair market value deduction. This is a good rule. It will cut out abuse of this charitable giving device, and make it easier for donors to comply with the tax law. However, I am also concerned about the potential for charities that intentionally sell/transfer donated vehicles at a low or no cost to low-income recipients as part of a charitable program to be unintentionally hampered from doing so. I believe the law is written in such a way that if the car is given by the charity to a low income family, or used for parts to repair a different car, there is no sale that triggers the sales proceeds limit, and the donor gets a fair market value deduction. I agree with some folks' suggestions that the sales to needy families case does not fit within the ''use by the charity'' rules as presently drafted. But trying to modify the proposal to move away from the sale bright line rule can be tricky, and I fear we would be opening up the proposal to abuse. I pledge to charities that do sell cars to low-income or needy individuals at reduced prices as part of a charitable program, that we will expand regulatory authority during conference or a preconference period with the House to permit Treasury to issue rules excepting certain sales from the sales proceeds limit and certain reporting rules if the sale furthers a charitable purpose.

Mr. GRASSLEY. I agree with your concerns, Senator BAUCUS, and I also am in favor of giving Treasury this expanded authority.

Mr. BURNS. Mr. President, I rise today to discuss one small piece of this legislation which will make a big difference in rural States such as Montana. I am talking about the broadband expensing provision, which would encourage broadband providers to extend their networks to underserved areas, and to upgrade their networks to ''next-generation'' speeds so that they can deliver a full complement of voice, video and data services. We have been working on this legislation since 2000—Senator ROCKEFELLER, Senator BAUCUS, Senator GRASSLEY, Senator CLINTON. There are a lot of us who feel strongly about this issue. It has passed the Senate twice now, but, unfortunately, we have been unable to persuade our friends on the other side of the Capitol to support it. So I want to thank the Finance Committee for including it again in this bill, and I am going to push my colleagues on the House side to get behind it this time because it is very important. It is important for rural areas, for underserved inner city areas, for education, for health care, for energy savings, for a

whole list of reasons. And I want to say this. It is fitting for this broadband incentive to be included in the FSC/ETI bill because this provision will have a big effect on international competitiveness. We are hearing a lot about ''offshore outsourcing'' these days, and broadband is a response to that. If we have a robust high-speed network all over this country, companies will not need to send jobs to India—we can do them in Montana, and in Iowa, and in West Virginia, and in communities all across the nation where costs are lower. So this is about providing an infrastructure that makes us more productive, just as the Interstate highway system, and rural electrification, and the transcontinental railroad all made the Nation more productive. Broadband is a key infrastructure of the 21st century, and we need to construct it as quickly as possible. I believe this provision will help do that, and I look forward to working with my colleagues to ensure its enactment this year.

Mr. ROCKEFELLER. Mr. President, I am extremely pleased at the progress that the Senate has made this week on the legislation before us, known as the JOBS Act. Like most of my colleagues, I support this bill, because I believe that Congress must respond to the increasingly difficult competitive position of our manufacturing industry. I urge my colleagues to continue working on this bill, debate and vote on the relatively few remaining amendments, and then pass this bill.

For generations, American manufacturing has been a tremendous source of pride and a ladder to the middle class. Unfortunately, over the last 3 years, the manufacturing sector of our economy has suffered disproportionately and millions of good jobs have been lost. Tomorrow the Labor Department will announce new statistics on employment for the month of April. I understand that many experts expect tomorrow's news to be positive. And certainly, we were all very glad to hear that 308,000 jobs had been created in March.

A couple months of strong job growth should not lull this Congress into believing that the manufacturing sector is enjoying a healthy recovery. Indeed, in March no new manufacturing jobs were created at all. Nationwide almost 3 million manufacturing jobs have been lost since January 2001. In my home State of West Virginia, more than 10,000 manufacturing jobs have disappeared in that time.

Regardless of tomorrow's news, this Congress must stay focused on the task at hand. We must eliminate the European tariffs that are currently imposed on many of our goods, and we must enact a fair tax policy that will shore up our manufacturing base. The JOBS Act is accomplishes these goals.

The JOBS Act repeals the foreign sales corporation/extraterritorial income provisions in our current tax code in order to comply with the ruling of the World Trade Organization. Regardless of whether I agree with the obligations that the WTO has ascribed to the U.S., I believe that Congress must act quickly to resolve this impasse and restore good trade relations with Europe. Because repealing these provisions would impose a new tax burden on American manufacturers just at a time when they are already struggling to compete globally, the JOBS Act would create a new deduction for our manufacturers to reduce the cost of doing business in the U.S. In that regard, this legislation is very similar to a bill I introduced last year, the Security America's Factory Employment Act. I know that many of the CEOs in my home state find it difficult to offer good wages, provide health insurance and retirement benefits, pay taxes, and still make a reasonable profit. Passing the JOBS Act will dramatically reduce the tax burden these businesses face, helping them succeed and grow.

Indeed, while the name of this legislation is certainly awkward, the Jumpstart Our Business Strengths Act, the acronym JOBS is fitting. There are a number of very promising provisions in this bill that can offer hope to struggling businesses and the millions of Americans looking for work. In addition to lowering the tax rate on domestic manufacturing operations, this bill extends valuable tax provisions on which American companies depend.

For example, this legislation would improve and extend the research and development tax credit. By spurring investment in innovation this tax credit helps our companies stay competitive and helps keep exciting, well paid jobs in the U.S. The bill also extends tax incentives for the hiring of those who might otherwise depend on public assistance. The work opportunities tax credit and the welfare to work tax credit have been extraordinarily successful, and Congress should ensure that businesses can continue to use them.

I am also very pleased to have worked with my colleagues to provide assistance to companies that are subject to alternative minimum tax obligations by enabling them to take advantage of the legitimate tax benefits of bonus depreciation and general business credits even if their AMT liability would otherwise prevent such benefits. While I wish we could have made this provision even more substantial, this assistance creates incentives for companies to invest in new projects and purchase new equipment in—other words, it helps those companies contribute to our economic recovery.

Another key to our Nation's economic vitality is technological development and deployment. When the Senate Finance Committee considered the JOBS Act last fall, I was very pleased that the committee accepted my amendment to provide tax incentives for the deployment of cutting edge broadband technology. The United States currently ranks eleventh in the world in broadband availability. Millions of Americans, especially in rural areas, do not have access to broadband. We must remedy this situation so that everyone can benefit from activities such as telemedicine, telecommuting, and distance learning. Widespread broadband technology is critical to increasing our productivity and keeping America competitive with nations that offer technology-savvy workforces. I thank my colleagues who have worked with me to include the broadband tax incentives in this legislation, and I look forward to getting these provisions enacted this year.

I am gratified also that the managers of this bill and the leaders on both sides of the aisle have seen their way to including the energy tax provisions that many of us in the Senate have been working to enact for many years. In particular, I am happy to see the Senate working to pass, once again, meaningful incentives to promote the development of clean coal technologies and the expanded development of oil and gas from nonconventional sources. These particular incentives are crucial to meeting our Nation's future energy needs, and I cannot emphasize adequately how important they are to my state of West Virginia.

As the high price of gasoline at the pump continues to set new records, the inclusion of new incentives for the use of alternative fuels and the vehicles that use them are especially timely. I am proud to have worked for many years with a bipartisan group of Senators on these provisions, and I join them in hoping our action on the JOBS Act will lead, finally, to their enactment.

I have been a long-time advocate for a responsible energy policy for this nation. I am frustrated that the current political mindset of some in the House leadership prevents us from getting a final comprehensive bill that can pass the Senate. Still, I am pleased that the Senate has again demonstrated with these tax provisions, including important incentives for energy efficiency and conservation, the genuine bipartisan consensus the country needs to secure our energy supply and lessen our dependence on foreign sources of energy.

Because of the many important provisions I have described, I am looking forward to supporting this bill. As can be said about almost all legislation, this bill is not perfect. Rather it is the result of compromises. I was very disappointed that my colleagues did not agree to add Trade Adjustment Assistance for service workers or to improve the health care tax credit available to workers who lose their job as a result of our trade policies. In addition, I do not believe it is good policy to allow companies who have deliberately avoided U.S. taxes by keeping their profits overseas to now enjoy a tax break on repatriated income. Yet, on balance, this legislation will be beneficial for our manufacturing companies and our economy as a whole.

We have made substantial progress this week. I look forward to voting on the few remaining amendments, including a very worthy proposal to extend unemployment benefits for those workers who have been hardest hit in this economy. I urge my colleagues to continue to make progress on this legislation and work with our counterparts in the House of Representatives so that we can send this to the President.

Mr. FEINGOLD. Mr. President, while I strongly supported a timely finish to debate on this measure, I voted against the motion to invoke cloture on S. 1637. The debate over the past few days leading up to this vote has made it clear that the total time needed to consider the amendments remaining on this measure totaled less than 2 hours. So there was no need to invoke cloture on this legislation. Unfortunately, cloture does mean that critical amendments, including my own amendment to strengthen our Buy American law, would no longer be in order.

To be clear, I do not support delaying consideration of the underlying bill. As I indicated to both leaders, I was willing to enter into a short time agreement for consideration of my amendment, and I understand that others who were offering amendments were also willing to limit the time on their amendments. But cloture not only limits the time available to debate this bill, it also means that the Senate will not be able to consider my amendment, as well as other worthy proposals that relate directly to the loss of manufacturing jobs that has wracked so many communities in Wisconsin and across the country.

Mr. KENNEDY. Mr. President, all of us are pleased by Department of Labor reports showing that the economy has finally had two months of good job growth. It is welcome news. However, that news must be viewed as part of the overall economic picture. Job growth is still far behind what President Bush predicted when his tax cuts were enacted last summer—two million jobs behind. Employment in the manufacturing sector is still anemic. The pace at which American jobs are being shifted overseas is still accelerating.

Working men and women in America are facing an economic crisis which threatens their job security and their families' well-being. Since the beginning of 2001, there has been a net loss of nearly two and a half million private sector jobs. In prior economic downturns, most of the job loss was the result of temporary layoffs. As the economy picked up, workers returned to their old jobs. Unfortunately, that is no longer the case. Economists tell us that most of the millions of jobs lost in the last three years are gone for good. With each job lost, a family is placed in jeopardy. We must look behind the statistics to the people who, through no fault of their own, are now facing hardship and uncertainty.

Unfortunately, the Bush administration's response to these people has been weak and ineffective. Huge tax cuts heavily skewed to the wealthy, and rosy predictions that have consistently proven false. Long term unemployment has nearly tripled under President Bush. Unemployed workers remain without jobs longer than at any time in the last 20 years. Nor is there any basis to conclude that the hemorrhaging of jobs in the manufacturing sector is at an end. And the relatively small number of new jobs that are being created pay, on average, 21 percent less than the jobs that have been lost. The Republican strategy of tax breaks for the rich and platitudes for the public will not solve the ongoing economic crisis. We need new leaders who will give us a new economic plan.

The so-called JOBS bill which the Senate is finally considering does not provide that new economic plan. Rather, it is a hodge-podge of unrelated and sometimes inconsistent provisions. Some of them—principally the new deduction for domestic manufacturing and the extension of the research and development tax credit—will help to create jobs. However, there are many other provisions in the bill which could actually make the job loss worse.

This legislation is really schizophrenic. On the one hand, it creates over $65 billion in new tax benefits for domestic manufacturers to help them maintain, and hopefully add, jobs here at home. On the other hand, it provides nearly $40 billion in new and expanded tax breaks for companies doing business abroad. Many of these international provisions will actually make the exporting of American jobs more financially attractive to multinational corporations.

Providing assistance to domestic manufacturers is the right thing to do. We have lost more manufacturing jobs in the last three years than in the preceding twenty years—a net loss of nearly 3 million jobs since 2000. This is a genuine crisis for working families across America. They are looking to us for help, and we owe them a strong, unambiguous response.

Unfortunately, the legislation as reported from the Finance Committee does not provide that strong, unambiguous response that American workers are looking for. It contains deep internal contradictions which will seriously hamper its effectiveness in preserving domestic manufacturing jobs.

Providing more tax breaks for multinational corporations is the wrong thing to do. It's more than the loss of $40 billion in tax revenue that could be used for many better purposes that is troubling. What is most disturbing is the fact that many of these international provisions will actually encourage companies to shift even more American jobs to low wage countries.

The international provisions should be removed from the bill, and the tax dollars saved should be used to increase the tax benefits for domestic manufacturing.

It is outrageous that this bill proposes to expand the value of the foreign tax credits which multinational corporations receive. Under the legislation, these companies would pay even less in U.S. taxes on the profits they earn from their business abroad than they do today—$40 billion less. This will create further incentives for them to move jobs abroad, undermining the intent of the legislation.

From the perspective of preserving American jobs, one of the worst features of corporate tax law is a special tax subsidy for multinationals known as ''deferral.'' If a U.S. company moves its operations abroad, it can defer paying U.S. taxes on the profits it makes overseas until the company chooses to send those profits back to America.

In essence, it allows the corporation to decide when it will pay the taxes it owes to the U.S. Government. That is a luxury that companies making products and providing services here at home do not have. This is an enormous competitive advantage which the tax code gives to companies doing the wrong thing—eliminating American jobs—over companies doing the right thing—preserving jobs in the United States.

We should be eliminating this special tax break for multinationals. Instead, this bill proposes to expand it. It makes changes in the deferral rules which will actually encourage companies to keep profits earned on foreign transactions abroad longer. As a result, the return of working capital to the U.S. will be delayed even further, and the payment of corporate taxes owed to the public Treasury will be postponed even longer.

This legislation would extend from 5 years to 20 years the amount of time which a foreign tax credit can be carried forward. Often it is concern about losing foreign tax credits which leads a corporation to return foreign earned profits to the United States. By extending the carry forward period to 20 years, corporations will lose one of the strongest incentives to bring the money home. The bill also narrows what is known as Subpart F, which currently prevents the deferral of American taxation on the profits from certain types of passive investment income. It would change Subpart F to allow deferral of income from investment activities, such as commodity hedging transactions and aircraft and vessel leasing. The location of these activities can be easily manipulated for tax avoidance purposes. The bill also removes limitations on the use of foreign tax credits against the corporate alternative minimum tax, and allows companies to take advantage of foreign interest payments to make their foreign tax credits even larger. All of these provisions move the tax code further in the wrong direction, increasing the profitability of shifting jobs abroad.

If enacted, these provisions greatly enhancing the value of foreign tax credits will inevitably lead to the export of more American jobs. That is

not just my opinion. Let me cite a statement from the Finance Committee Democratic staff's analysis of the bill:

[A] dollar of taxes paid today is more costly than a dollar paid next year. Thus, on a present value basis, deferral represents significant tax savings—and the savings are greater the longer taxes are deferred. Accordingly, as a general matter, the tax burden on investment abroad is lower than on identical investment in the United States in any case where the tax rate imposed by the foreign host government is lower than the U.S. tax rate on identical investment. As a consequence, deferral poses an incentive for U.S. firms to invest abroad in low-tax countries.

Creating ''an incentive for U.S. firms to invest abroad in low-tax countries''—worth billions of dollars—just what we should not be doing, making an already bad situation for American workers worse!

Not surprisingly, the proponents of this legislation all want to talk about the tax benefits it will provide for domestic manufacturers, helping them pressure American jobs. However, the multi-national tax breaks in Title II will seriously undercut that goal. They will cost jobs, reducing the net benefit that American workers receive from this bill. Our corporate tax laws should be rewritten to increase the cost of exporting jobs and decrease the cost of maintaining jobs in America. Title II does the opposite. These international provisions should be removed from the bill, and the tax dollars saved should be used to make the tax benefits for domestic manufacturing more robust. That would truly make this legislation a JOBS bill we could all be proud of.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I wish to make a few comments regarding the bill.

First, I compliment my colleagues, Senator GRASSLEY and Senator BAUCUS. We will be successful in passing a bill today. I compliment them for it. I believe we have been on this bill for about 14 days, maybe 15 days. They have considered hundreds of amendments. In my opinion, this bill has gotten pretty expensive and I want to talk about it a little bit.

Senator KYL and I voted against the bill reported out of the Finance Committee primarily because the committee-reported bill had a differential rate for manufacturers than other corporations. It said manufacturers should have a rate of 32 percent and other corporations have a rate of 35 percent.

Prior to my coming to the Senate, I ran a manufacturing company. I should be saying, Thank you very much. I may be going back to a manufacturing company. So maybe I should say, Thank you very much. But this is terrible tax policy. The Senate and the Congress, if it becomes law, will regret it.

Members might say, Why is that? First, who is a manufacturer? You would think it would be very obvious who is a manufacturer but, frankly, it is not. The only thing that is certain out of this bill, there will be lots and lots of lobbyists lining up to be defined as manufacturers because if you are defined as a manufacturer, you get a 10-percent lower rate than all the other corporations. As a matter of fact, the bill defines manufacturers as, obviously, manufacturers, but also agriculture. So I have a lot of wheat farmers in Oklahoma who will now be manufacturers—software producers, movie producers. Now architects and engineers are going to have a lot of people asking they be defined as manufacturers.

Maybe manufacturing employment will rise as a result of people redefining themselves as manufacturing, but other than that, I am not sure it makes sense.

We also have a lot of large corporations that do a lot of things. They may have a manufacturing division but they also have services or they also have financials. Probably one of the biggest beneficiaries dollarwise in this bill, it is my guess, would be a company such as General Electric or maybe it would be a company such as Boeing or a big manufacturer. But General Electric, I would guess their financial services are bigger than their manufacturing.

We will say for part of your corporation you get a corporate rate of 32 percent, but the rest of your corporation gets 35 percent. Guess what. Where you allocate those expenses will make a difference in your bottom line. You could have an enormous amount of internal complexity trying to decide, Should this be allocated to manufacturing? Should it be allocated to our financial services? Should it be allocated to our maintenance services? And if you make a mistake, you cannot only be audited, but you can be fined. But there is a great incentive to crowd as much income, as much profit into the manufacturing sector, and as much expenses into the nonmanufacturing sector.

With the complexity of it—albeit we are all trying to help manufacturers, and I think maybe this is very well intended—I think it is faulty economic policy.

Canada tried a differential rate, a lower rate, for manufacturers than other corporations, and they did it in 1982. They repealed it in 2001. I will make a statement on the floor: If this becomes law, we will repeal it. Congress will repeal it at some point, because our colleagues are going to hear from people in the field that it does not work, or that they have been audited and the complexity is too much.

The Treasury Department made these comments:

Taxpayers will be required to devote substantial additional resources to meeting their tax responsibilities. . . .The resulting costs will reduce significantly the benefits of the proposal. . . .

It will be difficult, if not impossible, for the IRS to craft simplified provisions tailored to small businesses. . . .

Significant additional IRS resources will be needed to administer the [manufacturing deduction] provision. . . .

By distinguishing ''production'' from other activities, the provision places considerable tension on defining terms and designing anti-abuse rules.

In other words, I have heard lots and lots of people say they are for tax simplicity. This is just the opposite, and we are going to regret it. I want people to know that. I would like for them to know it before it becomes law so we do not make a mistake, because I believe it will be a mistake.

I asked the Congressional Budget Office for the economic analysis of this. I would love for the sponsors of the amendment to know this. CBO estimates the efficiency gains to the economy are $4 to $7 billion per year from an across-the-board rate cut. In other words, if we are going to cut corporate taxes, let's cut all corporate taxes the same. You could probably do that to a rate of about 33 percent or maybe 33.5 percent or something. But all corporations would be taxed the same.

We have always taxed all corporations the same. To have a differential rate for manufacturing is a mistake. CBO says the cost—well, I will finish that. They say: The gains to the economy are $4 to $7 billion per year from an across-the-board rate cut. That is $40 to $70 billion over the next 10 years. That is a significant amount, given the fact the entire bill was $110 billion. Now that was $110 billion when we reported it out of committee. The bill now moves around not $110 billion, not $120 billion, but $170 billion. It is a big bill. It adds a lot of miscellaneous provisions. A lot of them, in this Senator's opinion, should not be in the bill.

I hope and expect to be a conferee, and I will tell our conferees, I will always work with my colleague from Iowa because I have great respect for him. I think the differential rate is a mistake. I also think there are a lot of extraneous provisions that were put into the bill that should not be that are bad tax policy, and maybe they need to be reviewed very closely before they become law.

I plan on being pretty active in the conference, to try to accept amendments that make sense, to try to make us more competitive, to try to avoid the fines and the penalties and the tariffs that are being imposed by the EU. I very much agree with the objective of the bill. Let's avoid those penalties. Let's not get in a trade war. Let's not have countervailing tariffs. But let's not add a bunch of junk to the tax policy.

The table of contents, when the bill passed the Finance Committee, was about 5½ pages. The table of contents usually has about 15 or maybe 20 amendments on a page. There are now about 11 or 12 pages on the table of contents. In other words, this bill has hundreds of provisions and a lot of them have nothing to do with manufacturing. A lot of them have nothing to do with being compliant with WTO,

being compliant with trying to eliminate trade tariffs that are imposed on the United States.

So again, I regret I could not support the bill when it came out of the Finance Committee. I know it is going to pass by a big margin today. I compliment the sponsors of the amendment, Senator GRASSLEY and Senator BAUCUS. I compliment them for their work and patience and tenacity in getting us here. I look forward to working with them in conference to hopefully make a better bill, compliant with WTO, something we can afford, and something that will not add 1,000 pages to the IRS Code.

I yield the floor.

Mr. GRASSLEY. Madam President, Senators KYL and NICKLES say that a lower rate just for manufacturing is ''bad tax policy and is virtually without precedent in our history.''

Well, this is just wrong and the evidence is staring them in the face. FSC/ETI itself is a tax cut for manufacturing. FSC/ETI keeps U.S. manufacturing competitive by lowering tax rates on exports. Manufacturers could lower their rates by 3 to 8 points.

The Joint Committee on Taxation says that 89 percent of all FSC/ETI benefits go to manufacturing companies. The Kyl-Nickles Treasury proposal would take money from FSC/ETI and spread it to other industry sectors.

Kyl-Nickles will be a $50 billion tax increase on manufacturing. It will not send the FSC/ETI repeal money back to manufacturing. It is mathematically impossible for their proposal to work any other way.

We know that tax increases do not create jobs. So why would Senator KYL and NICKLES increase manufacturing taxes by $50 billion?

There are other reasons why we did not go the route of the Kyl-Nickles approach. First, their top-level rate cut would only go to the biggest corporations in America. It would not go to family-held S corporations, partnerships, or smaller corporations.

Under the Finance Committee bill, all manufacturers in America, regardless of size, get a 3-point rate cut, including S corporations and partnerships.

S corporations and partnerships benefit under current FSC/ETI law, so the Kyl-Nickles bill takes a benefit away from them and gives it to large corporations.

Kyl-Nickles claim that a manufacturing tax cut ''penalizes all other U.S. businesses.'' I think just the opposite is true. The manufacturing sector should not be a revenue offset to give investment bankers a tax cut. Kyl-Nickles claim that our definition of manufacturing is too difficult to understand. But the definition we use in the JOBS Act is the same definition used for both FSC and ETI. It covers property that is manufactured, produced, grown or extracted within the United States.

This definition is 20 years old, but suddenly no one understands what it means. We did confirm that manufacturing includes computer software, films, and processed agricultural goods. Kyl-Nickles claim that these are special interest definitions of manufacturing. However, all of these activities qualified as manufacturing under the FSC/ETI rules, which have been in place for 20 years.

We also ensured that farm co-ops get the same benefit that they do under current law.

In response to our energy crisis, we provided that refining oil pulled from American wells would qualify as manufacturing.

They claim it is too difficult to allocate income and expenses in determining the amount of manufacturing income. But for 20 years, Treasury has had administrative pricing rules on its books that tell taxpayers how to allocate expenses in figuring FSCETI benefits. Our JOBS bill grants Treasury broad latitude to revise the cost allocation rules, based on existing tax principles.

Kyl-Nickles also claims that Canada recently gave up a similar manufacturing rate cut because it did not work. This is not correct. For many years, Canada had a special lower rate for their manufacturing sector. Canada created their manufacturing rate cut in reaction to the U.S. creating FSC back in 1982. They reduced their rate on manufacturing so they could stay competitive with the U.S. Canada recently repealed that provision because they reduced all their corporate rates to the lower manufacturing rate.

Canada did not repeal their manufacturing rate cut because of its complications. Canada ended their manufacturing regime because it worked so well, that they extended it to all sectors. But when Canada reduced their overall tax rates, they did not do so at the expense of their manufacturing sector.

We put together a strong bipartisan bill, with a 19-to-2 vote out of committee, that will cut our manufacturing tax rate this very year. There is no purpose in blocking such a strong bipartisan bill. These days, is it rare that we can reach such strong agreement on anything.

Mr. President, the CBO report says the flat corporate rate cut would yield slightly more long-term growth than the JOBS bill. But the reason has nothing to do with our manufacturing tax cut.

CBO says the antitax shelter provisions and Senator SMITH'S and Senator ENSIGN's homeland reinvestment provisions are the cause.

CBO says that because we shut down shelters, corporations' taxes won't be as low and, therefore, their long-term growth is not as high.

CBO also concludes that Senators SMITH'S and ENSIGN's temporary 1-year rate cut won't help in the long-term.

The CBO concludes that a flat rate cut could be more ''efficient'' than a manufacturing rate cut. So what do they mean by ''efficient''? They said it means that a manufacturing rate cut would cause more capital to flow into the manufacturing sector.

So I have to ask, what is the problem?

I thought tax cuts were designed to increase capital investment. Isn't that what we want for manufacturing?

If we increase taxes on manufacturing, then capital should flow out of the manufacturing sector. Is that what we want?

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 3120, AS MODIFIED

Mr. LEVIN. Madam President, I ask unanimous consent that our amendment No. 3120 at the desk be modified and called up.

The PRESIDING OFFICER. Is there objection to the amendment being modified?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. COLEMAN, and Mr. HARKIN, proposes an amendment numbered 3120, as modified.

Mr. LEVIN. Madam President, I ask unanimous consent that further reading of the amendment, as modified, be dispensed with.

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

The amendment, as modified, is as follows:

(Purpose: To restrict the use of abusive tax shelters to inappropriately avoid Federal taxation, and for other purposes)

On page 204, strike lines 3 through 15, and insert the following:

SEC. 415. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall

not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

On page 207, strike lines 1 through 18, and insert the following:

SEC. 419. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

Mr. LEVIN. Madam President, I am offering this amendment along with our colleague, Senator COLEMAN. I understand the amendment has been cleared now on both sides of the aisle. I very much appreciate the effort that has been put into this matter by Senator GRASSLEY and Senator BAUCUS. They have been battling abusive tax shelters for years now, and it is a privilege to join them in this fight by providing the IRS with stronger enforcement tools.

Abusive tax shelters are undermining the integrity of our tax system, robbing the Treasury of tens of billions of dollars each year, and shifting the tax burden from high income corporations and individuals onto the backs of the middle class.

The bill before us contains a host of important reforms to combat abusive tax shelters, including codifying and strengthening the definition of when a shelter has ''economic substance.'' But there is an area where the underlying bill falls short and unnecessarily so. That's on the penalties for the people who design and sell the abusive shelters. The bill sets the penalty at 50 percent of the fees earned by these promoters, meaning they get to keep half of their ill-gotten gains.

That is the provision that our amendment addresses, but we significantly toughen this provision in a way which I think this body will totally approve.

The amendment I originally filed proposed raising the penalty on abusive tax shelter promoters and those who aid or abet tax evasion to 150 percent. Today we have reached a compromise, agreeing to set the penalty at 100 percent, which will ensure that those who peddle abusive tax shelters will not get to keep a single penny of their ill-gotten gains.

The issue is whether when you have an abusive tax shelter, one which robs the Treasury of millions of dollars, the people who cook up those tax shelters are going to be penalized in any significant way. Will the accountants or the lawyers or the investment bankers—the people who design these deceptive and sham tax shelters, which are abusive and have no economic purpose, except to avoid taxes—will they be deterred from doing this? And if they do it, will they be penalized, at least to the extent of having their ill-gotten gains being taken back from them? That is the issue.

The current law is like a slap on the wrist. It is like a parking ticket. These abusive tax shelters, which have been designed by the banks and the accounting firms, and which have made them millions of dollars, result in a maximum fine of $1,000 under current law.

What our amendment does is say, if you design and promote an abusive tax shelter which has no economic substance and you are found responsible for doing that, the IRS can get all of your fee that is ill-gotten and wrongfully obtained for cooking up that tax shelter—not $1,000 of the fee, not half of the fee, as was originally proposed in the bill, but the entire fee is going to be recoverable by the IRS.

We can take a quick look at one of these tax shelters. This is called Flagstaff. I am not going to try to explain what that tax shelter you are looking at does. It is obviously inexplicable. It has all of this mumbo jumbo, all of these boxes and arrows that were intended by JP Morgan Chase to create an impression of economic activity when there was none. That is what this bowl of spaghetti is all about: to create a sham impression that there was some economic substance to these transactions when, in fact, there was no economic substance. They were cooked up in order to create the appearance of economic substance and, thereby, obtain a tax deduction for them.

The question is, when that happens, whether we are going to say to these firms that design these tax shelters for Enron, or for whoever: We are not going to let you, the designers, the perpetrators—who are called aiders and abettors in the law, but are really the promoters of the tax shelters—we are not going to let you keep those ill-gotten fees. We are going to recover those for the Treasury of the United States.

That is the only real deterrent we have.

I want to quickly show how some of these firms analyze these fees they get. Again, we are talking about millions of dollars in fees. These are cookie-cutter tax shelters that are designed and sold by the hundreds to people who can use a tax deduction for, usually, their capital gains, but are not engaged in economic activity which would justify the non-payment of tax on these capital gains.

This is what KPMG did when analyzing one of their phony tax shelters: First, they look at the financial exposure to the firm. It is minimal. So what they are saying is: Hey, we can engage in this. We can get away with it because there is no financial exposure.

> . . . we conclude that the penalties would be no greater than $14,000 per $100,000 in KPMG fees. . . . For example, our average deal would result in KPMG fees of $360,000 with a maximum penalty exposure of only $31,000.

They do a cost-benefit analysis.

They cook up and design an abusive tax shelter and then say: Now should we really go with this? Shall we peddle this, promote it, look for people who can benefit from it, sell it for hundreds of thousands of dollars and take the risk that we will be caught? Because what happens if we are caught? We are going to be paying a few thousand dollars in penalties and making $100,000. Our maximum exposure, our financial exposure, is minimal.

That is what this amendment changes.

Last November, the Permanent Subcommittee on Investigations, on which Senator COLEMAN is the chairman and I am the ranking member, held hearings that provided an inside look at how respected accounting firms, banks, investment advisors, and lawyers have become high-powered engines behind the design and sale of abusive tax shelters.

These hearings were the culmination of a year-long investigation into abusive tax shelters, which first began by pulling the curtain away from one of Enron's sham tax transactions. At the November hearings, we released a report by my subcommittee staff on four case histories of abusive tax shelters developed and marketed by KPMG. At the hearings themselves, we heard from a number of accounting firms, banks, investment firms, and others.

One of the key findings of the subcommittee investigation was that it was not taxpayers visiting their tax advisors that provided the engine for the

creation of abusive tax shelters, but rather hordes of tax advisors cooking up one complex scheme after another, and then peddling them to potential customers. There are legitimate tax shelters and abusive ones. The abusive shelters are marked by one characteristic: there is no real economic or business rationale other than a tax reduction. We found the abusive shelters being packaged up as generic ''tax products'' with boiler-plate legal and tax opinions, followed by elaborate marketing schemes to peddle these products to literally thousands of taxpayers across the country.

It is the insight gained during our close look at these shelters that led me and Senator COLEMAN to introduce the Tax Shelter and Tax Haven Reform Act, S. 2210. While the Levin-Coleman bill addresses a wide range of tax shelter issues, our amendment focuses on one key issue: the woefully inadequate penalties that are now on the books for the tax shelter promoters who concoct and peddle abusive shelters.

Existing tax shelter penalties are a joke. They provide no deterrent at all. The story begins with Enron, and I think the Enron scandal has shown us one reason this amendment is so important. The Flagstaff example I talked about earlier was designed to save Enron more than $60 million in taxes. The whole scam was built around a sham $1 billion loan that was issued to Enron but was repaid in nanoseconds, and then used to claim various tax benefits as well as creating a false impression of profits on the balance sheet. JP Morgan Chase designed and sold this concoction to Enron for more than $5 million. After Enron collapsed and this scam came to light, we learned that JP Morgan had sold the same abusive tax shelter to at least one other company as well.

Under Section 6700 of the tax code prohibiting the promotion of abusive tax shelters, JP Morgan was subject to a whopping $1,000 penalty. Let me repeat: For one tax shelter which was abusive because it was a sham and a deception, JP Morgan Chase's ill-gotten gain from one company, Enron, was $5 million. Its penalty exposure to the IRS under current law was $1,000.

As IRS Commissioner Mark Everson said when he testified at our tax shelter hearings, the current tax shelter promoter penalty is ''chump change.'' To continue quoting Commissioner Everson: ''We need significantly increased penalties to hit the promoters who don't get the message where it counts, in their wallets.''

Our tax shelter investigation found some fascinating documents as well, including one I have shown here today in the KPMG memo that shows a particular tax shelter promoter performing a specific cost-benefit analysis when deciding whether or not to take the risk of peddling an abusive shelter. The third paragraph of this KPMG memo says:

> First, the financial exposure to the Firm is minimal. Based upon our analysis of the applicable penalty sections, we conclude that the penalties would be no greater than $14,000 per $100,000 in KPMG fees. . . . For example, our average deal would result in KPMG fees of $360,000 with a maximum penalty exposure of only $31,000.

The fact that all KPMG could lose if caught was a small part of its fee was a driving consideration in KPMG's decision to take the risk. This memo is proof that weak penalties encourage tax shelters and that tough penalties would deter them. Congress needs to enact meaningful, tough penalties to deter promoters from pocketing any gains from designing and peddling abusive tax shelters. We need to deter folks from making a cost-benefit analysis that encourages the promotion of a tax shelter they know is not likely to withstand scrutiny.

Our amendment would do just that by strengthening penalties for promoting abusive tax shelters.

Our amendment focuses on two key penalties. The first is the penalty for promoting an abusive tax shelter under Tax Code section 6700. The second is the penalty for aiding and abetting tax evasion under Tax Code section 6701. It would increase the penalty for both types of misconduct.

Currently, the penalty under section 6700 of the Tax Code is the lesser of $1,000 or 100 percent of the promoter's gross income derived from the prohibited tax shelter. That means in most cases, the maximum fine is $1,000. That figure is laughable, when many abusive tax shelters are selling for $100,000 or $250,000 apiece. Our investigation uncovered tax shelters that were sold for millions each. The Enron tax avoidance scam sold for more than $5 million. We also saw instances in which the same so-called tax product was sold to more than 100 clients. A $1,000 fine is like a parking ticket for raking in millions illegally.

The bill before us is an improvement over the status quo, but an unnecessarily modest one. It would increase the penalty for promoting an abusive tax shelter to 50 percent of the promoters' gross income from the prohibited tax shelter. Why should anyone who pushes an abusive tax shelter—an illegal tax shelter that robs our Treasury of much needed revenues—get to keep half of his ill-gotten gains? And what deterrent effect is created by a penalty that allows promoters to keep half of their fees if caught, and all of them if they are not? That half-hearted penalty is not tough enough to do the job that needs to be done.

At the very least, a meaningful penalty for those who peddle abusive tax shelters must ensure that the tax shelter promoter does not profit from its wrongdoing. It must require the wrongdoer to disgorge every penny of the income obtained from selling the shelter. Our amendment would do just that.

My original amendment would have gone further. It would have created a maximum penalty equal to 150 percent of the promoter's gross income from the prohibited tax shelter. Under that penalty, the first 100 percent would have forced the disgorgement of the ill-begotten gains, and the remaining 50 percent would have imposed what I consider to be an actual penalty on top of that. But today, our amendment does not go that far. It stops at 100 percent. While that is not as tough as called for in the Levin-Coleman bill, it is a reasonable compromise and will ensure that those who promote abusive tax shelters will lose 100 percent of their ill-gotten gains.

The underlying bill has the same problem in the way it addresses many professional firms the accountants, law firms, banks, and investment advisors that aid and abet the use of abusive tax shelters and enable taxpayers to carry out abusive tax schemes. The underlying bill takes the same half-hearted approach of denying only 50 percent of the gross income obtained by the aider and abettor, and allowing the wrongdoer to keep half of its ill-gotten gains. Just as we do with tax shelter promoters, our amendment would raise the penalty under tax code section 6701 to 100 percent of the aider or abettor's gross income, thereby denying them 100 percent of their ill-gotten gains. In addition, our amendment would make an important change to section 6701 itself by eliminating a provision which limits the penalty to persons who prepare tax returns. Instead, our amendment would apply the penalty to all wrongdoers who knowingly aid and abet the understatement of tax liability, not just tax return preparers.

Finally, while I am pleased that today we have reached agreement to accept a 100 percent penalty, I would like to take this opportunity to observe that penalties that cause wrongdoers to not only disgorge their ill-gotten gains, but also pay a monetary fine on top of that are fair and provide a meaningful deterrent.

There is no reason why those who concoct and peddle these shenanigans should get off any easier than the taxpayers who use them. Just last week the IRS came out with an initiative to allow taxpayers who used a tax shelter known as ''Son of Boss'' to come clean. This tax shelter was marketed beginning in the late 1990s and was one of the tax shelters we looked at during our investigation. Under the terms of the IRS initiative, taxpayers are required to come forward and pay 100 percent of the tax they tried to escape. On top of that, the IRS can impose a penalty that ranges up to an additional 40 percent. That means the taxpayer faces up to a 140 percent penalty.

Son of Boss is a hellaciously complicated tax shelter that was dreamed up and carried out by tax shelter promoters and other professionals. The taxpayers who bought this shelter have to cough up 100 percent plus. It is only fair that the tax shelter promoters who made so many millions of dollars in profit on these schemes should do no less.

It is also important to realize that Congress has frequently set penalties for corporate misconduct and financial crimes that require wrongdoers to disgorge 100 percent of their ill-gotten gains plus pay a penalty on top of that, and courts have upheld those penalties as both constitutional and enforceable. For example, under current law, violation of the federal securities laws results in 100% disgorgement plus a civil fine of up to 100 percent, for a total civil penalty equal to 200 percent. In the special case of insider trading, violations result in 100 percent disgorgement plus a civil fine of up to 300 percent, for a total civil penalty equal to 400 percent. Manipulation of commodity markets results in a civil fine of up to 300 percent. False claims submitted to the Federal Government result in a civil fine of up to 300 percent. Even the tax code has penalties of this magnitude; for example, personally profiting from a charity results in a civil fine of up to 200 percent.

Men and women in our military are putting their lives on the line every day for our nation. To make sure we can provide them with the resources they need, all Americans need to contribute their fair share in taxes. While the bill before us improves the tax shelter penalties over current law, we can and should do much better. We need penalties that truly deter those who make a profit from peddling abusive tax shelters and aiding and abetting tax evasion, not penalties that would allow the promoters to keep half of their ill-gotten gains.

It is long past time to stop in their tracks the shelter abusers and the promoters who push them. This amendment would send the message to promoters that their tax schemes are unfair and unpatriotic. Again, I appreciate the bill managers accepting it into the bill.

I also thank Senator COLEMAN for being such a strong advocate of this approach, putting in the law a real deterrent to end these abusive tax shelters which have cost the Treasury and the average taxpayers of this country, who have to share the burden, so many tens of billions of dollars. That is now hopefully going to end.

Again, I thank the chairman and ranking member of the Finance Committee for the way they have worked with us to adopt this amendment.

The PRESIDING OFFICER (Mr. ALEXANDER). Who yields time?

Mr. LEVIN. I yield the balance of my time to my friend from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I commend my friend, the Senator from Michigan, for his leadership in protecting the interests of all taxpayers by originally bringing to light the nature of these abusive tax shelters. I had the opportunity to work with him to make a difference, to help shape this amendment.

I also thank Chairman GRASSLEY and Senator BAUCUS for accepting this amendment and for their leadership on this issue. I am glad the Senator from Michigan didn't try to explain and walk through all the details of his chart of these sham tax shelters. The bottom line is very clear: The Government gets ripped off. The taxpayers get ripped off. These abusive tax shelters were established for the purpose of avoiding tax liability. Those who suffer are all the taxpayers. By this amendment, by substantially increasing the penalties, by putting some real deterrent in place, I believe public trust in our laws will be restored.

In November, as chairman of Permanent Subcommittee on Investigations, I held two hearings on abusive tax shelters. The permanent subcommittee spent one year investigating the tax shelter industry. It became clear to the subcommittee that some tax avoidance schemes are clearly abusive. These abusive shelters relied on sham transactions with no financial or economic utility other than to manufacture tax benefits.

According to GAO, abusive tax shelters robbed the Treasury of $85 billion over 6 years. The use of these tax shelters exploded during the high flying 1990s, when many firms were awash in cash and more concerned with generating fees than being compliant with the Code. The lure of millions of dollars in fees clearly played a role in the decision on the part of tax professionals to drive a Brinks truck through any purported tax loophole.

Abusive tax shelters require accountants and financial advisors who develop and structure transactions to take advantage of loopholes in the tax law. Lawyers provide the cookie-cutter tax opinions deeming the transactions to be legal. Bankers provide loans with little or no risk. Yet the amount of the loan creates a multimillion-dollar tax loss.

This became a game. Otherwise reputable professionals were able to earn huge profits by providing services that offered a veneer of legitimacy to the transactions. The parties were careful to hide the transaction from IRS detection by failing to register and failing to provide lists of clients who used the transactions to the IRS.

It was clear to the subcommittee that the promoters of these tax shelters failed to register with the IRS partly because the penalties for failing to register were so low compared to expected profits. As my colleague from Michigan noted, with the risk-benefit ratio, it was worth avoiding the law because if you got caught it didn't matter; you made so much money. The penalties were so little that you took the risk of avoiding the law. In fact, the benefits were great.

This amendment changes that. Current provisions of the JOBS bill provide for increased penalties to address abusive tax shelters. However, I agree with Senator LEVIN that even stronger penalties are needed. The provision to substantially increase penalties to promoters who manufacture these sham transactions so they must give back all of their ill-gotten gains is vital to restoring the integrity of our tax laws and deterring future avoidance.

This amendment also increases the amount of penalties for persons who knowingly aid and abet a taxpayer in understating their tax liability. Current law and the JOBS bill only apply this penalty to tax return preparers. We now get the aiders and abettors. However, the close collaboration between the lawyers, accountants, financial advisors, and banks requires us to apply penalties to all material aiders and abettors, not just those who prepare the tax returns.

This is not a victimless crime. It is not the Government that loses the money. It is the people of America, average working families who will bear the brunt of lost revenue so that a handful of lawyers and accountants and their clients can manipulate legitimate business practices to make a profit. Abusive transactions are used to avoid detection by the IRS. This amendment sends a clear message that this Congress intends to put an end to abusive sham transactions.

With the passage of this amendment, the price to be paid for participating and for promoting abuse will be very steep indeed—all of your profits.

I am appreciative that the managers have joined me in supporting this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I urge adoption of the Levin-Coleman modified amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 3120, as modified.

The amendment (No. 3120) was agreed to.

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. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMBASSADORIAL APPOINTMENTS

Mr. REID. Mr. President, I was in the Chamber this morning when the distinguished Senator from Tennessee, the majority leader, complained about our holding up—the Democrats, the minority—appointments to our ambassadorial corps. I thought that doesn't sound right, but I wanted to make sure I had my facts right, even though I had a tremendous impulse to say: Mr. Leader, you are just wrong.

After having looked at the facts, I can say now: Mr. Leader, you were wrong this morning.

This is an important issue. I have been fortunate to have started off in the House of Representatives, and being on the Foreign Affairs Committee, one of my assignments was to travel. I have had the good fortune of being able to travel, in the more than two decades I have been in Congress, all over the world. I am tremendously impressed with the places I go, where we have young men and women who serve, as Senator DODD did. I think he went to the Dominican Republic. We have had other examples, but that is the only one I know of people who served in the Peace Corps. This is a wonderful organization. They do wonderful things for the country. I admire so much what they do.

But there is no one I admire as much as our career Foreign Service officers, our diplomatic corps. They do such wonderful work, without any notoriety at all. So any time we talk about our State Department, our diplomatic corps, I want to defend them. So I know this is an important issue raised by the majority leader this morning. But I thought it would be important for me to respond to some of the current concerns I have heard expressed this morning.

I was on the Senate floor last Thursday, and I was pleased that the Senate confirmed 20 Ambassadors that day, including the Ambassador to Iraq, Ambassador Negroponte, whose assignment will begin after June 30 of this year. His nomination was completed with near record speed, given that he was confirmed 1 week after he was nominated by the President of the United States. The other 19 Ambassadors confirmed that day were confirmed less than a week after they were reported out of the Foreign Relations Committee. That is remarkably good work.

By confirming these 19, the Senate filled 3 vacant U.S. Embassies. We had hoped to confirm other career Foreign Service officers that day. For example, Nepal—I have been there. There are very important events going on in that country now that we have an Ambassador there. As we know, this has been a site of considerable violence.

Unfortunately, I have been advised that the objection to the confirmation of James Frances Moriarity, of Virginia, a career Foreign Service officer, doesn't come from us; it comes from the majority, meaning this Embassy will continue to be vacant for the foreseeable future.

At the moment, I am told by the State Department that out of the nearly 170 Embassies we have around the world, 8 are vacant. So that means 162 of the 170 are filled. Eight are vacant, meaning they have no confirmed Ambassador. The President has chosen not to fill two of them. So now we are down to six. We have two that are too dangerous to fill, for reasons that are apparent—what is going on in the world. That knocks us down to four. One is awaiting action in the Foreign Relations Committee. The Republicans objected to filling another. The last two, Sweden and Finland, are vacant because President Bush's political appointees—not career Foreign Service officers, which I have no objection to because we need a mix—his political appointees decided they could not stand being there much longer and they left.

So my dear friend, for whom I have so much respect, the majority leader, better have his staff give him better facts because he is absolutely, totally wrong, for the reasons I have just indicated.

Last week, some of our friends on the majority side noted that the vacancies send a negative signal to these countries. Let the President move with dispatch to fill them then.

I also hope the President will work out another problem. We have Ambassadors who have been confirmed by the Senate to posts around the world, but they are not doing their work in the countries to which they were sent. They have been sent to Iraq. Ambassadors assigned to the Philippines, Kuwait, and Bahrain are in Iraq, not in the countries to which they were assigned. I know it is important that they help out in Iraq, but that is not the way it should be. At least, it should not be that people are complaining about these Ambassadors not having jobs and the ambassadorial corps being empty and that we are holding it up.

I recognize the jobs these men are doing in Iraq are important. The things they are performing in Iraq are obviously important or they would not have been sent there. But don't complain about the minority holding up Ambassadors because we are not, for the simple math I have given you. So I hope we can consider the whole picture and not come to the floor and complain and cry and whine about the Ambassadors not being confirmed because of us. It is simply not true.

If there is other business to come before the Senate, I will withhold suggesting the absence of a quorum.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 3133

Mr. GRASSLEY. Mr. President, I ask unanimous consent to call up amendment No. 3133 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 3133.

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

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

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

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 3133) was agreed to.

Mr. GRASSLEY. 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.

Mr. GRASSLEY. Mr. President, I think this is going pretty well now. We expect a vote around 6:30.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3040, AS MODIFIED

Mr. GRASSLEY. Mr. President, on behalf of Senator NICKLES, I call up amendment No. 3040 and send a modification to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. NICKLES, proposes an amendment numbered 3040, as modified.

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

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

The amendment is as follows:

(Purpose: To treat electric transmission property as 15-year property)

At the end of title VIII, add the following:

SEC. ___. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property), as amended by this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and by inserting '', and'', and by adding at the end the following new clause:

''(v) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale the original use of which commences with the taxpayer after the date of the enactment of this clause.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iv) the following:

''(E)(v) ..... 30''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act and prior to July 1, 2006.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we have looked at this amendment on this side, and we are agreeable that this amendment should be adopted.

Mr. GRASSLEY. On this side, too.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3040), as modified, was agreed to.

Mr. BAUCUS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3143

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

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 3143.

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

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

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

Mr. GRASSLEY. I ask for consideration of the amendment.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 3143) was agreed to.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The clerk will call the roll.

Mr. MCCONNELL. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The result was announced—yeas 92, nays 5, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—92

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

NAYS—5

Graham (FL)	Hollings	Sununu
Gregg	Kyl	

NOT VOTING—3

Edwards	Kerry	McCain

The bill (S. 1637), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. GRASSLEY. I move to reconsider the vote.

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

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

Mr. GRASSLEY. Mr. President, now that this bill has finally passed the Senate, I take the opportunity to thank several people.

First and foremost, I thank Senator BAUCUS. I am very certain we would not be here without his good work and his cooperation. In fact, as I have said so many times in speeches, this whole effort started when Senator BAUCUS was chairman of the committee in the last Congress. He held hearings and started this process going. He has not only cooperated and put in good work during this Congress, but it all started under his leadership.

I also need to thank all the other members of the Finance Committee for their time and energy in making this bill a reality. I thank my staff on the Finance Committee: Mark Prater, chief tax counsel, and the other tax counsels, Ed McClellan, Elizabeth Paris, Dean Zerbe, Christy Mistr, and John O'Neill as well as John's predecessor, Diann Howland. These individuals, along with Adam Freed, the staff assistant for the tax team, have been real workhorses for the committee, keeping the lights burning long into the night to make this bill possible.

For the record, as evidence of the work effort, this bill was introduced on the day Hurricane Isabel blew into town. Because of hard work, the mark-up of the bill occurred in a calm environment.

I also thank the trade staff, particularly Everett Eissenstat, chief Trade Counsel, and his team of David Johanson, Stephen Schaefer, Daniel Shepherdson, and Zach Paulsen. I also thank Carrie Clark who recently left our trade staff. Thanks also needs to be paid to our administrative staff, including Carla Martin, Amber Williams, Geoff Burrell, and Mark Blair. From my personal staff, I thank Sherry Kuntz and Leah Shimp. Also helpful were our Finance Committee press team of Jill Kozeny and Jill Gerber, known around the committee as the ''Jills.'' Lastly, on my side, I thank Kolan Davis and Ted Totman, the Committee's staff director and deputy staff director for riding herd on all this work.

In addition, this bipartisan bill would not have been possible without close work and cooperation at the staff level. I appreciate and thank the minority staff for their good work. I particularly note Russ Sullivan, Democratic Staff Director, as well as Pat Heck, Democratic Chief Tax Counsel, Matt Stokes, Matt Jones, Matt Genasci, Judy Miller, Jon Selib, Liz Leibschutz, Matt Stanton, Dawn Levy, and Anita Horn Rizek. In addition, I thank Tim Punke and his trade team, along with John Angell, Bill Dauster, and Mike Evans, former Deputy Staff Director, for their time and energy.

I extend my thanks also to George Yin and his staff at the Joint Committee on Taxation for providing their extensive knowledge and guidance to this effort. I particularly point out the good work of Ray Beeman, David Noren, and Brian Meighan. Brian recently left Joint Tax for the private sector.

I also thank Acting Assistant Secretary for Tax Policy, Gregory Jenner, and his staff for their assistance on the so-called SILOs tax shelter provision of this bill.

I thank the majority leader, Senator BILL FRIST, and his leadership staff for all their assistance. The majority leader backed me and Senator BAUCUS all the way on this bill. We would not have the result today but for the majority leader's patience, determination, and dedication. It was tough going at times, but he and I knew we would get the right result. From Senator FRIST's staff, I thank Lee Rawls, Eric Ueland, Rohit Kumar, and Libby Jarvis.

I also thank our Senate leadership team and their staffs, especially our able whip, Senator MCCONNELL.

Finally, my thanks go to Jim Fransen, Mark Mathiesen, Mark McGunagle, and their capable staff at Legislative Counsel for taking our ideas and drafting them into statutory language.

I would like to tell them all to go home and get a good night's rest because the bill has been a very long time working its way through the Senate.

Now, I urge our friends in the other body to pass a companion bill. Hopefully, when that bill passes the House, our friends in the Senate Democratic leadership will not resist our efforts to go to conference. Every month of delay is another month where the Euro tax ratchets up another percentage point on our products going to Europe.

I thank everyone for their cooperation in allowing us to get to this point this evening. This, of course, is not the final step in the process. The House has

not passed their version of the FSC legislation. I anticipate the House will send a bill to the Senate at some point. When that happens, I hope we will be able to proceed to conference so that we are able to get a final product.

I appreciate the assistance of Senator BAUCUS throughout this process and hope we will be able to send a bill to committee.

ORDER OF PROCEDURE

Mr. President, following Senator BAUCUS's remarks, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am very proud of the Senate. The Senate worked its will through a very involved and complex tax bill. I might add—I don't have the final figures here, but in the case of first impression, this probably is one of the largest tax bills the Senate has taken up and passed, outside of reconciliation—we don't know yet—in maybe a decade, or maybe close to two decades.

I say that because of the importance of protecting Senators' rights. I know this sounds like a little inside baseball, but when I say ''outside reconciliation,'' all of us in the Senate know this means the bill was taken up under the usual Senate process, which means Senators have the right to offer amendments, have the right to speak as long as they can stand on their own two feet, and have the rights Senators usually have in taking up bills. Whereas, if this were to be taken up under the process we call ''reconciliation,'' then amendments would have to be passed very easily; that is, there is no right for extended debate. Germaneness rules do not apply; that is, unless cloture is invoked.

So the main point I want to make is that the Senate has done a good job. The Senate has taken up a very complicated, very large tax bill, and done it the way the Senate should ordinarily do business; that is, outside of reconciliation. We are responsible. We can do it. We did it.

I very much thank my good friend and colleague, the chairman of the Finance Committee, who led us in a way to help make that happen. He basically did it by being so gracious, by being so fair. He has a reputation, we all know, of being one of the most honest and fair persons you would ever have the privilege to meet, not only in the Senate but in life. His credibility is unquestioned. That is a substantial reason why we were able to pass such a messy bill outside reconciliation. I thank my friend for his leadership, for his friendship, and for all he has done.

I also especially thank Senator REID of Nevada. We all know Senator REID is probably one of the masters of the floor. He knows procedure, and his main goal is to get things done. He, too, is a man whose word is his bond. He is invaluable here. If not for the efforts of not only the chairman but Senator REID, I am not so sure we would be here today. He has done a super job.

It is also very appropriate to thank a lot of my staff, and Senator GRASSLEY's staff, and many others, which I will do. But before I do that, I would like to do something a little bit differently and thank some people who helped me with this bill; that is, the people I talked with back home who provided ideas on how to structure the FSC/ETI replacement bill in a way that made the most sense for our manufacturers, not only throughout the country but in my home State of Montana.

This was a great chance for me to learn even more about manufacturing in my State, by going to manufacturers in my State and saying: What do we need? What can we do to help make this happen?

Let me give you a few examples.

The timber industry, for example, has faced very tough economic times during the last several years. In the years 2000 and before, many of these businesses paid very high taxes on solid profits.

So a provision in this bill will permit businesses in industries with cyclical profits to smooth out their tax rates. This is accomplished by permitting a loss to be carried back for up to 5 years. That will help a lot.

I thank Jim Hurst at Owens & Hurst, a small timber company located in Eureka, MT, for helping us better understand the economics of the timber business. The JOBS bill will help this company and many other companies that have very cyclical incomes.

I might add, too, that the people at Mountain Harvest Pizza Crust Company, from Billings—that does not sound like a huge American manufacturing company but they are extremely important to Montana, to Billings, and to me—helped educate me about the challenges of rising costs facing small businesses, and about how the cost of health care was getting to be too much to handle.

I might say, too, not all exporters are large corporations. We learned this from Sun Mountain Sports in Missoula. They are an S corporation. They export golf bags and other sports equipment. They are just the kind of company we want to stay strong so they can keep those manufacturing jobs here in the U.S. and so they can continue to export overseas.

Because of discussions with many small businesses such as Mountain Harvest Pizza Crust and Sun Mountain Sports, I made sure that every manufacturer would get this deduction. So we in the Finance Committee produced a bill that gives a deduction not only to C corporations but to S corporations, to partnerships, and to sole proprietorships so they all could have help and not be left behind by this legislation. The tax relief they are getting in this bill will help defray those and other rising costs.

Again, by consulting with the people at home, we were able to realize what the FSC/ETI replacement bill should be. It should not be just for big C corporations—those are large, publicly held corporations—but, rather, for any organization that manufactures, including proprietorships, small businesses, et cetera.

I also thank the people at CHS—that is Central Harvest—who showed us the role that cooperatives play in rural America and helped us better understand the importance of making this tax deduction pass through to the members of cooperatives. Agricultural cooperatives are a crucial part of the economy of my State and a lot of the West, and, I might add, a lot of other rural parts of America.

CHS helped to make sure their important contributions were not overlooked in this bill. I wanted, as I said, the bill to include all American manufacturers, and I have made sure the bill includes the agricultural cooperatives that are so important to so many States.

Also, I thank Elvie Miller at Mountain Meadow Log Homes, who talked to us about how integral good research and design is to their business. Frankly, with the addition of the amendment by the Senator from Texas, we were able to add that provision.

I also want to thank Leland Griffin and the good folks at Montana Refining Company in Great Falls. They pointed out that under the export credit this bill will repeal, oil refining operations are not eligible for tax benefits. But Montana Refining pointed out that if we are converting the laws to a manufacturing deduction, then it should cover oil and gas refining operations. Those operations are manufacturing. They take raw material, crude oil, and convert it to a usable product—gasoline and other petroleum products. I offered an amendment in committee to include refining operations in the definition of manufacturing.

All of these companies, and many more, were invaluable in passing such a strong bill in the Senate. I thank them. I thank them very much for adding their part to this bill. Were it not for their very valuable contributions, this legislation would not be as good.

I also thank a lot of people from my office. I don't have the whole list. There are so many of them. If we turned the camera over, we could see them lined up against the wall over there. Starting with Brian Pomper on the far right, he does a very good job, handles a lot of trade work. We have Pat Heck over there; Russ Sullivan; Matt Genasci; Liz Liebschutz, Matt Stokes, Jon Selib. We have Scott Landes there in the corner, Simon Chabel, many others. Wendy Carrey is there; Mac Campbell. They are our folks. They do the work. My guess is

that if I talk much longer, they are going to fall asleep, they are so tired. We all very much appreciate, deeply appreciate what they do.

I have often said that the most noble human endeavor is service—service to church, to community, to mankind, service to whatever makes the most sense to us as human beings. A lot of us who run for public office get some of the psychic rewards of service. We see our names in newspapers and on TV. Usually that is good, not always but usually.

However, the folks who work in the Senate, on Joint Tax and elsewhere, work harder. And they don't get public recognition for what they do. They are the real servants. They are the ones who really provide the most noble kind of service. I know I speak for everyone listening, for everyone else who stops and thinks about these things if only for a nanosecond, when I say how true that last statement is. They are the most wonderful folks. I take my hat off to all of them.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, I, too, congratulate Chairman GRASSLEY and Senator BAUCUS for their great work in moving this JOBS bill to completion. I certainly express the hope that once the House acts, we will be able to go to conference in the normal way that legislation is handled and get this important piece of legislation on the President's desk at the earliest possible time to prevent further penalties from being levied against our companies here in the United States.

AMENDMENT NO. 3143, AS MODIFIED

Mr. GRASSLEY. Mr. President, I ask unanimous consent, notwithstanding the adoption of amendment No. 3143, that the modification which is at the desk be agreed to.

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

The amendment (No. 3143), as modified, was agreed to, as follows:

''(ii) there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of a person as a person described in this paragraph.

''(C) RELATED PERSON.—For purposes of this paragraph, the term 'related person' has the meaning given such term by section 954(d)(3).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

On page 335, strike lines 4 through 10, and insert the following:

(2) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this section shall apply to taxable years beginning after January 31, 2004, with respect to leases entered into on or before November 18, 2003.

Mr. SMITH. Mr. President, I rise today to praise the Senate for its passage of S. 1637, the Jumpstart Our Business Strength Act, which includes my provision lowering the corporate tax rate on repatriated profits. In one short year, this provision will bring $400 billion into our economy. This money is going to create over 650,000 new jobs and get our economy moving again. At the same time, it's going to help reduce the federal deficit.

I believe this is one of the most important provisions of the JOBS Act regarding job growth and strengthening our economy. This provision would require that repatriated funds be reinvested in the United States for hiring workers and worker training, infrastructure, R&D, capital investment, or financial stabilization for the purposes of job retention or creation. It is my understanding that the concept of financial stabilization, for this purpose, encompasses use of the repatriated funds to repay debt of the U.S. parent corporation. Use of these funds to pay down debt is a qualified use for purposes of the provision. In fact, debt repayment will strengthen U.S. corporate balance sheets, which will improve a company's ability to employ and hire workers.

I thank the chairman for his strong support of this repatriation provision and look forward to swift action by the House.

MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Virginia is recognized.

IRAQI PRISONERS

Mr. WARNER. Mr. President, the distinguished majority leader, Senator DASCHLE, Senator LEVIN, and I have been working with the Department of Defense regarding additional photos relative to the tragic case of the treatment of Iraqi prisoners by U.S. personnel, military and otherwise. We have reached a decision with the total cooperation of the Department of Defense whereby those pictures will be brought to Senate S–407 tomorrow. There will be a representative from the Department there to help Members work their way through such pictures as they wish to examine from 2 to 5, at which time the pictures and everything will be returned to the Department since the Department will maintain constant custody of those, that evidentiary material throughout the time.

I ask unanimous consent the letter Senator LEVIN and I have sent to the Department regarding viewing and inspection of this material—all Senators are eligible, no staff—be printed in the RECORD.

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

U.S. SENATE
COMMITTEE ON ARMED SERVICES,
Washington, DC, May 11, 2004.

Hon. DONALD H. RUMSFELD,
Secretary of Defense, Washington, DC.

DEAR MR. SECRETARY: We request the Department of Defense provide the Committee on Armed Services an opportunity to review the photos and videos regarding the abuse of prisoners at Abu Ghraib prison in Iraq. Further, it is our intent to extend this opportunity to all Members of the United States Senate.

These materials should be brought to the Senate for review, but will remain under the control of the Defense Department. At no time will the Committee, the Senate, or any Member or employee thereof, take custody of, or assume responsibility for, these materials. A Defense Department official will return these materials to the Pentagon after the materials have been reviewed by Members, subject to our subsequent recall if necessary.

Committee staff will coordinate the details of this request directly with your office.

Sincerely,

CARL LEVIN,
Ranking Member
JOHN W. WARNER,
Chairman.

TRIBUTE TO RICHARD C. CRAWFORD

Mr. FRIST. Mr. President, I rise today to pay tribute to Richard C. Crawford who retires June 1 following a career devoted to public power, in the Tennessee Valley, that spans four decades. Mr. Crawford's retirement as president and chief executive officer of the Tennessee Valley Public Power Association, and before that as a vice president for the Tennessee Valley Authority, brings to a close a distinguished career of advocacy for public power.

Dick Crawford's contributions to public power are recognized not only in Tennessee and in the Tennessee Valley region, but across the entire country. While at TVA he was responsible for technological improvements to the utility's transmission system that resulted in enhanced electric reliability. He was also a leader in the development TVA's highly acclaimed energy conservation and efficiency programs, which were modeled by other electric utilities around the Nation. He worked with distributors of TVA power to overhaul the power contracts and helped introduce innovative pricing and economic development products, including one of the first and largest real-time pricing programs, and incentive rates to help attract industry to the Tennessee Valley.

Mr. Crawford's contributions to public power continued when he joined the staff of TVPPA in 1994. Initially, he served as director of power supply services before becoming acting executive director, and later president and chief executive officer. The knowledge he gained at TVA about the Valley's unique power supply needs and the distributors who deliver the power to the Valley's 8.3 million consumers made him a perfect choice to head TVPPA during a critical time in its history.

With a strong belief in public power, Mr. Crawford worked tirelessly to reestablish critical relationships and reopen communication doors. Under his leadership, TVPPA embarked on aggressive programs in governmental relations, communication, and education and training. In addition, he has spearheaded efforts to secure additional power supply options for distributors. Working with his board of directors, he successfully revamped TVPPA's dues structure and established additional levels of membership that expand the reach of public power.

Throughout his career, he has received the support of his family, including wife, Lane, daughter, Angela, and grandson, Blake.

Honoring Dick Crawford in this way serves as a lasting tribute, just as his engineering and technical skills are a lasting gift to power consumers in the Tennessee Valley. I thank him for his service, and I wish him all the best in his retirement.

60TH ANNIVERSARY OF THE USS ''YF–415'' TRAGEDY

Mr. KENNEDY. Mr. President, as the official dedication of the world War II Memorial approaches, I welcome this opportunity to honor the sacrifice of the courageous men who lost their lives close to home in a tragic accident in 1944, fourteen miles off the coast of Massachusetts during the war.

Sixty years ago today, the 9–member crew of the Navy ship USS *YF–415* and 21 men from the Hingham Ammunition Depot were disposing of condemned ammunition and explosives off the coast. Tragically, while performing their mission, the ordnance on the ship caught fire, setting off the ammunition for nearly 40 minutes. The ship and 17 lives were lost.

The vessel lay on the ocean floor until the summer of 2003, when amateur divers discovered its remnants. They informed the Navy of the location, but too many years has passed, and the Navy salvage team was unable to find any trace of the missing men.

Now as the Nation prepares to honor all who served our country so bravely during World War II, it is fitting on this day to remember the men who lost their lives in that tragedy 60 years ago. I express my deepest condolences to the family members who have suffered so long because of that tragedy so close to home and to all of us in Massachusetts.

I would like to add the names of these men to the RECORD so that all may recognize their sacrifice: William J. Bradley, Adell Braxton, Joseph F. Burke, Raymond N. Carr, Truman S. Chittick, George M. Cook, James Cox, Jr., Freddie Edwards, Jr., F. E. Federle, James S. Griffin, Charles R. Harris, Raymond L. Henry, Julian Jackson, Yee M. Jin, Mike Peschunka, Vernon Smith, and James B. Turner.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In Montgomery County, MD, in 2001, Robert Lucas alleged that he killed Monsignor Thomas Wells, a local priest, after the victim was sexually aggressive toward him. Lucas contends that his ''killing rage'' resulted from feelings of ''anger, shame and humiliation.'' The victim bled to death as a result of stab wounds.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

EXPLANATION OF ABSENCE

Mr. BAYH. Mr. President, I was not present for the rollcall vote No. 87 on the motion to invoke cloture on S. 1637 today because of my participation in the Senate Armed Services Committee hearing on the mistreatment of Iraqi detainees. However, I wish to state for the record that I would have voted in favor of the motion to invoke cloture had I been present.

DEDICATION OF THE PYRAMID OF REMEMBRANCE

Mr. VOINOVICH. Mr. President, this morning, at Arlington National Cemetery, I was honored to join Congressman STEVE LATOURETTE, LTG Richard A. Cody, Superintendent of Arlington Cemetery John Metzler and students and faculty from Painesville High School for the dedication of the Pyramid of Remembrance, a living memorial paying tribute to American soldiers who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations.

The unveiling of this historic memorial today came as a result of the dedication and hard work of motivated young people at Riverside High School in Painesville, OH and their teacher, Dr. Mary Porter. More than one decade ago, in October 1993, these high school students watched in horror as a U.S. soldier in Somalia was dragged through the streets of Mogadishu. The students—concerned that there was not a memorial in our Nation's Capital to honor members of the Armed Forces who lost their lives during peacekeeping missions such as the one in Somalia—felt compelled to take action.

These students spearheaded a campaign to establish a Pyramid of Remembrance in Washington, DC. The students not only proposed the memorial, they also created a private nonprofit foundation to raise the money to construct the memorial. The community in Painesville pulled together, providing legal counsel for the students and private donations to help fund the project. Due in part to the strong support of this Ohio community, the proposed national Pyramid of Remembrance has been erected at no cost to U.S. taxpayers.

There has been considerable discussion regarding the Pyramid of Remembrance since it was first proposed by the students of Riverside High School and introduced in the House of Representatives in 1996.

On October 17, 2002, Senator MIKE DEWINE jonied me in introducing legislation in the Senate for the first time to authorize the creation of the Pyramid of Remembrance. We re-introduced this legislation on January 30, 2003, taking into account recommendations made by the National Park Service, and the Senate Subcommittee on National Parks conducted a hearing to examine the legislation on June 3, 2003.

In addition to consideration in the United States Congress, the National Capital Memorial Commission which is charged with overseeing monument construction in Washington, DC, conducted hearings about the proposed Pyramid of Remembrance in April 2001. The Commission recommended that the memorial be constructed on Defense Department land, possibly at Fort McNair. The commissioners also noted that such a memorial would indeed fill a void in our Nation's military monuments.

I agree with the commissioners' findings. I, too, believe that this memorial is a fitting addition to our Nation's Capital to honor those who have lost their lives while serving in the United States military, and I am proud that it has now come to fruition.

On May 6, 1999, I spoke on the Senate floor in honor of two brave American soldiers—CWO Kevin L. Reichert and CWO David A. Gibbs—who lost their lives when their Apache helicopter crashed into the Albanian mountains during a training exercise on May 5, 1999, as U.S. troops joined with our NATO allies in a military campaign against Slobodan Milosevic. As I remarked at the time, the United States owes Kevin, David and so many other service members a debt of gratitude that we will never be able to repay, for they have paid the ultimate sacrifice. As the Bible says in John, chapter 15:13:

> Greater love has no man than this, that a man lay down his own life for his friends.

The Pyramid of Remembrance honors individuals such as David Gibbs and Kevin Reichert. It also honors the memory of the 17 service members who lost their lives when the USS *Cole* was attacked on October 12, 2000, and the American soldiers who lost their lives during the terrorist attacks against the Pentagon and the World Trade Center on September 11, 2001.

This memorial is dedicated to the brave men and women who have given their lives so that we may know freedom. I was deeply moved by words spoken this morning by Dr. Mary Porter, the teacher at Painesville High School who inspired these students to take action. She said:

And so this memorial is for you, SSG William Cleveland. They dragged your body through the streets of Mogadishu, but they could not destroy your spirit . . . for you and for all those who have lost their lives in places like Somalia, Bosnia and Iraq and in training accidents and acts of terrorism: we celebrate your spirit. We recognize your sacrifice. We honor your effort to establish peace. This monument represents our eternal gratitude for your sacrifice, but it also represents hope for a future where human beings on this planet can live in peace and without fear.

The patriotism, dedication, and vision of the students at Riverside High School are commendable. Their action shows maturity, leadership and passion for their country that Americans of all ages should emulate. I support and applaud the work these students have done to establish the Pyramid of Remembrance, as well as the efforts of community members who have provided ongoing guidance and support to help the students turn their vision into reality.

I believe it is our duty to honor American men and women in uniform who have lost their lives while serving their country, whether in peacetime or during war, and this memorial, which will remain and grow at Arlington National Cemetery, will ensure that the sacrifice made by so many is always remembered by our grateful Nation.

THREATS TO AFFORDABLE HOUSING AND THE SECTION 8 VOUCHER PROGRAM

Mr. LEAHY. Mr. President, today I express my extreme disappointment with the administration's recent announcement on Fiscal Year 2004 Section 8 voucher renewals that threatens to end a long standing commitment to fully fund all Section 8 vouchers in use. Coupled with its budget proposal for Fiscal Year 2005 that would slash funding for Section 8, the Bush administration has given the Nation's communities ample reason to be concerned about the future of the Housing Choice Voucher Program.

The Section 8 voucher program has been the cornerstone of Federal housing policy for nearly 30 years. The program provides the Nation's most vulnerable families with vouchers to help them cover the cost of modest apartments and homes in the private market. It serves more than 2 million families nationwide who are trying to make ends meet. In my home State of Vermont it helps nearly 6,000 households—more than 60 percent of them are elderly or disabled members and 24 percent of them are working families.

Unfortunately the administration has chosen to shortchange the program in a way that will almost guarantee that the poorest of families lose their support. They recently announced the intention to move from a funding formula based on the actual cost of vouchers to a model that calculates voucher costs based on last year's costs, pegged to a regional rent inflation index—which may or may not reflect local market conditions—and despite the fact that they may have access to more recent and accurate data on voucher costs.

The new formula does not take into consideration potential changes in personal incomes, and it does not provide definitive safeguards for public housing authorities—PHAs—that have seen rising voucher costs over the last year or that will be unable to meet their obligations to voucher holders once this policy is enacted. What I find even more troubling is that HUD will apply this formula retroactively, leaving many public housing authorities shortchanged by millions of anticipated dollars.

Without the necessary funds to support all vouchers they have issued, many PHAs are either going to have to scale back subsidies or revoke vouchers completely. Already we are seeing the effects. PHAs are starting to realize massive gaps in their budgets. They are considering course corrections to plug these holes and in some cases have stopped accepting additional applicants for the Section 8 waiting list. If the administration's policy is carried out, it will be the first time since 1974 that the Federal Government walks away from our commitment to honor all authorized voucher contracts.

This new policy goes against the intent and will of Congress. We made it clear in the Fiscal Year 2004 Omnibus Appropriations Bill that the Department of Housing and Urban Development—HUD—should do everything in their power to ensure that all vouchers were fully funded, and we gave HUD the resources and tools they needed to do so. The Appropriations Committee added more than $1 billion dollars to the administration's request for Section 8 vouchers, we gave HUD access to a central reserve fund to supplement voucher payments in the event that costs exceeded expectations, and the Senate passed sense of the Senate language reaffirming our commitment to the voucher program and to those that it serves. The intention of Congress could not have been clearer.

As a member of the VA–HUD appropriations subcommittee, I am not without concern for the rising cost of the Section 8 program, and I understand the need to look for creative solutions to contain those costs. But this new funding formula is irresponsible and shortsighted. Simply serving fewer people, or people with higher incomes—the almost certain outcome of this approach—is the wrong response to the rising cost of Section 8. Instead, we should be looking at measures to reduce the cost of housing and to raise the average wage. We should look at policies which will enable families to afford a place to live without Federal assistance.

This new ruling is contrary to the administration's own goal to eliminate chronic homelessness in 10 years and will put a strain on other support services such as homeless care providers who are already stretched beyond their means. If it is not reevaluated, it will leave thousands of families nationwide at risk of losing their housing. It lacks specificity needed for PHAs to accurately predict how they are going to be affected and leaves considerable discretion to the department of how to interpret renewals.

This announcement fell on a housing community already reeling from the news that the administration wants to cut $1.6 billion dollars from the program in the next Fiscal Year and convert Section 8 into a block grant program. If this proposal goes through, an additional 250,000 people could be faced with the loss of their housing assistance. My home State of Vermont would lose more than $4 million in anticipated funds and could be forced to cut nearly 740 low-income, elderly and disabled families out of the program.

This is the wrong time to walk away from some of our Nation's most vulnerable populations. I find it outrageous that the President can stand behind policies that threaten the safety and wellbeing of thousands of American families while continuing to advocate for corporate tax cuts and tax cuts for the wealthiest Americans. There is a fiscal crisis in this county, of that I am sure. Our Federal debt continues to rise and the Federal treasury continues to shrink, but it is not caused by the modest assistance we give families on Section 8.

This program has proven itself to be one of the most cost-effective housing programs. This was confirmed by two separate reports in 2002—one by the General Accounting Office, and reinforced by the Millennial Housing Commission. It has been shown to have positive effects on families and children, many of whom are able to move out of high poverty areas to areas of lower poverty and lower crime rats and better schools. Studies have shown that it helps promote success in the workplace performance—by providing reliable housing while families are trying to get established, many of whom have moved off welfare.

We cannot expect low-income families to improve their situations, hold steady jobs and move out of poverty if they do not have access to reliable, safe and affordable housing. We cannot expect the elderly and the disabled who are on meager fixed incomes to fend for themselves in rental markets that have spiraled out of the reach of even moderate-income families. Section 8 provides temporary assistance to those who need it. It helps families avoid the choice between a roof over their heads or food on the table.

Congress gave the HUD the resources they needed to fully fund all vouchers under contract, and I would expect them to use those resources. This is not the place to try and reap meager savings to make up for a Federal deficit caused by questionable tax cuts and irresponsible fiscal policies.

I urge the administration to reevaluate this policy and to restore our commitment to the Section 8 program.

MEDICAL RESIDENCY PROGRAM

Mr. BINGAMAN. Mr. President, I once again raise my concerns with Section 207 of the Pension Funding Equity Act that passed the Senate on April 8 and was signed into law on April 10. This provision grants a retroactive antitrust exemption to the graduate medical education residency matching program, a subject that is entirely unrelated to the pension bill and never received a full consideration by the normal processes of this body.

My concerns about that provision are simple. First, I do not think that exemptions from this nation's antitrust laws should be lightly given. Second, I think the process by which this exemption was given—without any opportunity for hearing before the appropriate committees or full and real consideration by this body—was improper. Finally, I am concerned about the correct interpretation of the language as to the scope of the immunity.

As I stated in the floor debate on the pension bill, I believe that the language of subsection 207(b)(3) makes clear that the exemption from the antitrust laws granted by this legislation is limited; and that if there is a claim of price-fixing—which is prohibited by section one of the Sherman Act—then the provisions of subsection 207(b)(2) do not apply.

Even though my right to file an amendment was reserved on this bill, I have now lost that right as my amendment is no longer in order now that cloture has been invoked. Having lost this right, I will seek a future opportunity to raise this issue before this body.

PRIMARY IMMUNE DEFICIENCY DISEASES

Ms. LANDRIEU. Mr. President, I take this opportunity to focus attention on primary immune deficiency diseases, PIDD, a problem that affects thousands of people across our Nation. Primary immune deficiency diseases are genetic disorders in which part of the body's immune system is missing or does not function properly. The World Health Organization recognizes more than 150 primary immune diseases that affect as many as 50,000 people in the United States. Fortunately, 70 percent of PIDD patients are able to maintain their health through regular infusions of a plasma product know as intravenuous immunoglobulin. IGIV helps bolster the immune system and provides critical protection against infection and disease.

I am familiar with primary immune deficiencies because one of my constituents and long-time Shreveport, LA, residents, Gail Nelson, is a PIDD patient. Gail and her husband Syd Nelson have become tireless advocates for the primary immune deficiency community as volunteers for the Immune Deficiency Foundation. IDF is the Nation's leading organization dedicated to improving the quality of life for PIDD patients.

Recently, the foundation entered into a historic research partnership with the National Institute of Allergy and Infectious Diseases at the National Institutes of Health. The establishment of the US Immunodeficiency Network represents the most significant advancement in primary immune deficiency research in our Nation's history. I was pleased to work with the Nelsons, the foundation, and my colleagues in the Senate to make this research consortium a reality.

Despite the recent progress in PIDD research, the average length of time between the onset of symptoms in a patient and a definitive diagnosis of PIDD is 9.2 years. In the interim, those afflicted may suffer repeated and serious infections and possibly irreversible damage to internal organs. Thus, it is critical that we raise awareness about these illnesses within the general public and the health care community.

I commend the Immune Deficiency Foundation and Gail and Syd Nelson for their leadership in this area, and I am proud to join them in raising awareness of these diseases. I encourage my colleagues to work with us to help improve the quality of life for PIDD patients and their families.

ADDITIONAL STATEMENTS

IOWA WOMEN AGAINST HEART DISEASE AND STROKE

• Mr. GRASSLEY. Mr. President, today I rise to acknowledge women in Iowa who are taking a stand against heart disease and stroke. Many people assume that cardiovascular disease is a man's disease. The truth is, it has claimed more lives of women since 1984.

Nationwide, 8 million women are living with heart disease. Thirteen percent of women age 45 and over have had a heart attack.

As a survivor of breast cancer, my wife Barbara knows the fears of many women. Heart disease, just like cancer, is scary and real. It is up to women around the world to educate their friends, mothers, and sisters about the disease. Women in Iowa are doing it this week.

I commend every woman in Iowa for being an advocate for a very good cause. The campaign to educate all women about the major risk factors of heart disease and about heart-healthy behavior will positively impact the lives of many families. Women in Iowa should not underestimate their personal risk, and they should know what they can do to beat the disease.

In Congress, I have worked to increase funding for the National Institutes of Health. The NIH is one of the world's foremost medical research centers, and the Federal focal point for medical research in the United States.

I am keenly aware of the overall benefits of biomedical research to the health care system, and to those with heart disease.

In fact, the NIH has set out to develop a national public awareness and outreach campaign to convey the message that heart disease is the number one killer of American women and that it can be successfully prevented and treated.

Six years ago, we set out to double the funding for the NIH. We followed through with our promise. As a result, the NIH now funds nearly 10,000 more research grants and can support the training of over 1,500 more scientists each year.

This is good news for women everywhere. The increase in funding is a step in the right direction, but we can't give up. It will take all of us to stop the leading cause of death in our state.•

OREGON HEALTH CARE HERO

• Mr. SMITH. Mr. President, I rise today to recognize an outstanding Oregon leader who has been a health care hero for Oregon's seniors. Barbara Arazio has served on the Oregon Board of Nursing Home Examiners for 18 years, mentoring nursing home administrators and ensuring quality care for vulnerable Oregon seniors.

When Oregonians find that one of their loved-ones is in need of skilled nursing care, they want assurances that the highest quality care will be provided in a safe environment. Because of Barbara's diligence and hard work, our families have that peace of mind. Barbara has played a central role in helping nursing homes not only comply with, but exceed the State standards for nursing facilities.

The level of service at each Oregon nursing facility is driven by its leadership. Barbara has trained nursing home administrators and continually worked with them to make sure that residents have access to the best health care and facilities. In fact, the quality of life at Oregon care centers, from the activities, to the meals, to the well-trained staff, can be traced back to Barbara's caring hand.

As Barbara embarks on her well earned retirement, she will be greatly missed by the administrators, staff and residents of Oregon's long term care system. She has touched many lives and is truly a Health Care Hero for Oregon.•

MR. BASEBALL, RICHARD A. SAUGET, TURNS 60

• Mr. DURBIN. Mr. President, I rise today to honor Richard A. Sauget, an outstanding citizen, community leader, business entrepreneur, husband, father, and grandfather. His distinguished contributions and accomplishments have improved the economic prosperity, social welfare, and individual lives of so many people in Southwestern Illinois and the St. Louis region.

Richard A. Sauget was born on April 21, 1944. He was raised by his parents, Vincent and Estelle Sauget, in the Village of Sauget, which was founded by Rich's grandfather, Leo. Rich continues to reside in Sauget with his wife, Judee. The Sauget family was one of the first to settle in the area. Rich and Judee have five children, three grandchildren, and one grandchild on the way. His Catholic faith and family have always been his priorities.

After graduating with a B.A. from the University of Notre Dame and a M.A. from St. Mary's University, Rich began a successful professional baseball career. He played baseball with the Atlanta Braves and San Francisco Giants. During his career, he served as a backup for Joe Torre and a catcher for the great Satchel Paige.

Rich Sauget continues to be involved in baseball. Starting with the Sauget Wizards, a semi-professional team in the Mon-Clair Baseball League, Rich brought professional-level baseball to Southwestern Illinois. Today, his passion is the Gateway Grizzlies Baseball Team, a team he founded. Rich, a managing partner of the Grizzlies, was the driving force in designing and building the new Grizzlies GMC stadium in 2002. By the way, the Gateway Grizzlies won the Frontier League Championship in 2003.

Rich serves on several prominent sports association boards, including the St. Louis Sports Commission, Southwestern Illinois Officials Organization, the St. Louis Professional Baseball Scouts Association, and is the current president of the Frontier Professional Baseball League.

In addition to his sports accomplishments, Rich has been a highly-successful business entrepreneur. He is the founder and president of East County Enterprises, Inc., a real estate management company that has been in business for more than 35 years. East County Enterprises manages various properties in several Southwestern Illinois communities. The company has provided job opportunities and generated business growth in the region.

Rich Sauget is a dedicated community leader with a strong commitment to service. He has volunteered a great deal of time to the economic development of the St. Louis Metropolitan area by serving on many prominent boards, including the St. Louis Regional Chamber and Growth Association, the Leadership Council of Southwestern Illinois, the St. Louis Regional Business Council, the St. Louis Lambert Airport Commission, and the Missouri Historical Society Board. He is the Chairman of the St. Clair County Building Commission which oversees the development of MidAmerica St. Louis Airport.

For years, Rich has emphasized the importance of bringing together and developing the entire St. Louis region as one united community, including a highly-integrated airport transportation system. His vision includes the eventual formation of a Regional Airport Authority to provide the St. Louis region with more efficient passenger, cargo, and maintenance services.

As chairman of the board of Touchette Regional Hospital and a member of the board of Kenneth Hall Hospital, Rich has been instrumental in the development and expansion of healthcare services to low income families, specifically underprivileged women and children, in the Southwestern Illinois region.

To further serve the Southwestern Illinois/St. Louis region, Rich has been working to develop a strong business leadership group, Archview Communities Economic Development Corporation. Archview is designed to enhance economic, social, and business development opportunities by facilitating partnerships between government programs, local municipalities, the area's healthcare network, the local education system, and many regional business owners.

It should also be noted that both Rich and Judee Sauget are involved in many charitable organizations in Illinois and Missouri.

Richard A. Sauget leads by example and sets a very high standard for all of us to follow. I congratulate him for his impressive accomplishments and heartfelt service to his community and look forward to many more years of working with him.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

NOTIFICATION OF AN EXECUTIVE ORDER BLOCKING THE PROPERTY OF CERTAIN PERSONS AND PROHIBITING THE EXPORT OF CERTAIN GOODS TO SYRIA—PM 76

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Consistent with subsection 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have issued an Executive Order (order) in which I declared a national emergency with respect to the threat constituted by certain actions of the Government of Syria. Further, in accordance with subsection 5(b) of the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (SAA), Public Law 108–175, this message also constitutes the report of my exercise of the waiver authority pursuant to that statute.

On December 12, 2003, I signed into law the SAA in order to strengthen the ability of the United States to effectively confront the threat to U.S. national security posed by Syria's support for terrorism, its military presence in Lebanon, its pursuit of weapons of mass destruction, and its actions to undermine U.S. and international efforts with respect to the stabilization and reconstruction of Iraq. These policies by the Government of Syria directly threaten regional stability and undermine the U.S. goal of a comprehensive Middle East peace. Despite many months of diplomatic efforts to convince the Government of Syria to change its behavior, Syria has not taken significant, concrete steps to address the full range of U.S. concerns, which were clearly conveyed by Secretary of State Powell to Syrian President Asad in May 2003. I find the actions, policies, and circumstances described above sufficiently grave to constitute a threat to the national security, foreign policy, and economy of the United States, and thus have declared a national emergency to address that threat.

In implementation of subsection 5(a) of the SAA, in the order I directed that action be taken to prohibit the export to Syria of products of the United States other than food and medicine, including but not limited to items on the United States Munitions List or Commerce Control List, and I prohibited commercial air services between Syria and the United States by aircraft of any air carrier owned or controlled by Syria, as well as certain non-traffic stops by such aircraft.

It is important to the national security interests of the United States, however, that certain discrete categories of exports continue in order to support activities of the United States Government and United Nations agencies, to facilitate travel by United States persons, for certain humanitarian purposes, to help maintain aviation safety, and to promote the exchange of information. Also, it is important to U.S. national security interests that aviation-related sanctions

take into account humanitarian and diplomatic concerns as well as the international obligations of the United States.

Accordingly, I have waived the application of subsections 5(a)(1) and 5(a)(2)(A) of the SAA to permit the export and reexport of: products in support of activities of the United States Government to the extent that such exports would not otherwise fall within my constitutional authority to conduct the Nation's foreign affairs and protect national security; medicines on the Commerce Control List and medical devices; aircraft parts and components for purposes of flight safety; exports and reports consistent with the 5(a)(2)(D) waiver outlined below; information and informational materials, as well as telecommunications equipment and associated items to promote the free flow of information; certain software and technology; products in support of United States operations; and, certain exports and reexports of a temporary nature. These items are further identified in the Department of Commerce's General Order No. 2, as issued consistent with my order. I have also waived the application of subsection 5(a)(2)(D) to permit the following with respect to aircraft of any air carrier owned or controlled by Syria: takeoffs or landings of such aircraft when chartered by the Government of Syria to transport Syrian government officials to the United States on official Syrian government business; takeoffs or landings for non-traffic stops of such aircraft that are not engaged in scheduled international air services; takeoffs and landings associated with an emergency; and overflights of U.S. territory.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 11, 2004*.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7451. A communication from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Fees for Official Inspection and Official Weighing Services'' (RIN0580–AA80) received on May 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7452. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Pine Shoot Beetle; Additions to Quarantined Areas'' (Doc. No. 03–102–2) received on May 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7453. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Veterinary Diagnostic Services User Fees'' (Doc. No. 00–024–2) received on May 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7454. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Orchids of the Genus Phalaenopsis from Taiwan in Growing Media'' (Doc. No. 98–035–3) received on May 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7455. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Karnal Bunt; Compensation for Custom Harvesters in Northern Texas'' (Doc. No. 03–052–1) received on May 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7456. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Highly Pathogenic Avian Influenza; Additional Restrictions'' (Doc. No. 04–011–1) received on May 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7457. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Reestablishing a Region as Free of a Disease'' (Doc. No. 02–001–2) received on May 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7458. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Extra Long Staple Cotton Outside Storage and Strength Adjustment for Loan'' (RIN0560–AH03) received on May 10, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7459. A communication from the Assistant to the Board of Governors of the Federal Reserve System, Division of Banking Supervision and Regulation, transmitting, pursuant to law, the report of a rule entitled ''Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets; Extension'' (Doc. No. 1156) received on May 10, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7460. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, a report on the national emergency declared in Executive Order 12978 of October 21, 1995 with respect to significant narcotics traffickers centered in Columbia; to the Committee on Banking, Housing, and Urban Affairs .

EC–7461. A communication from the Under Secretary for Emergency Preparedness and Response, Federal Emergency Management Agency, transmitting, pursuant to law, a report relative to funding for the State of Connecticut as a result of the record/near record snowfall on December 5–7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–7462. A communication from the Under Secretary for Emergency Preparedness and Response, Federal Emergency Management Agency, transmitting, pursuant to law, a report relative to funding for the Commonwealth of Massachusetts as a result of the record/near record snowfall on December 5–7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–7463. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations; 69 FR 10927'' (44 CFR Part 67) received on May 10, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7464. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations; 69 FR 10924'' (44 CFR Part 67) received on May 10, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7465. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations; 69 FR 10923'' (Doc. # FEMA–D–7553) received on May 10, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7466. A communication from the Under Secretary for Industry and Security, transmitting, pursuant to law, a report relative to foreign policy-based export controls on exports of protective and detection equipment and components not specifically designed for military use; to the Committee on Banking, Housing, and Urban Affairs.

EC–7467. A communication from the Acting Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, a report entitled ''Alternative to 96-hour Rule for Critical Access Hospitals''; to the Committee on Health, Education, Labor, and Pensions.

EC–7468. A communication from the Acting Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, a report entitled ''Hospitals Overhead and Supervisory Physician Components of Direct Medical Education Costs''; to the Committee on Health, Education, Labor, and Pensions.

EC–7469. A communication from the Acting Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, a report relative to rule 67 FR 13416 that described the payment system that CMS was proposing for LTCHs; to the Committee on Health, Education, Labor, and Pensions.

EC–7470. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Medical Nutrition Therapy''; to the Committee on Health, Education, Labor, and Pensions.

EC–7471. A communication from the Secretary of Labor, transmitting, pursuant to law, the first report of the President's National Hire Veterans Committee; to the Committee on Health, Education, Labor, and Pensions.

EC–7472. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures; Delay of Effective Date; Correction'' (RIN0905–AC81) received on May 10, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7473. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on May 10, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7474. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on May 10, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7475. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on May 10, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7476. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Human Cells, Tissues, and Cellular and Tissue-Based Products; Establishment Registration and Listing'' (Doc. No. 97N–484R) received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7477. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Human Cells, Tissues, and Cellular and Tissue-Based Products; Establishment Registration and Listing; Correction'' (Doc. No. 97N–484R) received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7478. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Change of Name; Technical Amendment'' received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7479. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Drug Labeling; Sodium Labeling for Over-the-Counter Drugs; Technical Amendment; Termination of Delay of Effective Date; Compliance Dates'' (Doc. No. 90N–0309) received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7480. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Drug Labeling: Orally Ingested Over-the-Counter Drug Products Containing Calcium, Magnesium, and Potassium'' (Doc. No. 1995N–0254) received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7481. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Change of Address; Technical Amendment'' received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7482. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Hematology and Pathology Devices; Classification of the Factor V Leiden DNA Mutation Detection Systems Devices'' (Doc. No. 2004P–0044) received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7483. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Prescription Drug User Fee Act reauthorization; to the Committee on Health, Education, Labor, and Pensions.

EC–7484. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Food Labeling and Indirect Food Additives; Technical Amendment'' received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7485. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Application of 30-month Stays on Approval of Abbreviated New Drug Applications and Certain New Drug Applications Containing a Certification That a Patent Claiming the Drug Is Invalid or Will Not Be Infringed; Technical Amendment'' (Doc. No. 2003N–0417) received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7486. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Medical Device Reports; Reports of Corrections and Removals; Establishment Registration and Device Listing: Premarket Approval Supplements; Quality System Regulation; Importation of Electronic Products; Technical Amendment'' received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7487. A communication from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Direct Loan Program'' (RIN1840–AC84) received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7488. A communication from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Impact Aid Discretionary Construction Program'' (RIN1810–AA96) received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7489. A communication from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Institutional Elig. Under the HEA of 1965; Patricia Roberts Harris Fellowship Prog.; Student Assistance Gen. Prov.; Fed. Perkins Loan Prog.; FWS Prog.; FSEOG; FFELP; Wm. D. Ford FDL Prog.; Fed. Pell Grant Prog.; and National Early Intervention Scholarship and Partnership Program'' (RIN1840–AC47) received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7490. A communication from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Smaller Learning Communities Program'' (RIN1830–ZA04) received on May 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7491. A communication from the Acting Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, a report relative to the Proposed Prospective Payment System Methodology for Psychiatric Hospitals and Units; to the Committee on Health, Education, Labor, and Pensions.

EC–7492. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the Department's Commercial Activities Inventory for Fiscal Year 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–7493. A communication from the Senior Regulatory Officer, Wage and Hour Division, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees, 29 CFR Part 541'' (RIN1215–AA14) received on April 27, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7494. A communication from the Assistant General Counsel for Regulatory Services, Office of Vocational and Adult Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Community Technology Centers Program'' (RIN1830–ZA05) received on April 27, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7495. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Kentucky Regulatory Program'' (KY–244–FOR) received on May 10, 2004; to the Committee on Energy and Natural Resources.

EC–7496. A communication from the Assistant Secretary for Land and Minerals Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Federal Oil Valuation'' (RIN1010–AD04) received on May 10, 2004; to the Committee on Energy and Natural Resources.

EC–7497. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Notice of Availability of 'Award of Grants and Cooperative Agreements for the Special Projects and Programs Authorized by the Agency's FY 2004 Appropriations Act''' received on May 10, 2004; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WARNER, from the Committee on Armed Services, without amendment:

S. 2400. An original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes (Rept. No. 108–260).

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 994. A bill to protect human health and the environment from the release of hazardous substances by acts of terrorism (Rept. No. 108–261).

By Mr. WARNER, from the Committee on Armed Services, without amendment:

H.R. 3104. To provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 441. A bill to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouses in that county.

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 2286. A bill to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia.

By Mr. WARNER, from the Committee on Armed Services, without amendment:

S. 2401. An original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

From the Committee on Armed Services, without amendment:

S. 2402. An original bill to authorize appropriations for fiscal year 2005 for military construction, and for other purposes.

By Mr. WARNER, from the Committee on Armed Services, without amendment:

S. 2403. An original bill to authorize appropriations for fiscal year 2005 for defense activities of the Department of Energy, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. WARNER:

S. 2400. An original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 2401. An original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 2402. An original bill to authorize appropriations for fiscal year 2005 for military construction, and for other purposes; placed on the calendar.

By Mr. WARNER:

S. 2403. An original bill to authorize appropriations for fiscal year 2005 for defense activities of the Department of Energy, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. MILLER:

S. 2404. A bill entitled the ''Fairness in School Discipline Act of 2004''; to the Committee on the Judiciary.

By Mr. MILLER:

S. 2405. A bill entitled the ''Restoring Authority to Schools Act of 2004''; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. 2406. A bill to promote the reliability of the electric transmission grid through the Cross-Sound Cable; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 2407. A bill to clarify the intellectual property rights of the United States Olympic Committee; to the Committee on the Judiciary.

By Mr. BURNS:

S. 2408. A bill to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself, Mr. AKAKA, Ms. COLLINS, Mr. LIEBERMAN, and Mr. DURBIN):

S. 2409. A bill to provide for continued health benefits coverage for certain Federal employees, and for other purposes; to the Committee on Governmental Affairs.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 2410. A bill to promote wildland firefighter safety; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. MCCAIN, Mr. HOLLINGS, Mr. WARNER, Mr. LEVIN, Ms. COLLINS, Mr. SARBANES, Mr. SPECTER, Mr. BIDEN, Ms. SNOWE, Mr. KENNEDY, Mr. GRAHAM of South Carolina, Mr. ROCKEFELLER, Mr. SMITH, Mr. HARKIN, Mr. GREGG, Mr. LIEBERMAN, Mr. JEFFORDS, Mr. DURBIN, Ms. MIKULSKI, Mr. BAUCUS, Mr. SCHUMER, Mr. REID, Mrs. CLINTON, Mr. INOUYE, Mr. LEAHY, Mr. JOHNSON, Mr. KERRY, Mr. BINGAMAN, Mr. LAUTENBERG, Mr. CORZINE, Mr. REED, Mr. CARPER, and Mr. DAYTON):

S. 2411. A bill to amend the Federal Fire Prevention and Control Act of 1974 to provide financial assistance for the improvement of the health and safety of firefighters, promote the use of life saving technologies, achieve greater equity for departments serving large jurisdictions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Mr. DODD, and Mr. BIDEN):

S. Con. Res. 106. A concurrent resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 202

At the request of Mr. DEWINE, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 202, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income that deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 875

At the request of Mr. NELSON of Nebraska, his name was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1368

At the request of Mr. LEVIN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1544

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1544, a bill to provide for data-mining reports to Congress.

S. 1566

At the request of Mr. CORZINE, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1566, a bill to improve fire safety by creating incentives for the installation of automatic fire sprinkler systems.

S. 1666

At the request of Mr. COCHRAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1666, a bill to amend the Public Health Service Act to establish comprehensive State diabetes control and prevention programs, and for other purposes.

S. 1737

At the request of Mr. WYDEN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1737, a bill to amend the Clayton Act to enhance the authority of the Federal Trade Commission or the Attorney General to prevent anticompetitive practices in tightly concentrated gasoline markets.

S. 1909

At the request of Mr. COCHRAN, the name of the Senator from Hawaii (Mr.

INOUYE) was added as a cosponsor of S. 1909, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 2088

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2088, a bill to restore, reaffirm, and reconcile legal rights and remedies under civil rights statutes.

S. 2249

At the request of Mr. LIEBERMAN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2249, a bill to amend the Stewart. B. McKinney Homeless Assistance Act to provide for emergency food and shelter.

S. 2351

At the request of Mr. FEINGOLD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2351, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

At the request of Ms. COLLINS, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 2351, supra.

S. 2352

At the request of Mr. ENSIGN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2352, a bill to prevent the slaughter of horses in and from the United States for human consumption by prohibiting the slaughter of horses for human consumption and by prohibiting the trade and transport of horseflesh and live horses intended for human consumption, and for other purposes.

S. 2363

At the request of Mr. HATCH, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2370

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2370, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 2372

At the request of Mr. CORZINE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2372, a bill to amend the Trade Act of 1974 regarding identifying trade expansion priorities.

S. 2383

At the request of Mr. DAYTON, his name was added as a cosponsor of S. 2383, a bill to amend title 10, United States Code, to require the registration of contractors' taxpayer identification numbers in the Central Contractor Registry database of the Department of Defense, and for other purposes.

S.J. RES. 36

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S.J. Res. 36, a joint resolution approving the renewal of import restrictions contained in Burmese Freedom and Democracy Act of 2003.

S. RES. 324

At the request of Mr. SARBANES, his name was added as a cosponsor of S. Res. 324, a resolution expressing the sense of the Senate relating to the extraordinary contributions resulting from the Hubble Space Telescope to scientific research and education, and to the need to reconsider future service missions to the Hubble Space Telescope.

AMENDMENT NO. 3120

At the request of Mr. LEVIN, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of amendment No. 3120 proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3123

At the request of Ms. LANDRIEU, the names of the Senator from Washington (Mrs. MURRAY), the Senator from South Dakota (Mr. JOHNSON), the Senator from Washington (Ms. CANTWELL), the Senator from New Jersey (Mr. CORZINE), the Senator from Massachusetts (Mr. KERRY), the Senator from Illinois (Mr. DURBIN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 3123 proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3129

At the request of Mr. GREGG, his name was added as a cosponsor of amendment No. 3129 proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

At the request of Mr. SUNUNU, his name was added as a cosponsor of amendment No. 3129 proposed to S. 1637, supra.

At the request of Mr. GRAHAM of Florida, his name was added as a cosponsor of amendment No. 3129 proposed to S. 1637, supra.

AMENDMENT NO. 3138

At the request of Mr. SMITH, his name was added as a cosponsor of amendment No. 3138 proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 3138 proposed to S. 1637, supra.

At the request of Mr. GRASSLEY, the names of the Senator from Utah (Mr. HATCH) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of amendment No. 3138 proposed to S. 1637, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CLINTON:

S. 2406. A bill to promote the reliability of the electric transmission grid through the Cross-Sound Cable; to the Committee on Energy and Natural Resources.

Mrs. CLINTON. Mr. President, I rise to introduce a legislation to restore operation of the Cross Sound Cable.

I was dismayed to learn last Friday that the Secretary of Energy had issued an order that effectively shut down the Cross Sound Cable. The cable had been operating since Secretary Abraham issued an order directing that the cable be turned on almost immediately after the August 14, 2003 blackout.

I believe that last Friday's decision is shortsighted, and I am extremely concerned that it will put Long Island at immediate risk of power failures as we enter the summer peak demand months.

The Cross Sound Cable has provided proven reliability benefits at a time when a shortage of generation and transmission facilities continues to exist on Long Island and in Southern New England. The Cross Sound Cable transmitted 300 MW of power over the Blackout weekend, enough to turn on the power in about 300,000 homes on Long Island. Since beginning full-time operation on September 1, 2003, the Cross Sound Cable has transmitted nearly one-half million megawatt-hours of electricity to help provide sufficient power to prevent more blackouts or brownouts on the island.

Additionally, the extra power from the Cable makes more power available on Long Island to export over another submarine cable into Southwestern Connecticut when needed, thereby making the regional power grid more resilient. The independent grid operators have successfully tested sending power over the Cross Sound Cable to Long Island and then simultaneously sending power from Western Long Island over another submarine cable to Southwest Connecticut. During a severe cold spell in January, Long Island

Power Authority was prepared to send 200 mw of power over Cross Sound Cable to help Connecticut if needed. Over the short- to long-term, the Cable thus allows excess New York-generated power to be transmitted to Connecticut to help prevent blackouts and brownouts.

In addition, the vital role of the Cross Sound Cable was confirmed in the final report of the U.S.-Canada Task Force on the Blackout. The blackout report concludes that ''[r]eactive power problems were a significant factor in the August 14 outage, and they were also important elements in several of the earlier outages . . .'' During the August 14 blackout, the Cross Sound Cable provided critical reactive power to Long Island and Connecticut to help stabilize the system. Cross Sound has responded to and corrected 17 unanticipated reactive power problems such as lightning strikes and equipment failures. CONVEX, the Connecticut arm of the independent transmission system operator, ISO–New England, has relied on Cross Sound to provide reactive power for voltage support on a preventive basis 84 times. Cross Sound Cable is currently the only operating cable system in Connecticut and Long Island capable of providing dynamic reactive power support during sensitive energy demand periods.

Nearly every day now, the Cable operates under the direction of CONVEX to provide voltage support to Connecticut.

In summary, the Cross Sound Cable has provided reliability benefits at a time when a transmission and generation shortage persists in the region. I strongly believe that this critical energy link between New England and New York should remain operational until all reliability studies required by the Blackout Task Force are completed and all of the resulting recommendations are implemented to prevent further large-scale blackouts in this region. Until all of these steps occur, I believe that an emergency situation clearly continues to exist.

That is why I am introducing this legislation today. In essence, the legislation overrides the order issue by Secretary Abraham on May 7, 2004, reinstates his order of August 28, 2003, and provides that that later order shall remain in effect unless rescinded by an Act of Congress. This would turn the cable back on and leave it on until Congress determines it is appropriate to shut it down. That day may indeed come, but for now, we are facing the prospect of power outages on Long Island as we head into the peak-demand months of the summer.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CROSS-SOUND CABLE ORDER.

Notwithstanding Department of Energy Order No. 202–03–4, issued by the Secretary of Energy on May 7, 2004, or any other provision of law, Department of Energy Order No. 202–03–2, issued by the Secretary of Energy on August 28, 2003, is reinstated effective on the date of enactment of this Act and shall remain in effect unless rescinded by Act of Congress.

By Mr. CAMPBELL:

S. 2407. A bill to clarify the intellectual property rights of the United States Olympic Committee; to the Committee on the Judiciary.

Mr. CAMPBELL. Mr. President, I am introducing an amendment to the Ted Stevens Olympic and Amateur Sports Act that will serve to protect the limited resources available to the United States Olympic Committee (''USOC'') to support America's Olympic athletes. This amendment would not expand the protections afforded to the USOC under existing law, but would clarify the broad scope of the existing statutory language that guarantees the USOC's exclusive right to commercial use of Olympic marks and terminology in the United States. Congress originally granted these rights to the USOC so that the USOC, through its licensing and sponsorship program, would have the ability to raise funds privately to support United States athletes and programs. Unauthorized use of Olympic marks and terminology by third parties dilutes the value of these marks and terminology and diminishes the USOC's ability to fulfill the mission mandated by Congress. This amendment will help ensure that the USOC can devote more of its resources to assisting athletes as opposed to funding legal actions necessary to prevent foreign or domestic entities from circumventing the broad statutory rights granted to the USOC.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Support Our Olympic Athletes Act of 2004''.

SEC. 2. CLARIFICATION OF INTELLECTUAL PROPERTY RIGHTS OF UNITED STATES OLYMPIC COMMITTEE.

Chapter 2205 of title 36, United States Code (commonly referred to as the ''Ted Stevens Olympic and Amateur Sports Act''), is amended in section 220506(c)(3) by inserting ''the words 'Olympik', 'Olympick', 'Olympika', 'Olympicka', 'Olympica', or 'Olympikus','' after ''the words described in subsection (a)(4) of this section,''.

By Mr. BURNS:

S. 2408. A bill to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana; to the Committee on Energy and Natural Resources.

Mr. BURNS. Mr. President, this bill adjusts the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in Montana.

For the Helena and Lolo National Forests, these adjustments are necessary to continue the community-based Blackfoot Community Project. This community-driven project is a collaborative effort supported by local residents, elected officials, State and Federal agencies, and others who care about the future of the Blackfoot River Valley.

The project will eventually result in the future ownership and management of nearly 88,000 acres of land in the Blackfoot River watershed. The project will protect the rural lifestyle of a large, intact landscape that supports agriculture, timber harvesting, recreation, and natural resources that are important both locally and nationally.

The project will provide a model for forest management in the west, by creating a private-public partnership to manage a portion of the Blackfoot watershed as a community forest for sustainable timber products and other natural resources benefits. The local community has requested Forest Service acquisition of certain parcels outside the existing National Forest Boundary to ensure continued public uses of these lands including public access for recreation, hunting, livestock grazing, and watershed protection. The end result of this boundary adjustment Forest service will be consolidated ownership and improved forest management.

The boundary adjustment on the Beaverhead-Deerlodge National Forest reflects changes in the Forest as a result of the Watershed conservation project completed in 2003. About 11,000 acres of the Watershed Property that is currently adjacent to the proclaimed Forest will be more accurately classified as existing within the Forest boundary. The Forest Service purchased the property in partnership with the Rocky Mountain Elk Foundation. The County Commissioners, local public, and conservation and sportsman's groups supported the project.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 2410. A bill to promote wildland firefighter safety; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, I rise today to introduce the Wildland Firefighter Safety Act of 2004, along with my colleague Senator MURRAY, the senior Senator from Washington State. Earlier today, the Senate Energy and Natural Resources Committee on which I serve held a hearing regarding the outlook for the 2004 fire season. I join many of my colleagues, who are very concerned about what appears to be yet another year of devastating drought throughout the West, and the

hazards this could pose in terms of increased fire risk and threats to public safety.

However, we in Washington State recognize the importance of an issue that is often overlooked in discussions of fire preparedness. This is the topic of wildland firefighter safety, and it's an issue that we care deeply about because a horrible tragedy occurred in our state in July 2001, when four young Washington firefighters lost their lives at the Thirtymile Fire. I come to the floor to introduce this legislation today, because we cannot forget the lives that were lost—and the families that are still grieving—as a result of the Thirtymile tragedy. What's more, we cannot allow the Forest Service and our Federal firefighting agencies to repeat the mistakes that the agencies themselves admit resulted in these avoidable deaths. Unfortunately, the recently-issued findings of the Occupational Safety and Health Administration (OSHA)—stemming from the Cramer Fire that killed two Idaho firefighters just last summer—indicate to me that the lessons of Thirtymile are not being completely heeded. This is simply unacceptable.

Many of my colleagues, particularly those from the West, are probably aware of the fact that every summer, we send thousands of our constituents—many of them brave young men and women, college students on summer break—into harm's way to protect our Nation's rural communities and public lands. These men and women serve our nation bravely. Since 1910, more than 900 wildland firefighters have lost their lives in the line of duty. According to the U.S. Forest Service, a total of 30 firefighters across this Nation perished in the line of duty just last year, during the 2003 fire season.

These firefighters represented a mix of Federal and State employees, volunteers and independent contractors. And they lost their lives for an array of reasons. We all realize that fighting fires on our nation's public lands is an inherently dangerous business. But what we cannot and must not abide are the preventable deaths—losing firefighters because rules were broken, policies ignored and no one was held accountable.

I have already mentioned the Thirtymile tragedy that pushed this issue to the fore in the State of Washington. On July 10, 2001, near Winthrop in Okanogan County, in the midst of the second worst drought in the history of our State, the Thirtymile fire burned out of control.

Four courageous young firefighters were killed. Their names: Tom Craven, 30 years old; Karen FitzPatrick, 18; Jessica Johnson, 19; and Devin Weaver, 21.

Sadly, as subsequent investigations revealed, these young men and women did not have to die. In the words of the Forest Service's own report on the Thirtymile fire, the tragedy ''could have been prevented.'' At that time, I said that I believe we in Congress and management within the firefighting agencies have a responsibility to ensure that no preventable tragedy like Thirtymile fire ever happened again.

I'd like to thank my colleague Senator BINGAMAN, the distinguished Ranking Member of the Senate Energy Committee, as well as Senator WYDEN, who was then chair of the Subcommittee on Public Lands and Forests. In the wake of the Thirtymile Fire, they agreed to convene hearings on precisely what went wrong that tragic day. We heard from the grief-stricken families.

In particular, the powerful testimony of Ken Weaver—the father of one of the lost firefighters—put into focus precisely what's at stake when we send these men and women into harm's way.

I can think of no worse tragedy that a parent to confronting the loss of a child, especially when that loss could have been prevented by better practices on the part of federal agencies.

At that Senate Energy Committee hearing, we also discussed with experts and the Forest Service itself ways in which we could improve the agency's safety performance. And almost a year to the day after those young people lost their lives, we passed a bill—ensuring an independent review of tragic incidents such as Thirtymile that led to unnecessary fatalities.

Based on subsequent briefings by the Forest Service, revisions to the agency's training and safety protocols, and what I've heard when I have visited with firefighters over the past two years, I do believe the courage of the Thirtymile families to stand up and demand change has had a positive impact on the safety of the young men and women who are preparing to battle blazes as wildland firefighters.

Yet, I'm deeply saddened by the fact that it's clear we haven't done nearly enough.

In July 2003—two years after Thirtymile—two more firefighters perished, this time at the Cramer Fire within Idaho's Salmon-Challis National Forest. Jeff Allen and Shane Heath were killed when the fire burned over an area where they were attempting to construct a landing spot for firefighting helicopters. Certainly some 28 others lost their lives fighting wildfires last year, and we must recognize the sacrifice and grief befalling their families.

After the Thirtymile Fire, however, I told the Weavers and the Cravens, the families of Karen FitzPatrick and Jessica Johnson that I believed we owed it to their children to identify the causes and learn from the mistakes that were made in the Okanogan, to make wildland firefighting safer for those who would follow. That is why the findings associated with the Cramer Fire simply boggle my mind.

We learned at Thirtymile that all ten of the agencies' Standing Fire Orders and many of the 18 Watch Out Situations—the most basic safety rules—were violated or disregarded. The same thing happened at Cramer, where Heath and Allen lost their lives two years later.

After the Thirtymile Fire, OSHA conducted an investigation and levied against the Forest Service fire citations for Serious and Willful violations of safety rules. It was eerie, then, when just this March OSHA concluded its investigation of Cramer. The result: another five OSHA citations, for Serious, Willful and Repeat violations. Reading through the list of causal and contributing factors for Cramer and putting them next to those associated with the Thirtymile fire, my colleagues would be struck by the many disturbing similarities. Even more haunting are the parallels between these lists and the factors cited in the investigation of 1994's South Canyon Fire on Storm King Mountain in Colorado. It's been 10 years since those 14 firefighters lost their lives on Storm King Mountain—and yet, the same mistakes are being made over and over again.

Let me repeat: This is not acceptable. The firefighters we send into harm's way this year—and the ones we've already lost—deserve better.

Training, leadership and management problems have been cited in all of the incidents I've discussed. Frankly, I have believed since the Thirtymile tragedy that the Forest Service has on its hands a cultural problem. What can we do, from the legislative branch, to provide this agency with enough motivation to change? I believe the first step we can take is to equip ourselves with improved oversight tools, so these agencies know that Congress is paying attention. Today I'm introducing legislation—the Wildland Firefighter Safety Act of 2004—that would do just that.

I believe this is a modest yet important proposal. It was already passed once by the Senate, as an amendment to last year's Healthy Forests legislation. However, I was disappointed that it was not included in the conference version of the bill. But it is absolutely clear to me—particularly in light of OSHA's review of the Cramer Fire—that these provisions are needed now more than ever.

First, the Wildland Firefighter Safety Act of 2004 will require the Secretaries of Agriculture and Interior to track the funds the agencies expend for firefighter safety and training.

Today, these sums are lumped into the agencies' ''wildfire preparedness'' account. But as I have discussed with various officials in hearings before the Senate Energy and Natural Resources Committee, it is difficult for Congress to play its rightful oversight role—ensuring that these programs are funded in times of wildfire emergency, and measuring the agencies' commitment to these programs over time—without a separate break-down of these funds.

Second, this legislation will require the Secretaries to report to Congress annually on the implementation and effectiveness of its safety and training programs.

I assure my colleagues who have not spent time dwelling on this issue that the maze of policy statements, management directives and curricula changes associated with federal firefighter training is dizzying and complicated. The agencies have a responsibility to continually revise their policies in the face of new science and lessons learned on the fire line. Meanwhile, Congress has the responsibility to ensure needed reforms are implemented. As such, I believe that Congress and the agencies alike would benefit from an annual check-in on these programs. I would also hope that this would serve as a vehicle for an ongoing and healthy dialogue between the Senate and agencies on these issues.

Third, my bill would stipulate that Federal contracts with private firefighting crews require training consistent with the training of Federal wildland firefighters. It would also direct those agencies to monitor compliance with this requirement. This is important not just for the private contractor employees' themselves—but for the Federal, State and tribal employees who stand shoulder-to-shoulder with them on the fire line.

This is actually quite a complex issue about which many of us are just beginning to learn. With the severity of fire seasons throughout the country over the past two years—and notwithstanding the Clinton Administration's efforts to hire a significant number of new firefighters as part of the National Fire Plan—the number of private contract crews hired by the agencies to help with fire suppression has tripled since 1998. According to Oregon Department of Forestry estimates, the number of contract crews at work has grown from 88 in 1998 to 300 this year—with 95 percent based in the Pacific Northwest.

In general, these contract crews have grown up in former timber communities and provide important jobs—especially given the fact the agencies themselves do not at this juncture have the resources to fight the fires entirely on their own. And many of these contractors have been in operation for a decade or more and boast stellar safety records.

Nevertheless, as the number of—and need for—contractors has grown, there are more and more tales of unscrupulous employers that take advantage of workers and skirt training and safety requirements. This is a growing concern for U.S. Forest Service employees and State officials. Last summer, the Seattle Times wrote a detailed feature on the issue, quoting internal Forest Service memos as well as evidence from the field.

I ask unanimous consent that this article be printed in the RECORD.

Among the contractor practices cited in the Seattle Times article: breaking safety rules and failing to warn other crews on the fire line; falsifying or forging firefighting credentials and ignoring training requirements; hiring illegal immigrants that cannot understand fire line commands—and committing various labor abuses; and rotating a single crew from fire to fire for 50 straight days—while Federal firefighters are not allowed to work more than 14 or 21 days in a row.

The article quoted from a November 2002 memo written by Joseph Ferguson, a deputy incident commander for the Forest Service: ''If we don't improve the quality and accountability of this program, we are going to kill a bunch of firefighters . . . Although there were two or three good to excellent crews on each fire, that was offset by 20 to 30 that were hardly worth having,'' Ferguson added. ''It was apparent that training for most of these crews had been done poorly or not at all.''

Paul Broyles, who heads a safety committee for the National Interagency Fire Center added that private crews he has seen have varied from ''fantastic to a he[ck] of a lot less than good and some were real safety concerns.'' He noted that while State government and feds were trying to crack down on violations associated with documentation, ''the assumption is, where there's one problem, there's probably more.''

The Wildland Firefighter Safety Act of 2004 is a modest beginning in addressing the challenges posed by integrating private and Federal contract crews—and doing it in a manner that maximizes everyone's safety on the fire line.

I understand that the Federal and State agencies are already attempting to push contractors in this direction—and this provision will bolster that momentum.

And so, I hope my colleagues will support this simple legislation. Ultimately, the safety of our Federal firefighters is a critical component of how well prepared our agencies are to deal with the threat of catastrophic wildfire.

Congress owes it to the families of those brave firefighters we send into harm's way to provide oversight of these safety and training programs.

We owe it to our Federal wildland firefighters, their families and their State partners—and to future wildland firefighters.

The Wildland Firefighter Safety Act of 2004 will provide this body with the additional tools it needs to do the job. Thank you.

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

[From the Seattle Times, July 20, 1003]

RISKY BUSINESS; GROWTH OF PRIVATE FIRE CREWS WORRIES FOREST OFFICIALS. SOME FEAR TRAINING AND SAFETY ARE COMPROMISED BY BURGEONING USE OF CONTRACT FIREFIGHTERS

(By Craig Welch)

CREWUCH VALLEY, OKANOGAN COUNTY.—While the Forest Service was retooling safety training after the deaths of four firefighters in this rugged valley two years ago, a new danger was quietly mushrooming in the woods.

Private businesses eager to get into the increasingly lucrative wildfire-fighting industry were breaking rules, skirting training and falsifying records to send inexperienced men and women to battle blazes, according to government records. Some churned out crews that fell asleep on the fire line or couldn't understand commands in English. Others arrived hours late to fires that then ballooned out of control.

Private crews are now essential in the West's battle against flames a war once fought primarily by government employees. The number of private 20-person firefighting crews sent by companies that contract with the government to fight fires around the nation more than tripled since 1998, from 88 to 301 this year. About 95 percent of those crews are based in the Northwest.

But some federal officials worry the quality varies dramatically from experienced, well-respected contractors to crews that present significant safety concerns.

And government oversight has struggled to keep pace.

The problem grew so acute last year that Joseph Ferguson, a deputy incident commander for the Forest Service, wrote in an internal memo in November: ''If we don't improve the quality and accountability of this program, we are going to kill a bunch of firefighters.''

Last year's fire season was a record breaker, scorching 6.9 million acres and costing $1.6 billion to fight.

With a new fire season under way, officials are still working to week out contractors and private trainers who cut corners and put employees or other firefighters in harm's way. Several private crew operators are also urging the government to crack down on problem contractors.

In May, in a first-of-a-kind action, a regional firefighting group composed of federal and state agencies suspended a Twisp-based contractor from training any more pacific Northwest firefighters. Employees of Charles ''Bill'' Hoskin, who has trained hundreds of private firefighters, told investigators that Hoskin put firefighters through a required 32-hour training course in 12 hours.

He was accused of teaching Spanish-speaking firefighters with instructors who spoke only English, of selling red cards the photo ID that shows carriers have met requirements to be a firefighter to people he had not trained, and of giving firefighters bogus fitness tests.

Hoskin, former chief of the Twisp rural volunteer fire department, has denied all charges of improper action and says he will be vindicated.

Last month, Rue Forest Contracting, of Mill City, Ore., agreed to $25,000 in fines after 23 of its firefighters were found with forged or phony training credentials. Investigators believe some were sent to fires with no training at all. Owner Larry Rue's attorney declined comment.

Last year, the Oregon Department of Forestry, which oversees fire contractors for Oregon and Washington under an interagency agreement, cited 45 private crews for various violations and banned 13 from firefighting for up to a month.

The reason: Firefighters showed up late to fires, skipped safety briefings, drank or used drugs at fire camp, engaged in sexual harassment, had falsified training records or were part of a crew with no English-speaking leaders, according to the department.

Oregon labor officials, meanwhile, said they were investigating 30 private firefighter-training or pay violations at any one time last year.

Ferguson, the Forest Service incident commander who fought fires in Oregon, Utah and Colorado, complained in his November memo

that Northwest private crews in 2002 were ''the worst we've ever seen.''

''Although there were two or three good to excellent crews on each fire, that was offset by 20 to 30 that were hardly worth having,'' Ferguson wrote. ''It was apparent that training for most of these crews had been done poorly or not at all.

Bill Lafferty, head of Oregon's fire program, oversees most of the country's private 20-person ''hand crews.'' He's beefing up enforcement but admitted that ''we really don't know the magnitude of the cheaters in the system.''

''We're struggling as best we can,'' he said. ''But we're barely scratching the surface.''

On a recent 90-degree day, firefighter Dustin Washburn, 21, rolled a boulder from the charred dirt and saw smoke rise from smoldering embers. He attacked it with a pulaski, an axlike firefighting tool, smothering the fire.

This 20-person private hand crew was trying to douse hotspots on portions of a 34,000-acre blaze that still burns in the Chewuch River high country in Okanogan County.

''Who was working this area?'' asked Myron Old Elk, the crew leader for a private unit of Oregon-based Ferguson Management. ''Get over here. It's still hot.''

Private crews typically dig lines, knock down spot fires or burn areas to reduce fuels. They're supposed to get the same training as government crews.

Many, such as this Ferguson unit, are run by respected, experienced hands. Old Elk has fought fires for a dozen years. Private Ferguson Management crews have battled blazes since 1981.

''Myron's great,'' said Lonnie Click, a supervisor on this roiling blaze. ''If he doesn't understand directions, he'll ask, then double-ask, until he gets it exactly right.''

But the industry has grown so quickly that some new companies supply firefighters however they can.

Contractors have hired illegal immigrants and paid them under the table, or deducted so much for food and incidentals that some earned only 50 cents in a two-week pay period, according to Oregon's Bureau of Labor and Industries. Underage firefighters ''borrowed'' Social Security numbers to fake certification.

FEAST OR FAMINE

Firefighters aren't allowed to work more than 14 or 21 days in a row without a rest day, but some private firefighters have rotated from fire to fire for 50 days straight, according to Forest Service memos. A crew removed from one Oregon fire for poor safety ratings last year showed up two weeks later on a nearby fire.

''There's a lot of money to be made here, and when there's a lot of money at stake, people figure out angles,'' said Scott Coleman, owner of Oregon's Skookum Reforestation, which for decades has provided contract crews.

The nation's private wildfire firms have grown out of Oregon's logging, tree-planting and forestry labor pool. As a result, Oregon now manages the bulk of them.

For years, it was feast or famine. New contractors started after busy fire years, then disbanded during slow ones.

But wildfires had grown increasingly unruly in the 1990s, just as federal agencies had downsized their own crews. So the government increasingly has turned to contractors.

After 2000, when firefighting help was enlisted from as far away as New Zealand, more contractors, including several from Washington, saw opportunity. Contractors typically charge the government $22 to $36 an hour per worker. The contractor buys vehicles, equipment and clothing, provides training and pays firefighters from $9 to $18 per hour.

NEW EMPHASIS ON TRAINING

Last year, 270 20-person private crews in the Northwest were paid $91 million. Several companies grossed $1 million apiece.

''Overhead can be enormous, but if you have a good fire season and get sent out a lot, you bet there's profit in it,'' said Coleman, vice president of the National Wildfire Association, which has pushed to weed out unscrupulous contractors. ''But if you don't train someone well, you're basically endangering his life.''

Five federal agencies the Forest Service, National Parks, Bureau of Land Management, Fish and Wildlife Service and Bureau of Indian Affairs fight fires.

The agencies renewed efforts to make safety the top priority after 14 Forest Service firefighters were trapped by flames during the July 2001 Thirty Mile fire in the Chewuch Valley. Jessica Johnson, Karen FitzPatrick, Devin Weaver and Tom Craven were asphyxiated by superheated gases after deploying their shelters.

Investigators determined crew leaders violated all 10 standard safety rules. The agency put new emphasis on training, communication, spotting hazardous situations and handling emergencies.

But among new private crews, training issues can be even more basic. Firefighters have bought fire IDs from former firefighters and spliced in their own photographs.

''Just yesterday, I got a call from a woman who wanted to verify that I'd trained these two guys who had '03 dates on heir certification,'' said Harry Winston, who trains contract firefighters through First Strike Environmental in Oregon. ''I hadn't. They'd scratched out '02 on their red cards and put in this year's date.''

Don Land, who worked for Hoskin, the suspended contract trainer, was made an ''engine boss'' a person who operates a wildland firetruck without any training, according to the state Bureau of Labor and Industries.

Land was released from prison after a three-year sentence in 2001. He said that Hoskin hired him for the fire season. Land said he had not completed the required training and lacked even a driver's license, but was given the job of an engine boss.

The state accused Hoskin of giving his students answers to written tests and allowing them to use a 5-pound weight in a fitness test that requires hiking with a 45-pound pack.

Hispanic crews now make up half of the Northwest's private firefighters, and contractors have been disciplined for sending crews with no English speakers to fires a potential hazard when communicating risk.

New rules require crew and squad leaders to speak both English and the language of the crew. But an internal Forest Service memo suggested that bilingual leaders on Oregon's Tiller Complex fires last year appeared to be there mainly for their language skills. Five crew bosses confessed to not understanding their leadership responsibilities.

Paul Broyles, who heads a safety committee for the National Interagency Fire Center, said the private crews he's seen varied from ''fantastic to a hell of a lot less than good and some were real safety concerns.''

A contract crew on an Oregon fire Broyles worked last year was stationed to make sure a rolling inferno stayed behind a fire line. Instead, the crew watched as flames crossed the line, never informing a nearby elite ''hotshot'' crew of the danger headed its way, he said.

The state and the federal government are strengthening oversight and tightening controls on documentation, said Broyles. Still, he said, ''the assumption is, where there's one problem, there're probably more.''

This year, Oregon plans to investigate private crews more heavily. The state now inspects training classes and expects to hire new compliance officers.

But much of the training is designed to be self-policing.

Wildfire contractors form associations, which sign agreements with federal and state agencies. The association then guarantees that contractors meet regulations.

Of eight such associations, some are vastly more qualified than others, said Ed Daniels, who oversees Oregon's certification and training.

Qualifications to form an association: ''Thirty-five dollars and a pen to sign a memorandum of understanding,'' he said.

Hoskin was president of his association.

By Mr. DODD (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. MCCAIN, Mr. HOLLINGS, Mr. WARNER, Mr. LEVIN, Ms. COLLINS, Mr. SARBANES, Mr. SPECTER, Mr. BIDEN, Ms. SNOWE, Mr. KENNEDY, Mr. GRAHAM of South Carolina, Mr. ROCKFELLER, Mr. SMITH, Mr. HARKIN, Mr. GREGG, Mr. LIEBERMAN, Mr. JEFFORDS, Mr. DURBIN, Ms. MIKULSKI, Mr. BAUCUS, Mr. SCHUMER, Mr. REID, Mrs. CLINTON, Mr. INOUYE, Mr. LEAHY, Mr. JOHNSON, Mr. KERRY, Mr. BINGAMAN, Mr. LAUTENBERG, Mr. CORZINE, Mr. REED, Mr. CARPER, and Mr. DAYTON):

S. 2411. A bill to amend the Federal Fire Prevention and Control Act of 1974 to provide financial assistance for the improvement of the health and safety of firefighters, promote the use of life saving technologies achieve greater equity for departments serving large jurisdictions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DODD. Mr. President, I rise today with Senator DEWINE and 34 cosponsors to introduce the Assistance to Firefighters Act of 2004, which will revitalize the FIRE Act grant program for an additional six years.

Senator DEWINE and I authored the original FIRE Act four years ago. It has been a tremendous success, helping fire departments throughout our Nation purchase firefighting equipment as well as train firefighters. Nationwide, nearly $2 billion has been appropriated for FIRE Act grants throughout the country.

A report last year by the Federal Government found that 99 percent of grant recipients were satisfied with the FIRE Act's ability to meet the needs of their department. In addition, 97 percent of the participants reported that it had ''a positive impact on their ability to handle fire and fire-related incidents.'' The report concluded that ''overall, the results of our survey and our analysis reflect that the Assistance to Firefighters Grant program was highly effective in improving the readiness and capabilities of firefighters across the Nation.'' The FIRE Act grant initiative is truly a success story.

It is important to remember that the defenders of our Nation are not dressed only in combat fatigues. They wear firefighter uniforms. They risk their lives to keep us safe just like our troops overseas, and we all appreciate their efforts greatly.

The fire service has men and women who are willing to do whatever it takes to get their jobs done. As a country, we are fortunate to have first-rate firefighters throughout the Nation, but they are underfunded, understaffed, undertrained, and underequipped to deal with many emergencies that may arise. According to a national Needs Assessment study of the U.S. Fire Service published in December 2002, most fire departments lack the necessary resources and training to properly handle terrorist attacks and large-scale emergencies. A June 2003 Council of Foreign Relations report authored by former Senator Warren Rudman further underscored this issue when it concluded that ''if the Nation does not take immediate steps to better identify and address the urgent needs of emergency responders, the next terrorist incident could have an even more devastating impact than the September 11 attacks.''

The responsibilities of America's firefighters have also changed. They have certainly come a long way from the ''bucket brigades'' in colonial America, where two rows of people would stretch form the town well to the fire, passing buckets of water back and forth until the fire was extinguished.

Today, firefighters must do more. They still have their traditional responsibilities of extinguishing fires, delivering emergency medical services, and ensuring that fire codes are obeyed. Now the fire service has new homeland security responsibilities, such as responding to biological and chemical threats.

The reality, however, is that cash-strapped States and cities simply do not have the resources needed to single-handedly safeguard their populations. Nor do they have the fiscal reserves necessary to deal with heightened warning levels for any extended period of time.

According to the aforementioned U.S. Fire Service's 2002 national Needs Assessment study, most fire departments lack the necessary resources and training to properly handle terrorist attacks and large-scale emergencies. The study found that: Using local personnel, only 11 percent of fire departments can handle a rescue at a collapse of a building with 50 occupants. Nearly half of all fire departments consider such an incident beyond their scope.

Using local personnel, only 13 percent of fire departments can handle a hazardous material incident involving chemical and/or biological agents with 10 injuries. Only 21 percent have a written agreement to direct the use of non-local resources to handle the situation.

An estimated 40 percent of fire department personnel involved in hazardous material response lack formal training in those duties, most of them serving smaller communities.

Finally, an estimated 60 to 75 percent of fire departments do not have enough fire stations to achieve widely used response time guidelines. Many fire departments often fail to respond to fires with sufficient personnel to safely initiate an interior attack on a structural fire.

These statistics are startling. The threats to which firefighters are expected to respond have far outgrown the ability of local governments to equip firefighters to do what these dangerous times require them to do. This situation demands continued action by the Senate to address these concerns, which is why Senator DEWINE and I are introducing this legislation to further strengthen the FIRE Act grant initiative for the future.

Our bill builds on the recommendations given to us last February by the paid and volunteer fire services. First, we are authorizing $5.85 billion over the next six years for FIRE Act grant assistance. This amount represents a substantial increase over current law.

Second, we are both increasing the size of the awards and making the grants more equitable. Presently, the maximum amount of an award is $750,000, regardless of the size and type of department. For a large department, this cap has caused some difficulties because departments in smaller communities get a substantially larger share of the funds per capita. Our legislation will increase the size of the awards for large jurisdictions to $2.25 million, a threefold increase. For jurisdictions between 500,000 and one million people, the cap will be $1.5 million. For jurisdictions less than 500,000, the maximum award will be $1 million. The bill also empowers the Secretary of Homeland Security to waive these caps in instances of extraordinary need.

Third, we have restructured the matching requirements of current law. We have heard from the fire services that the current matching requirement imposed on local jurisdictions in many instances exceeds the funds available in their budgets. Our bill will reduce the non-Federal matching requirement from 30 percent to 20 percent for departments serving populations of more than 50,000 people. It will also cut the match by one-third for departments serving communities between 20,000 and 50,000 people, and by one-half for departments serving 20,000 or fewer residents.

Finally, we have enhanced the fire safety and fire prevention programs under the FIRE Act, and we have made volunteer, non-profit emergency medical service (EMS) providers that serve municipalities with separate fire and EMS departments eligible for FIRE Act grants. In addition, we tackle the leading cause of firefighter death in the line of duty—heart attacks—by creating an incentive for fire departments to acquire life-saving automated external defibrillator equipment for every first-due emergency vehicle.

These are some of the provisions in the legislation that Senator DEWINE and I are introducing. We look forward to working constructively with the other body in the coming months to fashion legislation that the entire fire service can support.

I am concerned, however, about a provision in the House bill that would seem to disadvantage paid fire departments over volunteer fire departments. This provision would prohibit a paid fire department from receiving FIRE Act assistance if it includes in its collective bargaining agreement a clause prohibiting its firefighters from serving as volunteer firefighters in another jurisdiction.

This provision would needlessly put Congress in the awkward position of dictating to local fire departments not only how to manage themselves, but what issues they can and cannot bargain over in their contract. The consequences of such a provision would be far-reaching. In fact, I am unaware of any other Federal grant initiative that imposes a limitation of such as this on collective agreements.

Of course, there are larger issues also at stake—namely, the fact that the Federal government does not provide for firefighters to bargain collectively. Where bargaining does occur, it exists because firefighters have won the right at the state or local level. In fact, I have strongly supported separate legislation currently pending before Congress that would grant each and every firefighter the right to discuss workplace issues with their employer. It would therefore be inconsistent if firefighters are told what issues over which they can or cannot bargain at the same time that it is the current policy of the Federal Government that it is up to the states whether they can bargain in the first place. How can collective bargaining rights be restricted when they are not even granted?

The legislation that Senator DEWINE and I are introducing does not include the House provision, because we are committed to ensuring that all firefighters are treated fairly, and have an equal opportunity to obtain the assistance they need to do their jobs safely.

In closing, it is important to recall the vital role that firefighters have played in American history since its earliest days. In fact, firefighting can be linked to some of our Nation's most illustrious personages. Benjamin Franklin established the first volunteer fire department in Philadelphia in 1735. George Washington himself was a volunteer firefighter across the Potomac River in Alexandria, Virginia, and he imported the first fire engine from England in 1765.

Of course, on September 11, 2001, 343 members of the New York Fire Department made the ultimate sacrifice in their efforts to save thousands of lives trapped in the World Trade Center. The role played by those firefighters who

died in the line of duty on that tragic day made our Nation proud. We will never allow their noble sacrifice to be forgotten.

On that day and on every other day, they are the first ones in and the last ones out. They risk their own lives to save the lives of others. They stare danger in the face because they know they have a duty to fulfill.

The Congress has a duty to the fire service as well, and to the citizens of our Nation who need the protection of the fire service. I look forward to working with my colleagues in the coming months to ensure that this important bipartisan homeland security legislation is enacted into law.

Mr. DEWINE. Mr. President, each day, we entrust our lives and the safety of our families, friends, and neighbors to the capable hands of the brave men and women in our local police departments. These individuals are willing to risk their lives and safety out of a dedication to their citizens and their commitment to public service.

We ask local firefighters to risk no less than their lives, as well, every time they respond to an emergency fire alarm, a chemical spill, or as we saw on September 11, terrorist attacks. We ask them to risk their lives responding to the nearly 2 million reports of fire that they receive on an annual basis. Every 18 seconds while responding to fires, we expect them to be willing to give their lives in exchange for the lives of our families, neighbors and friends. One hundred firefighters lost their lives in 2002 in the line of duty, and nearly 450 lost their lives in 2001. The unyielding commitment these individuals have made to public safety surely deserves an equally strong commitment from the Federal Government.

In 2000, Congress affirmed the value of having a properly trained, equipped and staffed fire service by passing the Firefighter Investment and Response Enhancement (FIRE) Act—legislation that Senator DODD and I introduced, along with Congressmen PASCRELL, WELDON, and many others, on the House side. In the 4 years since the FIRE Act become law, fire departments have made significant progress in terms of filling the substantial needs outlined in the National Fire Protection Association's ''needs assessment.'' To date, Congress has appropriated nearly $2 billion for the FIRE Act program. Virtually every penny of that amount has gone directly to local fire departments through FIRE grants to provide firefighter personal protective equipment, training to ensure more effective firefighting practices, breathing apparatus, new firefighting vehicles, emergency medical services supplies, fire prevention programs, and other important uses. The direct nature of the FIRE Act grant program—funds literally go straight from the Federal Government to local fire departments—is an extremely important aspect of the law, particularly in light of the difficulties we are seeing with other homeland security grant programs getting money to flow directly to the intended recipients.

FIRE Act grants are awarded based on a competitive, peer-review process that helps ensure that the most important needs are filled first and that funding will be used in an effective manner. I am proud to note that 86 of Ohio's 88 counties have received FIRE Act funding up to this point and that the fire service in my home State is much better prepared to respond to emergencies as a result. The bottom line is this: The FIRE Act program has proven to be an extremely valuable tool for fire-based first responders.

The time has come to reauthorize this important legislation—to build upon the successes of the original FIRE Act and to refine the program where improvements can be made. Just as we did in 2000, Senator DODD and I have come together, along with the support of several national fire service organizations, to introduce a bill to reauthorize the FIRE Act. Our bill focuses on four central themes. First, we take steps to make the grant program more accessible for fire departments serving small, rural communities and to eliminate barriers to participation faced by departments serving heavily populated jurisdictions. Second, we codify changes made in program administration since its transfer to the recently created Department of Homeland Security. Third, the bill increases the emphasis within the program on life-saving Emergency Medical Services and technologies. And fourth, we evaluate the program through a series of reports to help ensure that resources are targeted to the areas of greatest need. These priorities have been developed jointly with the fire service, and represent a means to strengthen the FIRE Act program for years to come.

First, our new legislation would help the FIRE act program be more accessible for fire departments serving the very largest and smallest jurisdictions in America. Our experience over the past 4 years has been that a number of features in the program make participation difficult for departments serving these populations. Career fire departments, most of which serve populations well in excess of 50,000, have been receiving only a small percentage of the total grants thus far. After consulting with the fire service organizations, fire chiefs in my home State of Ohio, and officials administering the program at the Department of Homeland Security, we've found that there are two main reasons why this has been the case.

First, matching requirements for large departments, currently fixed at 30 percent, have been particularly difficult to meet. Second, current law dictates that departments—whether they serve a large city, such as Cleveland and have numerous fire stations, or a small town, such as Cedarville, OH and have only one station—are eligible for the exact same level of funding each year: $750,000. These two elements of the current program have caused a number of large fire departments to forego applying for FIRE grants. With respect to smaller, often volunteer-based departments serving populations of 20,000 or less, budgets are often so limited that meeting the current match is simply not possible. Many of these departments struggle with even the most basic needs, such as having an adequate number of staff available to respond to a structure fire.

Our bill addresses each of these problems in a simple and straightforward fashion. Specifically, the bill would reduce matching requirements by one third for departments serving communities of 50,000, and by the one half for departments serving 20,000 or fewer residents in order to encourage increased participation by these departments. The bill also would restructure caps on grant amounts to reflect population served, with up to $2,250,000 for departments serving one million or more, $1,500,000 for departments serving between 500,000 and one million, and $1,000,000 for departments serving fewer than 500,000 residents. Together, these two changes would go a long way toward increasing the accessibility of the program for the very largest and smallest departments in the United States.

The second major component of our bill has to do with the transfer of the FIRE Act administration from the Federal Emergency Management Administration (FEMA) to the Department of Homeland Security (DHS). When FEMA's functions were transferred into the DHS, the FIRE grant program, along with the U.S. Fire Administration, also were transferred to DHS. As part of that transfer, formal administration of the FIRE grant program has been delegated to the Department to the Office of Domestic Preparedness (ODP), which oversees all DHS grant programs. While the U.S. Fire Administration—the real fire experts within the Federal Govenment—remains involved, we need to take steps to formalize the management of the program following the transfer to DHS.

There are a number of reasons for solidifying program administration in law, chief among them being the ability of fire departments across our Nation to plan for the future, and the ability to ensure an ongoing role for fire experts in the process. First, our bill gives the Secretary of Homeland Security overall authority for the program. This just makes sense given the Secretary's current home within ODP. Additionally, the bill would codify in law practices currently in use by ODP—peer review by experts from national fire service organizations, a formal role for the U.S. Fire Administration, and collaborative meetings to recommend grant criteria.

These steps would benefit the program for years to come and would help bring stability to the increasingly mature FIRE grant program. Perhaps

more importantly, formalizing the role of the U.S. Fire Administrator and national fire service organizations would help resolve a fundamental tension between the mission of the FIRE Act program (to improve firefighting and EMS resources nationwide for all hazards) and the mission of its caretaker, ODP (to focus on terrorism prevention and response).

It makes sense for ODP, as the central clearinghouse for grant program within DHS, to manage the FIRE grant program. Equally so, it makes sense to build features into the program which would help ensure that the FIRE grant program will remain dedicated solely to the fire and emergency medical services (EMS) communities and will not be diluted over time into a generic terrorism-prevention program. Our bill carefully strikes this balance.

The third major focus of this reauthorization bill is on finding ways to improve safety and to save lives. We do this in a number of ways. First, we've teamed up with national fire service organizations to incorporate firefighter safety research into the fire prevention and safety set-aside program. This new research, supported by a 20 percent increase in funds for the prevention and safety set-aside, would help reduce the number of firefighter fatalities each year and would dramatically improve the health and welfare of firefighters nationwide.

Second, we place an increased emphasis on Emergency Medical Services. In most communities, the fire department is the chief provider for all emergency services, including EMS. To illustrate this point, a 2002 National Fire Protection Association study indicates that fire departments received more than seven times as many calls for EMS assistance as they did for fires. When our family members, neighbors, and friends need immediate medical help, we turn to EMS providers, and we rely on this help to be as effective and timely as possible. It is our duty in structuring the FIRE grant program, then, to do everything we can to give EMS squads the assistance they need to carry out this important mission.

Despite the overwhelming ratio of EMS calls to fire calls, the FIRE grant program has not adequately reflected the importance of EMS over the past few years, with about 1 percent of all grants going specifically for EMS purposes. While there is no question that a number of other grants have indirectly benefited EMS and that departments do invest their own money into this service, more can and should be done through the FIRE Act to boost our EMS capabilities nationwide. To accomplish this goal, we do a number of things in the reauthorization bill, including specifically including fire-based EMS professionals in the peer review process and allowing EMS grant requests to be combined with those for equipment and training.

Additionally, we include language to incorporate independent, non-profit EMS squads into the FIRE grant program for the first time. While our work with national fire service organizations on this particular provision has been productive and is ongoing, its intent is clear—and that is to try to bring the emphasis within the FIRE grant program on EMS closer to the level of demand in the field for this life-saving service. I am pleased that we have this language in the bill and believe that through debate here in committee, and perhaps on the Senate floor, we can find an even better solution for increasing support for EMS.

Third, we create a new incentive program within the FIRE Act that encourages departments to invest in life-saving automated external defibrillator (AED) devices. These devices are capable of dramatically reducing the number one cause of firefighter death in the line of duty—heart attacks. Our incentive program essentially says to fire departments that if you equip each of your firefighting vehicles with a defibrillator unit, we'll give you a one-time discount on your matching requirement. Congress has expressed, time and again, strong support for getting these devices out to communities through various grant programs. It is our hope that we can maintain that commitment by extending support for life-saving defibrillator technologies to fire departments across the country.

Fourth, we eliminate a burdensome and unintended matching requirement for fire prevention grants. These grants generally go to non-profit organizations, such as National SAFE KIDS, to provide for fire safety awareness campaigns, smoke detector installations in low-income housing, and other important prevention efforts. Though no match was required in the first few years of the program, a recent legal opinion from the Office of Domestic Preparedness has reversed course and instituted a 10 percent match for grantees. This unanticipated requirement, which is extremely difficult for non-profits with limited capital, has had a debilitating effect on the prevention program and needs to be eliminated. Our bill does just that.

Together, these common-sense features of our reauthorization bill would dramatically improve the safety of our communities, as well as the firefighters who bravely serve them.

The fourth section of this reauthorization bill centers on a comprehensive review of the FIRE grant program. This review, to be conducted in part by the National Fire Protection Association, and in part by the General Accounting Office (GAO), seeks to evaluate the program with an eye toward ensuring that resources are targeted to the areas of greatest need. A similar study by the National Fire Protection association conducted shortly after passage of the initial FIRE Act was extremely helpful as far as identifying the nature of the fire service needs. Ultimately, this part of the bill is about making sure that the billions of taxpayer dollars authorized by this legislation are used in the most responsible and effective manner possible.

Our bill is a good bill. It is comprehensive and collaboratively drafted with input from fire and emergency services experts from across the country. The National Safe Kids Campaign, the International Association of Fire Fighters, the International Association of Fire Chiefs, the National Volunteer Fire Council, the International Association of Arson Investigators, the International Society of Fire Service Instructors, and the National Fire Protection Association, among others, all support our legislation. I am proud to introduce this bill with my friend and colleague from Connecticut and look forward to working to ensure that the Federal Government increases its commitment to the men and women who make up our local fire departments. We owe them and their service and dedication nothing less than our full support.

Mr. MCCAIN. Mr. President, I am pleased to join Senators DODD and DEWINE and my other colleagues in introducing the Assistance to Firefighters Act of 2004, which will reauthorize the Assistance to Firefighters Grant Program. This program, which is also know as the FIRE Grant program, addresses a critical need by ensuring that our Nation's firefighters have adequate funding for training and equipment to deal with the many hazards that they face.

As Chairman of the authorizing committee of jurisdiction, I am familiar with the success of the Assistance to Firefighters Grant Program. Funding under the FIRE grant program is provided directly to local jurisdictions. Applications undergo a competitive, merit-based process, which helps to ensure that funding is spent responsibily and productively. The grant program includes a matching requirement to ensure that the local community is committed to spending the grant. It also includes a ''maintenance of expenditures'' provision to ensure that the grant will supplement, not replace, local firefighting funds. In addition, the program ensures that new technology that is bought with FIRE Grant funds meet standards set by voluntary consensus organizations, so that local fire departments will buy effective equipment.

For Fiscal Year 2004, the program received over 20,000 applications from local fire departments across the country. These requests totaled approximately $2.3 billion. The program also received around 20,000 applications in 2001, 2002, and 2003, which clearly demonstrates the need and importance of this program to the firefighting community.

The Assistance to Firefighters Grant program recipients use such funds to help meet their basic needs. The uses for these grants include: personal protection and firefighting equipment;

training; firefighting vehicles; fire prevention campaigns; fire code enforcement; and arson detection and prevention. I would like to emphasize that these grants are dedicated to improving the local response to ''all-hazards,'' including natural disasters, structural fires, and acts of terrorism.

I thank my colleagues for their leadership on this issue, and urge the Senate to support passage of this legislation this year. As we have witnessed recently, our Nation's fire services face a myriad of threats, and we should work to ensure that they are adequately trained and equipped to meet them.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 106—URGING THE GOVERNMENT OF UKRAINE TO ENSURE A DEMOCRATIC, TRANSPARENT, AND FAIR ELECTION PROCESS FOR THE PRESIDENTIAL ELECTION ON OCTOBER 31, 2004

Mr. CAMPBELL (for himself, Mr. DODD, and Mr. BIDEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 106

Whereas the establishment of a democratic, transparent, and fair election process for the 2004 presidential election in Ukraine and of a genuinely democratic political system are prerequisites for that country's full integration into the Western community of nations as an equal member, including into organizations such as the North Atlantic Treaty Organization (NATO);

Whereas the Government of Ukraine has accepted numerous specific commitments governing the conduct of elections as a participating State of the Organization for Security and Cooperation in Europe (OSCE), including provisions of the Copenhagen Document;

Whereas the election on October 31, 2004, of Ukraine's next president will provide an unambiguous test of the extent of the Ukrainian authorities' commitment to implement these standards and build a democratic society based on free elections and the rule of law;

Whereas this election takes place against the backdrop of previous elections that did not fully meet international standards and of disturbing trends in the current pre-election environment;

Whereas it is the duty of government and public authorities at all levels to act in a manner consistent with all laws and regulations governing election procedures and to ensure free and fair elections throughout the entire country, including preventing activities aimed at undermining the free exercise of political rights;

Whereas a genuinely free and fair election requires a period of political campaigning conducted in an environment in which neither administrative action nor violence, intimidation, or detention hinder the parties, political associations, and the candidates from presenting their views and qualifications to the citizenry, including organizing supporters, conducting public meetings and events throughout the country, and enjoying unimpeded access to television, radio, print, and Internet media on a non-discriminatory basis;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and effective opportunity to exercise their civil and political rights, including the right to vote and the right to seek and acquire information upon which to make an informed vote, free from intimidation, undue influence, attempts at vote buying, threats of political retribution, or other forms of coercion by national or local authorities or others;

Whereas a genuinely free and fair election requires government and public authorities to ensure that candidates and political parties enjoy equal treatment before the law and that government resources are not employed to the advantage of individual candidates or political parties;

Whereas a genuinely free and fair election requires the full transparency of laws and regulations governing elections, multiparty representation on election commissions, and unobstructed access by candidates, political parties, and domestic and international observers to all election procedures, including voting and vote-counting in all areas of the country;

Whereas increasing control and manipulation of the media by national and local officials and others acting at their behest raise grave concerns regarding the commitment of the Ukrainian authorities to free and fair elections;

Whereas efforts by the national authorities to limit access to international broadcasting, including Radio Liberty and the Voice of America, represent an unacceptable infringement on the right of the Ukrainian people to independent information;

Whereas efforts by national and local officials and others acting at their behest to impose obstacles to free assembly, free speech, and a free and fair political campaign have taken place in Donetsk, Sumy, and elsewhere in Ukraine without condemnation or remedial action by the Ukrainian Government;

Whereas numerous substantial irregularities have taken place in recent Ukrainian parliamentary by-elections in the Donetsk region and in mayoral elections in Mukacheve, Romny, and Krasniy Luch; and

Whereas the intimidation and violence during the April 18, 2004, mayoral election in Mukacheve, Ukraine, represent a deliberate attack on the democratic process: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) acknowledges and welcomes the strong relationship formed between the United States and Ukraine since the restoration of Ukraine's independence in 1991;

(2) recognizes that a precondition for the full integration of Ukraine into the Western community of nations, including as an equal member in institutions such as the North Atlantic Treaty Organization (NATO), is its establishment of a genuinely democratic political system;

(3) expresses its strong and continuing support for the efforts of the Ukrainian people to establish a full democracy, the rule of law, and respect for human rights in Ukraine;

(4) urges the Government of Ukraine to guarantee freedom of association and assembly, including the right of candidates, members of political parties, and others to freely assemble, to organize and conduct public events, and to exercise these and other rights free from intimidation or harassment by local or national officials or others acting at their behest;

(5) urges the Government of Ukraine to meet its Organization for Security and Cooperation in Europe (OSCE) commitments on democratic elections and to address issues previously identified by the Office of Democratic Institutions and Human Rights (ODIHR) of the OSCE in its final reports on the 2002 parliamentary elections and the 1999 presidential elections, such as illegal interference by public authorities in the campaign and a high degree of bias in the media;

(6) urges the Ukrainian authorities to ensure—

(A) the full transparency of election procedures before, during, and after the 2004 presidential elections;

(B) free access for Ukrainian and international election observers;

(C) multiparty representation on all election commissions;

(D) unimpeded access by all parties and candidates to print, radio, television, and Internet media on a non-discriminatory basis;

(E) freedom of candidates, members of opposition parties, and independent media organizations from intimidation or harassment by government officials at all levels via selective tax audits and other regulatory procedures, and in the case of media, license revocations and libel suits, among other measures;

(F) a transparent process for complaint and appeals through electoral commissions and within the court system that provides timely and effective remedies; and

(G) vigorous prosecution of any individual or organization responsible for violations of election laws or regulations, including the application of appropriate administrative or criminal penalties;

(7) further calls upon the Government of Ukraine to guarantee election monitors from the ODIHR, other participating States of the OSCE, Ukrainian political parties, candidates' representatives, nongovernmental organizations, and other private institutions and organizations, both foreign and domestic, unobstructed access to all aspects of the election process, including unimpeded access to public campaign events, candidates, news media, voting, and post-election tabulation of results and processing of election challenges and complaints; and

(8) pledges its enduring support and assistance to the Ukrainian people's establishment of a fully free and open democratic system, their creation of a prosperous free market economy, their establishment of a secure independence and freedom from coercion, and their country's assumption of its rightful place as a full and equal member of the Western community of democracies.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3142. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3140 submitted by Mr. FEINGOLD and intended to be proposed to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 3143. Mr. GRASSLEY proposed an amendment to the bill S. 1637, supra.

TEXT OF AMENDMENTS

SA 3142. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3140 submitted by Mr. FEINGOLD and intended to be proposed to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply

with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, insert after line 14 the following:

(5) NATIONAL SECURITY EXEMPTION.—Subsection (a) shall not apply to any procurement for national security purposes entered into by:

(A) the Department of Defense or any agency or entity thereof;

(B) the Department of the Army, the Department of the Navy, the Department of the Air Force, or any agency or entity of any of the military departments;

(C) the Department of Homeland Security;

(D) the Department of Energy or any agency or entity thereof, with respect to the national security programs of that Department; or

(E) any element of the intelligence community.

SA 3143. Mr. GRASSLEY proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

On page 26, between lines 2 and 3, insert:

''(3) GROSS RECEIPTS FROM USE OF FILMS AND VIDEO TAPE.—In the case of any qualifying production property which is property described in section 168(f)(3) produced in whole or in significant part by the taxpayer within the United States (determined after application of paragraph (2)), domestic production gross receipts shall include gross receipts derived by the taxpayer from the use of the property by the taxpayer.

On page 27, between lines 2 and 3, insert the following flush sentence:

Subparagraph (F) shall not apply to property described in section 168(f)(3) to the extent of the gross receipts from the use of the property to which subsection (e)(3) applies (determined after application of this sentence).

On page 34, strike lines 8 through 17, and insert:

''(9) SEPARATE APPLICATION TO FILMS AND VIDEOTAPE.—

''(A) IN GENERAL.—In the case of qualifying production property described in section 168(f)(3), the deduction under this section shall be determined separately with respect to qualified production activities income of the taxpayer allocable to each of the following markets with respect to such property:

''(i) Theatrical.

''(ii) Broadcast television (including cable, foreign, pay-per-view, and syndication).

''(iii) Home video.

''(B) RULES FOR SEPARATE DETERMINATION.—Except as provided in subparagraph (C)—

''(i) any computation required to determine the amount of the deduction with respect to any of the markets described in subparagraph (A) shall be made by only taking into account items properly allocable to such market, including the computation of qualified production activities income, modified taxable income, and the domestic/worldwide fraction, and

''(ii) such items shall not be taken into account in determining the deduction with respect to either of the other 2 markets or with respect to qualified production activities income of the taxpayer not allocable to any of such markets.

''(C) WAGE LIMITATION.—This paragraph shall not apply for purposes of subsection (b) and subsection (b) shall be applied after the application of this paragraph.''

On page 5, of the Senate amendment number 3118, as passed, at the end of line 13, add the following: ''For purposes of determining LEED certification as required under this clause, points shall be credited by using the following:

''(I) For wood products, certification under the Sustainable Forestry Initiative Program and the American Tree Farm System.

''(II) For renewable wood products, as credited for recycled content otherwise provided under LEED certification.

''(III) For composite wood products, certification under standards established by the American National Standards Institute, or such other voluntary standards as published in the Federal Register by the Administrator of the Environmental Protection Agency.

On page 6, strike lines 20 and 21, of the Senate amendment number 3118, as passed, and insert the following:

''(II) Compliance with certification standards cited under clause (i).

Beginning on page 12, line 10, of the Senate amendment number 3118, as passed, strike all through page 16, line 10, and insert the following:

SEC. ___. SUBSTANTIAL PRESENCE TEST REQUIRED TO DETERMINE BONA FIDE RESIDENCE IN UNITED STATES POSSESSIONS.

(a) SUBSTANTIAL PRESENCE TEST.—

(1) IN GENERAL.—Subpart D of part III of subchapter N of chapter 1 (relating to possessions of the United States) is amended by adding at the end the following new section:

''SEC. 937. BONA FIDE RESIDENT.

''For purposes of this subpart, section 865(g)(3), section 876, section 881(b), paragraphs (2) and (3) of section 901(b), section 957(c), section 3401(a)(8)(C), and section 7654(a), the term 'bona fide resident' means a person who satisfies a test, determined by the Secretary, similar to the substantial presence test under section 7701(b)(3) with respect to Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands, as the case may be.''.

(2) CONFORMING AMENDMENTS.—

(A) The following provisions are amended by striking ''during the entire taxable year'' and inserting ''for the taxable year'':

(i) Paragraph (3) of section 865(g).

(ii) Subsection (a) of section 876(a).

(iii) Paragraphs (2) and (3) of section 901(b).

(iv) Subsection (a) of section 931.

(v) Paragraphs (1) and (2) of section 933.

(B) Section 931(d) is amended by striking paragraph (3).

(C) Section 932 is amended by striking ''at the close of the taxable year'' and inserting ''for the taxable year'' each place it appears.

(3) CLERICAL AMENDMENT.—The table of sections of subpart D of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

''Sec. 937. Bona fide resident.''.

(b) REPORTING REQUIREMENTS FOR BONA FIDE RESIDENTS OF THE VIRGIN ISLANDS.—Paragraph (2) of section 932(c) (relating to treatment of Virgin Islands residents) is amended to read as follows:

''(2) FILING REQUIREMENTS.—

''(A) IN GENERAL.—Notwithstanding paragraph (4), each individual to whom this subsection applies for the taxable year shall file an income tax return for the taxable year with—

''(i) the Virgin Islands, and

''(ii) the United States.

''(B) FILING FEE.—The Secretary shall charge a processing fee with respect to the return filed under subparagraph (A)(ii) of an amount appropriate to cover the administrative costs of the requirements of subparagraph (A)(ii) and the enforcement of the purposes of subparagraph (A)(ii).''.

(c) PENALTIES.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 is amended by adding at the end the following new section:

''SEC. 6717. FAILURE OF VIRGIN ISLANDS RESIDENTS TO FILE RETURNS WITH THE UNITED STATES.

''(a) PENALTY AUTHORIZED.—The Secretary may impose a civil money penalty on any person who violates, or causes any violation of, the requirements of section 932(c)(2)(A)(ii).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in subsection (c), the amount of any civil penalty imposed under subsection (a) shall not exceed $5,000.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subsection (a) with respect to any violation if such violation was due to reasonable cause and the taxpayer acted in good faith.

''(c) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any requirement of section 932(c)(2)(A)(ii)—

''(1) the maximum penalty under subsection (b)(1) shall be increased to $25,000 and

''(2) subsection (b)(2) shall not apply.''.

(2) CLERICAL AMENDMENT.—The table of sections for Part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6717. Failure of Virgin Islands residents to file returns with the United States.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

On page 185, line 10, insert ''insuring,'' before ''or''.

On page 287, beginning with line 10, strike all through page 288, line 3, and insert:

''(A) obligations of the United States, money, or deposits with persons described in paragraph (4);''.

(b) ELIGIBLE PERSONS.—Section 956(c) (relating to exceptions to definition of United States property) is amended by adding at the end the following new paragraph:

''(4) FINANCIAL SERVICES PROVIDERS.—

''(A) IN GENERAL.—For purposes of paragraph (2)(A), a person is described in this paragraph if at least 80 percent of the person's income is income described in section 904(d)(2)(C)(ii) (and the regulations thereunder) which is derived from persons who are not related persons.

''(B) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) all related persons shall be treated as 1 person in applying the 80-percent test, and

''(ii) there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of a person as a person described in this paragraph.

''(C) RELATED PERSON.—For purposes of this paragraph, the term 'related person' has the meaning given such term by section 954(d)(3).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

On page 335, strike lines 4 through 10, and insert the following:

(2) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a

tax-exempt entity which is a foreign person or entity, the amendments made by this section shall apply to taxable years beginning after March 31, 2004, with respect to leases entered into on or before November 18, 2003.

On page 422, line 21, strike ''$10,000,000'' and insert ''$25,000,000''.

On page 557, between lines 9 and 10, insert the following:

SEC. ___. GOLD, SILVER, PLATINUM, AND PALLADIUM TREATED IN THE SAME MANNER AS STOCKS AND BONDS FOR MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS.

(a) IN GENERAL.—Section 1(h)(5) (relating to definition of collectibles gain and loss) is amended—

(1) by striking ''(as defined in section 408(m) without regard to paragraph (3) thereof)'' in subparagraph (A) thereof, and

(2) by adding at the end the following new subparagraph:

''(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' has the meaning given such term by section 408(m), except that in applying paragraph (3)(B) thereof the determination of whether any bullion is excluded from treatment as a collectible shall be made without regard to the person who is in physical possession of the bullion.''

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. ___. INCLUSION OF PRIMARY AND SECONDARY MEDICAL STRATEGIES FOR CHILDREN AND ADULTS WITH SICKLE CELL DISEASE AS MEDICAL ASSISTANCE UNDER THE MEDICAID PROGRAM.

(a) OPTIONAL MEDICAL ASSISTANCE.—

(1) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)—

(i) by striking ''and'' at the end of paragraph (26);

(ii) by redesignating paragraph (27) as paragraph (28); and

(iii) by inserting after paragraph (26), the following:

''(27) subject to subsection (x), primary and secondary medical strategies and treatment and services for individuals who have Sickle Cell Disease; and''; and

(B) by adding at the end the following:

''(x) For purposes of subsection (a)(27), the strategies, treatment, and services described in that subsection include the following:

''(1) Chronic blood transfusion (with deferoxamine chelation) to prevent stroke in individuals with Sickle Cell Disease who have been identified as being at high risk for stroke.

''(2) Genetic counseling and testing for individuals with Sickle Cell Disease or the sickle cell trait to allow health care professionals to treat such individuals and to prevent symptoms of Sickle Cell Disease.

''(3) Other treatment and services to prevent individuals who have Sickle Cell Disease and who have had a stroke from having another stroke.''.

(2) RULE OF CONSTRUCTION.—Nothing in subsections (a)(27) or (x) of section 1905 of the Social Security Act (42 U.S.C. 1396d), as added by paragraph (1), shall be construed as implying that a State medicaid program under title XIX of such Act could not have treated, prior to the date of enactment of this Act, any of the primary and secondary medical strategies and treatment and services described in such subsections as medical assistance under such program, including as early and periodic screening, diagnostic, and treatment services under section 1905(r) of such Act.

(b) FEDERAL REIMBURSEMENT FOR EDUCATION AND OTHER SERVICES RELATED TO THE PREVENTION AND TREATMENT OF SICKLE CELL DISEASE.—Section 1903(a)(3) of the Social Security Act (42 U.S.C. 1396b(a)(3)) is amended—

(1) in subparagraph (D), by striking ''plus'' at the end and inserting ''and''; and

(2) by adding at the end the following:

''(E) 50 percent of the sums expended with respect to costs incurred during such quarter as are attributable to providing—

''(i) services to identify and educate individuals who are likely to be eligible for medical assistance under this title and who have Sickle Cell Disease or who are carriers of the sickle cell gene, including education regarding how to identify such individuals; or

''(ii) education regarding the risks of stroke and other complications, as well as the prevention of stroke and other complications, in individuals who are likely to be eligible for medical assistance under this title and who have Sickle Cell Disease; plus''.

(c) DEMONSTRATION PROGRAM FOR THE DEVELOPMENT AND ESTABLISHMENT OF SYSTEMIC MECHANISMS FOR THE PREVENTION AND TREATMENT OF SICKLE CELL DISEASE.—

(1) AUTHORITY TO CONDUCT DEMONSTRATION PROGRAM.—

(A) IN GENERAL.—The Administrator, through the Bureau of Primary Health Care and the Maternal and Child Health Bureau, shall conduct a demonstration program by making grants to up to 40 eligible entities for each fiscal year in which the program is conducted under this section for the purpose of developing and establishing systemic mechanisms to improve the prevention and treatment of Sickle Cell Disease, including through—

(i) the coordination of service delivery for individuals with Sickle Cell Disease;

(ii) genetic counseling and testing;

(iii) bundling of technical services related to the prevention and treatment of Sickle Cell Disease;

(iv) training of health professionals; and

(v) identifying and establishing other efforts related to the expansion and coordination of education, treatment, and continuity of care programs for individuals with Sickle Cell Disease.

(B) GRANT AWARD REQUIREMENTS.—

(i) GEOGRAPHIC DIVERSITY.—The Administrator shall, to the extent practicable, award grants under this section to eligible entities located in different regions of the United States.

(ii) PRIORITY.—In awarding grants under this subsection, the Administrator shall give priority to awarding grants to eligible entities that are—

(I) Federally-qualified health centers that have a partnership or other arrangement with a comprehensive Sickle Cell Disease treatment center that does not receive funds from the National Institutes of Health; or

(II) Federally-qualified health centers that intend to develop a partnership or other arrangement with a comprehensive Sickle Cell Disease treatment center that does not receive funds from the National Institutes of Health.

(2) ADDITIONAL REQUIREMENTS.—An eligible entity awarded a grant under this subsection shall use funds made available under the grant to carry out, in addition to the activities described in paragraph (1)(A), the following activities:

(A) To facilitate and coordinate the delivery of education, treatment, and continuity of care for individuals with Sickle Cell Disease under—

(i) the entity's collaborative agreement with a community-based Sickle Cell Disease organization or a nonprofit entity that works with individuals who have Sickle Cell Disease;

(ii) the Sickle Cell Disease newborn screening program for the State in which the entity is located; and

(iii) the maternal and child health program under title V of the Social Security Act (42 U.S.C. 701 et seq.) for the State in which the entity is located.

(B) To train nursing and other health staff who provide care for individuals with Sickle Cell Disease.

(C) To enter into a partnership with adult or pediatric hematologists in the region and other regional experts in Sickle Cell Disease at tertiary and academic health centers and State and county health offices.

(D) To identify and secure resources for ensuring reimbursement under the medicaid program, State children's health insurance program, and other health programs for the prevention and treatment of Sickle Cell Disease.

(3) NATIONAL COORDINATING CENTER.—

(A) ESTABLISHMENT.—The Administrator shall enter into a contract with an entity to serve as the National Coordinating Center for the demonstration program conducted under this subsection.

(B) ACTIVITIES DESCRIBED.—The National Coordinating Center shall—

(i) collect, coordinate, monitor, and distribute data, best practices, and findings regarding the activities funded under grants made to eligible entities under the demonstration program;

(ii) develop a model protocol for eligible entities with respect to the prevention and treatment of Sickle Cell Disease;

(iii) develop educational materials regarding the prevention and treatment of Sickle Cell Disease; and

(iv) prepare and submit to Congress a final report that includes recommendations regarding the effectiveness of the demonstration program conducted under this subsection and such direct outcome measures as—

(I) the number and type of health care resources utilized (such as emergency room visits, hospital visits, length of stay, and physician visits for individuals with Sickle Cell Disease); and

(II) the number of individuals that were tested and subsequently received genetic counseling for the sickle cell trait.

(4) APPLICATION.—An eligible entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

(5) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Health Resources and Services Administration.

(B) ELIGIBLE ENTITY.—The term ''eligible entity'' means a Federally-qualified health center, a nonprofit hospital or clinic, or a university health center that provides primary health care, that—

(i) has a collaborative agreement with a community-based Sickle Cell Disease organization or a nonprofit entity with experience in working with individuals who have Sickle Cell Disease; and

(ii) demonstrates to the Administrator that either the Federally-qualified health center, the nonprofit hospital or clinic, the university health center, the organization or entity described in clause (i), or the experts described in paragraph (2)(C), has at least 5 years of experience in working with individuals who have Sickle Cell Disease.

(C) FEDERALLY-QUALIFIED HEALTH CENTER.—The term ''Federally-qualified health center'' has the meaning given that term in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)).

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $10,000,000 for each of fiscal years 2005 through 2009.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect on the date of enactment of this Act and apply to medical assistance and services provided under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after that date.

Beginning on page 558, line 1, strike all through page 559, line 5.

On page 930, after line 18, add the following:

TITLE IX—OFFICE OF FEDERAL PROCUREMENT POLICY ACT IMPROVEMENTS

SEC. 901. REPORT ON ACQUISITIONS OF GOODS FROM FOREIGN SOURCES.

(a) REPORT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

''SEC. 43. REPORT ON ACQUISITIONS OF GOODS FROM FOREIGN SOURCES.

''(a) Not later than 60 days after the end of each fiscal year, the head of each executive agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by such executive agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

''(b) The report for a fiscal year under subsection (a) shall separately indicate the following information:

''(1) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

''(2) An itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act (41 U.S.C. 10a et seq.).

''(3) A summary of—

''(A) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

''(B) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

''(c) The head of each executive agency submitting a report under subsection (a) shall make the report publicly available by posting on an Internet website.

''(d) Subsection (a) shall not apply to any procurement for national security purposes entered into by—

''(1) the Department of Defense or any agency or entity thereof;

''(2) the Department of the Army, the Department of the Navy, the Department of the Air Force, or any agency or entity of any of the military departments;

''(3) the Department of Homeland Security;

''(4) the Department of Energy or any agency or entity thereof, with respect to the national security programs of that Department; or

''(5) any element of the intelligence community.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new item:

''Sec. 43. Report on acquisitions of goods from foreign sources.''.

(c) COMMERCE DEPARTMENT REPORT.—Not later than 60 days after the end of each fiscal year ending after the date of the enactment of this Act, the Secretary of Commerce shall submit to Congress and make publicly available by posting on an Internet website a report on the acquisitions by foreign governments of articles, materials, or supplies that were manufactured or extracted in the United States in that fiscal year. Such report shall indicate the dollar value of such articles, materials, or supplies.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 12, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 1715, the Department of Interior Tribal Self-Governance Act of 2003.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources:

The hearing will be held on Tuesday, May 18, at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to evaluate implications of a recent change in reporting of small business contracts by the Department of Energy. This change has the effect of increasing the number of small business contracts issued directly by the Department and decreasing the number of contracts issued by the Department's Management and Operating contractors.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Dr. Pete Lyons at 202–224–5861 or Shane Perkins at 202–224–7555.

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, May 19, at 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 900, a bill to convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the pertinent irrigation districts; S. 1876, a bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; S. 1957, a bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; S. 2304 and H.R. 3209, bills to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project; S. 2243, a bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska; H.R. 1648, a bill to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District; and H.R. 1732, a bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Kellie Donnelly at 202–224–9360, Nate Gentry at 202–224–2179, Erik Webb at 202–224–4756, or Shane Perkins at 202–224–7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on May 11, 2004, at 9:30 a.m. and 2:30 p.m., in open session, to continue to receive testimony on allegations of mistreatment of Iraqi prisoners.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 11, 2004, at 2:30 p.m. on Smoking in the Movies.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, May 11 at 10:00 a.m.

The purpose of this hearing is to gain an understanding of the impacts and costs of last year's fires and then look

forward to the potential 2004 fire season. The hearing will give all committee members a solid understanding of the problems faced last year and what problems the agencies and the land they oversee may face this next season, including aerial fire fighting assets and crew, and overhead availability.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 11, 2004 at 10:00 a.m. to hold a hearing on Saving Lives: The Deadly Intersection of AIDS & Hunger.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, May 11, 2004, at 10:30 a.m. for a hearing titled ''Bogus Degrees and Unmet Expectations: Are Taxpayer Dollars Subsidizing Diploma Mills?'' (Day One).

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing entitled ''Breakthroughs in Alzheimer's Research: News You Can Use'' during the session of the Senate on Tuesday, May 11, 2004 at 10:00 a.m. in SD–430.

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

COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Terrorism, Technology and Homeland Security be authorized to meet to conduct a hearing on ''Rapid Bio-Terrorism Detection and Response'' on Tuesday, May 11, 2004 at 9:30 a.m. in Dirksen 226.

Witness List:

Panel I: Dr. Paul Keim, Director Northern Arizona University, Flagstaff, AZ; Dr. Harvey W. Meislin, Director, Arizona Emergency Medicine Research Center, Tucson, AZ; Dr. David A. Relman, Associate Professor of Medicine, Stanford University, Palo Alto, CA; and Dr. Jeffrey Trent, President, Translational Genomics Research Institute, Phoenix, AZ.

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

SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REVITALIZATION

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Conservation and Rural Revitalization of the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Tuesday, May 11, 2004. The purpose of this hearing will be to examine the conservation programs of the 2002 Farm Bill.

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

ORDERS FOR WEDNESDAY, MAY 12, 2004

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, May 12. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 60 minutes, with the first half hour under the control of the majority leader or his designee, and the second half hour under the control of the minority leader or his designee; provided that following morning business, the Senate begin consideration of S. 1248, the IDEA reauthorization bill as provided under the previous order.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, through you to the distinguished majority whip, we have completed this bill. It has been a long struggle. Everybody is happy that it is done. We also are going to pass the IDEA bill within the next couple of days. I see no reason we couldn't also complete the mental health parity legislation. I spoke with Senator DOMENICI and our leader. There is no reason we couldn't do that in a very short time period, a matter of just an hour or two. The only thing we are waiting on is the Senator from New Hampshire, Mr. GREGG, who has an amendment that deals with the scope of the bill. That is the only amendment people have indicated they want to deal with. As soon as we see that, we can agree on a time for that. This would be a remarkable week if we could complete three major pieces of legislation.

Mr. MCCONNELL. I say to my friend from Nevada, it certainly would be good to be able to complete more legislation in the Senate. We are actively working on the bill that the Senator referred to, hoping to get that cleared on this side. I hope that will be possible.

Mr. REID. I have no objection.

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

PROGRAM

Mr. MCCONNELL. Mr. President, tomorrow following morning business, the Senate will begin consideration of the IDEA reauthorization bill. Under the previous agreement, there are up to eight amendments in order, in addition to the managers' amendment. The chairman and ranking member of the HELP Committee will be here tomorrow morning to begin working through these amendments. I would inform all Senators that rollcall votes are expected throughout the day as the Senate works toward passage of that important bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:28 p.m., adjourned until Wednesday, May 12, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 11, 2004:

DEPARTMENT OF DEFENSE

JOSEPH F. BADER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2007, VICE JESSIE M. ROBERSON, TERM EXPIRED.

DEPARTMENT OF COMMERCE

BRETT T. PALMER, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE BRENDA L. BECKER.

FEDERAL TRADE COMMISSION

DEBORAH P. MAJORAS, OF VIRGINIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE UNEXPIRED TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2001, VICE TIMOTHY J. MURIS, RESIGNED.

DEPARTMENT OF THE TREASURY

TIMOTHY S. BITSBERGER, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE BRIAN CARLTON ROSEBORO, RESIGNED.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

JAMES R. KUNDER, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE WENDY JEAN CHAMBERLIN.

DEPARTMENT OF EDUCATION

CRAIG T. RAMEY, OF WEST VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF TWO YEARS. (NEW POSITION)

CENTRAL INTELLIGENCE

LARRY C. KINDSVATER, OF VIRGINIA, TO BE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT, VICE JOAN AVALYN DEMPSEY, RESIGNED.