United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, WEDNESDAY, JUNE 12, 2002 No. 77

House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 12, 2002.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Kent Williams, Sunnybrook Christian Church, Stillwater, Oklahoma, offered the following prayer:

Sovereign God, I thank You for this great country, for President Bush and for these Members of Congress who are dedicated public servants divinely appointed by You. Lord, build a spiritual wall of protection around all of our leaders, our armed forces, and our citizens. ''Contend with those who contend with us.'' You are faithful from everlasting to everlasting.

We seek Your guidance and wisdom as we strive to discern and accomplish Your plan and purpose. We commit ourselves to upholding Your absolute law, standards and precepts. Give us strength and courage, both in policy and personal example, to be people of character and integrity, and may ''In God We Trust'' be expressed in our lives, not just stamped on our coins. Continue to work in us and through us, that we would be people with pure hearts and clean hands.

As Abraham Lincoln anticipated, ''that this Nation under God shall have a new birth of freedom,'' may we acknowledge that freedom comes from great sacrifice, just as spiritual freedom and new birth come from the blood of Your Son shed at Calvary. In His Name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Oklahoma (Mr. WATKINS) come forward and lead the House in the Pledge of Allegiance.

Mr. WATKINS of Oklahoma 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.

INTRODUCING PASTOR KENT WILLIAMS, GUEST CHAPLAIN

(Mr. WATKINS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATKINS of Oklahoma. Mr. Speaker, I have the great pleasure of welcoming our guest chaplain in the House of Representatives today, Pastor Kent Williams. I thank him for the most appropriate and inspiring prayer he has offered up on our behalf as we seek divine guidance for the task that lies before us today.

Pastor Williams graduated with a degree in theology from Ozark Christian College in Joplin, Missouri. For 25 years he has been serving as pastor in churches in Missouri, Oregon, Texas, and Oklahoma.

Pastor Williams now serves as senior pastor at Sunnybrook Christian Church in Stillwater, Oklahoma, my hometown. He provides ministerial support to Oklahoma State University's personnel and athletic programs and to most of my family. He is also a board member of Marriage Partners, an organization that strives to reduce the divorce rate and strengthen marriages and families in Oklahoma.

Pastor Williams has served as Chaplain of the Week at the Oklahoma State House of Representatives and has been a featured writer for national publications. He has been a keynote speaker and seminar leader for many Christian colleges and conventions, both nationally and throughout the great State of Oklahoma. He has worked across denominational lines to promote unity amidst diversity.

Pastor Williams and his wife, Kay, have two sons, Gabe and Joel. Also with them on the trip to Washington has been their nephew, Clinton Renken.

Pastor Williams is deeply committed to the service of his community, his church, his family and the Lord. Today I join with my colleagues in thanking Pastor Williams for honoring us with his presence, his message, and his prayers.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that during the joint meeting to hear an address by the Honorable John Howard, Prime Minister of Australia, only the doors immediately opposite the Speaker and those on his right and left will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Printed on recycled paper.

Due to the large attendance that is anticipated, the Chair feels the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

The practice of reserving seats prior to the joint meeting by placard will not be allowed. Members may reserve their seats by physical presence only following the security sweep of the Chamber.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Wednesday, June 5, 2002, and clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 6 minutes a.m.), the House stood in recess subject to the call of the Chair.

During the recess, beginning at about 10:50 a.m., the following proceedings were had:

□ 1050

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY THE HONORABLE JOHN HOWARD, PRIME MINISTER OF AUSTRALIA

The Speaker of the House presided.

The Assistant to the Sergeant at Arms, Richard Wilson, announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the Honorable John Howard, the Prime Minister of Australia, into the Chamber:

The gentleman from Texas (Mr. ARMEY);

The gentleman from Oklahoma (Mr. WATTS);

The gentleman from California (Mr. COX);

The gentleman from Illinois (Mr. HYDE);

The gentleman from Nebraska (Mr. BEREUTER);

The gentleman from Missouri (Mr. GEPHARDT);

The gentlewoman from California (Ms. PELOSI);

The gentleman from Texas (Mr. FROST);

The gentleman from California (Mr. LANTOS);

The gentleman from American Samoa (Mr. FALEOMAVAEGA).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as a committee on the part of the Senate to escort the Honorable John Howard, the Prime Minister of Australia, into the House Chamber:

The Senator from South Dakota (Mr. DASCHLE);

The Senator from Florida (Mr. NELSON);

The Senator from Mississippi (Mr. LOTT);

The Senator from Oklahoma (Mr. NICKLES);

The Senator from Texas (Mrs. HUTCHISON);

The Senator from Idaho (Mr. CRAIG);

The Senator from Indiana (Mr. LUGAR);

The Assistant to the Sergeant at Arms announced the Acting Dean of the Diplomatic Corps, the Honorable Jesse Bibiano Marehalau, Ambassador of Micronesia.

The Acting Dean of the Diplomatic Corps entered the Hall of the House of Representatives and took the seat reserved for him.

The Assistant to the Sergeant at Arms announced the Cabinet of the President of the United States.

The Members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 11 o'clock and 2 minutes a.m., the Assistant to the Sergeant at Arms announced the Prime Minister of Australia, the Honorable John Howard.

The Prime Minister of Australia, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and a personal pleasure to present to you the Honorable John Howard, Prime Minister of Australia.

[Applause, the Members rising.]

ADDRESS BY THE HONORABLE JOHN HOWARD, PRIME MINISTER OF AUSTRALIA

Prime Minister HOWARD. Mr. Speaker, Mr. President of the Senate, distinguished Members of the House of Representatives and the Senate of the Congress of the United States, may I say how very touched I am by the warmth and generosity of your welcome. I appreciate very deeply the honor that you have extended to me today, but more importantly, the honor you have extended to my country, Australia.

I, on behalf of the 90 million freedom-loving Australians, convey to you their deep affection and warm greetings and their sense of solidarity and friendship.

The bonds between Americans and Australians are as strong as they are genuine; and that is, of course, because we share so many values in common: A belief that the individual is more important than the state; a belief that strong families are a nation's greatest resource; a belief that competitive capitalism is the real key to national wealth; and a belief that decency and hard work define a person's worth, not class or race or social background.

My friends, let me say to you today that America has no better friend anywhere in the world than Australia. Australians and Americans enjoy each other's company. We share a love of sport, and in some of them we are fierce competitors, and we even from time to time share the Academy Awards.

When I last came to this great Chamber of democracy on the 12th of September last year, the smoke still hung in the air over New York and Washington. Brave and courageous policemen and firemen, with no regard for their own safety, searched in the hope of finding survivors. The scale of loss and destruction was yet to be fully calculated. In seeking justice and not revenge, in choosing calm consideration over blind fury, in turning to friends before turning on enemies, the United States of recent months has led a great reaffirmation of all of those great values and principles on which both of our societies are based.

America fought back magnificently, and in the process has won the admiration of the world. You demonstrated to the world that where fundamental freedoms flourish, evil men can do their worst, cause death and devastation, but in the end, they will never win.

In his inaugural address, George Washington spoke of the destiny of the American people to preserve the sacred fire of liberty. That promise has been kept for more than two centuries, but never more so than since the appalling events of September last year. Through these times, Australians have shared your shock and anger, and have been partners in your resolve. We have taken our place beside you in the fight against terrorism because what happened last year in the United States was as much an attack upon our nation and the values that we hold dear as it was upon yours.

And as we meet, Australian and American troops are fighting side by side in Afghanistan. It is our constant prayer that they all return safely home to their loved ones.

In these past months, President Bush has displayed the tenacity, the strength, and the depth of character of a very great leader. And he is also applying those great qualities to the tensions in the Indian subcontinent between India and Pakistan, and in the intractable situation in the Middle East.

It is a special privilege for me to return to this historic place to address the representatives of a great Nation of whose people we hold in such high regard, and for whom we feel great warmth and affection toward.

Like you, Australia enters the new century strong and prosperous. Over the past decade, the productivity and growth of our economy has been ahead of most other developed nations.

Our pioneer past, so similar to your own, has produced a spirit that can overcome adversity and pursue great dreams; where pursued, a society of opportunity, fairness and hope, leaving as

you do, the divisions and prejudices of the old world far behind. Like your own, our culture continues to be immeasurably enriched by immigration from the four corners of the world. We believe, as you do, that nations are strengthened and not weakened, broadened and not diminished, by a variety of views and an atmosphere of open debate.

Most of all, we value loyalty given and loyalty gained. The concept of mateship runs deeply through the Australian character. We cherish, and where necessary, we will fight to defend the liberties we hold dear.

Australian and American forces fought together for the first time in the Battle of Hamel in France in World War I. The date of the attack, the 4th of July, 1918, was deliberately chosen by the Australian commander, General John Monash, to honor your countrymen. One of the Australian units held in reserve for that attack was the Third Pioneer Battalion, and it had a young signalman called Lyle Howard. He was my father.

From that moment to this, we have been able to count on each other when it has mattered most; and let me say, and I know I speak on behalf of all of my fellow Australians, in saying that we will never forget the crucial help that Americans extended to us during the darkest days of World War II. Without that help, our history and our society would have been totally different.

Successive generations of Australians and Americans have fought side by side in every major conflict of the 20th century, in the jungles of New Guinea, in Korea, in Vietnam, in the Gulf, in the skies and oceans around the globe, and now in another new century among the rock-strewn mountains of Afghanistan.

The ANZUS Treaty of 1951 pledged each country to come to the aid of the other if it were under attack.

And so it was that in a United States Air Force plane made available to me for my return to Australia on the 12th of September last year to enable me to return to Australia and high above the Pacific Ocean, I informed the United States Ambassador to Australia, Tom Schieffer, that it was our intention for the first time in the 50-year history of the ANZUS Treaty to invoke that treaty in response to the attack upon America.

America was under attack. Australia was immediately there to help.

My friends, both of our societies are built on a deep respect for the worth of each individual.

''The worth of a state, in the long run,'' wrote John Stuart Mill in 1859, ''is the worth of the individuals composing it . . . a state which dwarfs its men in order that they may be more docile instruments in its hands even for beneficial purposes, will find with small men no great thing can really be accomplished.''

America and Australia are societies which extol the precious worth of each individual man and woman. Like you, I see family life at the heart of a nation's existence. Not only does the family nurture and educate our children but it provides emotional anchorage for all of us as we travel through life.

The strength of the family, of course, goes beyond the spiritual and the emotional. United, caring families are the best social welfare system mankind has ever devised.

Both of our societies draw great strength from the spirit of volunteerism. The huge, exuberant success of the Sydney Olympic Games in 2000 owed a lot to the warm and infectious dedication of tens of thousands of volunteers. They gave the games a sense of exhilaration and joy which contributed enormously to their success.

Edmund Burke once called voluntary groups society's ''small platoons.'' They are, in fact, the living tissue between the government and the people.

I think we would all agree that political life in both of our nations is undergoing great change. I find, as I am sure you do, that politics now is a lot less tribal than it used to be. Lifelong allegiances are looser and less frequent. Modern society has given young people infinitely more options than was the case a generation ago. Governments must be decisive but also modest. Grand gestures without practical results help no one. People want outcomes, not political fireworks and constant battles. And above all, they want space from governments to get on with their own lives.

I have spoken much of our common values, our shared history, and our deep respect and affection for each other as peoples. Let me say that we also share a common interest in spreading and better understanding the benefits of globalization. The balance sheet of globalization is overwhelmingly favorable to mankind. We must, however, better understand and explain its advantages to all of our citizens. Trade reform and liberalization have delivered benefits to people in many countries, and I believe they can deliver much more.

I understand that the demands of local constituencies and international responsibilities must be finely balanced. As a true friend, let me say candidly that Australia was intensely disappointed with the passage of the recent farm bill. It will damage Australia's farmers. They are efficient producers with very little government support. I know that the farm and export subsidies of, for example, the European Union are much greater than those of the United States. Indeed, OECD agricultural subsidies are two-thirds of Africa's total gross domestic product. The cost of these subsidies is at least three times all of the Overseas Development Aid to developing countries. This only serves to illustrate the urgent need for global reform of agriculture within the World Trade Organization framework.

The challenge is to achieve a comprehensive Doha trade round. That will require close cooperation and collaboration between Australia and the United States within the WTO. American leadership will be crucial. May I respectfully express the hope that Congress gives the President full authority to negotiate new trade agreements.

At the same time, we in America and Australia have an historic opportunity to give even greater momentum to our bilateral economic relationship. That is why Australia has proposed the negotiation of a free trade agreement between our two countries. A comprehensive free trade agreement by boosting trade and investment between us would add a stronger economic dimension to the very deep bilateral ties that are already there.

Turning for a moment to the strategic challenges of our own region, let me say that Australia welcomes and encourages full and active engagement by the United States in the Asia Pacific. It is immensely important not only to the nations of that region, but also to the interests of the United States. There is no region in the world more dynamic and changing more rapidly than the Asian Pacific region.

For ourselves, Australia is proud of the leadership role that we were able to play in East Timor. To share the great independence celebration of that tiny country of fewer than a million people only a few weeks ago and to savor for a moment their sense of hope and exhilaration was a very moving experience. We stand ready to work in partnership with America to advance the cause of freedom, particularly in our shared Pacific region.

Mr. Speaker, Mr. President of the Senate, ladies and gentlemen of the Congress, you have, as I said at the beginning, paid a great honor and compliment to me but more particularly to my nation, Australia, in inviting me to address you today. Our relationship has been long. The ties between us are strong. The bonds on a people-to-people basis between Americans and Australians are deep and rich. This relationship is nourished by many things. It is nourished by a shared history, it is nourished by a common commitment to democratic ideals and values, and it is nourished by our deep and resolute commitment to the role of the individual in society and the place of the family in the national framework of both of our nations.

I express to you on behalf of my fellow countrymen and women our sense of commitment to the constant struggle to preserve democracy and freedom around the world. I say it with great warmth, because there is nothing false or phony or lacking in spontaneity in the relationship between our two peoples. It is not contrived. It is genuine. We like each other, and we do not mind saying it. Can I say to you today that as we move forward into this new century, we do so in the knowledge that no matter what will happen, and there

will be many paths of difficulty requiring courage and grit and sacrifice, we will travel through the century in the constant company of a true and great friend.

May God bless the peoples of America and Australia.

[Applause, Members rising.]

At 11:00 o'clock and 30 minutes a.m., the Prime Minister of Australia, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Assistant to the Sergeant at Arms escorted the invited guests from the Chamber in the following order:

The Members of the President's Cabinet.

The Acting Dean of the Diplomatic Corps.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 11 o'clock and 31 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess subject to the call of the Chair.

□ 1456

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 2 o'clock and 56 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING THE RECESS

Mr. REHBERG. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 10 one-minutes per side.

MARRIAGE PENALTY

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, I rise today to urge my colleagues to stand in strong support of the American family by once and for all permanently eliminating the multibillion-dollar tax on the sanctity of marriage. If we fail to act, married couples in my home State of Montana will be hit with more than $150 million in increased taxes every year.

Mr. Speaker, the words ''I do'' that are exchanged between married couples should be a pledge to build a strong family and achieve their own slice of the American pie. It should not be a forced commitment to paying higher taxes to the Federal Government.

I urge my colleagues to send a clear message that this Congress stands with the American family by voting for the permanent repeal of the marriage penalty.

PLAN TO PRIVATIZE AIR TRAFFIC CONTROL

(Mr. BERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERRY. Mr. Speaker, on June 4 of this year, the administration amended executive order 13180 dated 12/7/2000 by amending the language that deemed air traffic control as an inherently governmental function. This is the first step toward privatization of air traffic control, and it is a slap in the face to our Nation's wonderful air traffic controllers.

On 9/11 our air traffic controllers safely landed 5,000 planes in 2 hours without an error. They did an incredible job. What else must be done to prove that the current system that we have that is in place works well?

Mr. Speaker, I do not want my family or other Americans to board commercial airliners that the traffic in the sky is controlled by the lowest bidder. I think we have tried that with airline security and have clearly demonstrated without a shadow of a doubt that it does not work.

I rise today in opposition to this plan to privatize air traffic control.

ELIMINATION OF MARRIAGE PENALTY TAX

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, this week we are going to bring up the elimination of the sunset clause for the marriage penalty tax.

Mr. Speaker, 120,000 individuals in my State, 60,000 married couples, are affected by this tax. If we allow this tax to come back, to rise from the dead one more time in the year 2010, we are going to do severe injustice to those 60,000 couples. Couples are going to end up paying $1,300, $1,400 more in tax simply because they are married. This is an unjust and unfair clause, and we must eliminate the sunset clause so that this tax remains buried once and for all. We cannot afford to have our married couples deciding whether or not they should remain married over paying a tax.

TRADE ADJUSTMENT ASSISTANCE

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, I rise today in support of the Trade Adjustment Assistant Compromise based on legislation that the gentleman from Texas (Mr. BENTSEN) and I introduced in the House and which passed the Senate last month. This compromise represents the first major overhaul of this 40-year-old program. For the first time in our history, a health care benefit is provided for unemployed workers as a result of trade. It increases eligibility, it doubles funding for worker training, it harmonizes the NAFTA TAA, it expands income support from 52 weeks to 78 weeks, and it allows for shifts in production to any country, not just Canada or Mexico.

□ 1500

I want to tell a quick story that underscores this point. Last month 3,300 electronic workers who were laid off from JDS Uniphase in my region were denied TAA benefits because their factory moved to China. At the same time workers in Connecticut were eligible for TAA because their plant moved to Canada, and that is because workers only receive TAA benefits if their plant moves to Canada or Mexico.

Another problem with the program is that it covers workers who make cars but not those who make the parts that go into them. We need a 21st century policy on the duality of trade. We should have fair trade, and fair treatment should be the partners.

I urge all House Members to support this in the conference.

RESTRUCTURE AND EXPAND TRADE ADJUSTMENT ASSISTANCE PROGRAM

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, I rise today in support of H.R. 3670, the bill introduced by the gentlewoman from California (Ms. ESHOO) and myself to restructure and expand the Trade Adjustment Assistance Program. The other body has already adopted this legislation as part of the Trade Promotion Authority, and the House will soon vote to go to conference with the other body to work out a trade promotion authority bill. As one who supported TPA, who supported Fast Track, I believe it is imperative on the part of the House that we adopt the Senate's version of Trade Adjustment Assistance. If we are going to have a real trade package for this country, it has to benefit not just those who win from trade but those who lose from

trade as well, including the workers who lose their job through no fault of their own. We should have a full package which includes a revamp of the Trade Adjustment Assistance Program for the first time since 1962 when it was created by the Kennedy Administration. So I hope that the leadership of the House, the Republican leadership, will have the wisdom if they really want to pass a TPA bill and proceed to the Senate for a real Trade Adjustment Assistance reform package.

PREVENTING CHILD ABDUCTIONS

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I have been getting up every day for the last several months and talking about Ludwig Koons who has been held in Italy illegally after being taken away from the United States of America, and by now we all know the name Elizabeth Smart, the young girl who was abducted from her bedroom in Salt Lake City, Utah. In light of the tragedy of her disappearance and on behalf of the Missing and Exploited Children's Caucus here in Congress, I would ask and send our prayers to Elizabeth and to her family, but I would also like to remind parents all across this country to talk to your kids about their personal safety, talk to them about the ''Know the Rules'' educational program put out by the National Center for Missing and Exploited Children. And I would urge every parent to log on to www.missingkids.com and learn what they can do to protect and educate their children.

Nearly 2,000 children are reported missing every day in the United States of America, and we all must be prepared as parents and grandparents to deal with the tragedy, should it occur. That means having updated quality photographs and knowing our children's height and weight. We should be aware that looking at pictures of missing kids brings them home and that we commit ourselves to looking at the photos we get in the mail or we see in a grocery store. If we all do our part, together we can prevent abductions and bring children like Elizabeth and like Ludwig Koons home where they belong.

PRIVATIZATION OF U.S. AIR TRAFFIC CONTROL, A BAD IDEA

(Mr. HOLDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLDEN. Mr. Speaker, recently the idea of privatizing the United States air traffic control system has been given a renewed life. Mr. Speaker, that would be a very bad idea. A competent and reliable air traffic control system is vital to the safety of our flying public, and public safety is a responsibility of the Government. Simply put, air traffic controllers perform an inherently governmental function for our Nation.

Mr. Speaker, proponents of privatizing air traffic controllers like to cite three countries they consider to be successful examples of privatization: Australia, Great Britain, and Canada. Unless we consider a walkout, a pending bankruptcy and a pending labor strike to be examples of success, I would respectfully disagree. Let us face the fact that privatization of air traffic control does not work.

On September 11 of last year, air traffic controllers proved their worth as inherently governmental employees. Our air traffic control system is the envy of the world. Let us keep it that way.

APPOINTMENT OF CONFEREES ON H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Florida?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to H.R. 4775 be instructed to insist, for each item directly related to the war on terrorism or homeland security, on the higher dollar amount in either the House bill or the Senate amendment and to disagree to any item that appropriates additional funds earmarked for a specific project not related to the war on terrorism or homeland security.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) will be recognized for 30 minutes and the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I yield myself 9 minutes.

Mr. Speaker, the motion to instruct conferees directs the House Members serving on the conference to convert what has been all too often merely a rhetorical assault on terrorism into a real war. It requires that we go to the higher dollar figure on any item directly related to the war on terrorism, and it also directs that we delete from the conference report funding for any item that is earmarked for a specific project or individual Member of Congress. That is to ensure that this supplemental remains focused on the job before us, fighting terrorism, and that those engaged in that war on behalf of the American people have the resources that they need to conduct that war.

I find that ordinary people are somewhat amazed when they find that, despite all the rhetoric about a war on terrorism, we often continue to decline to provide the resources needed to actually conduct that effort. One example is the fact that the Pentagon called up 80,000 Guard and Reservists following September 11.

We need those Reserves because our regular force is overwhelmed with all of the requirements being placed on them. If you do not believe me, Secretary Rumsfeld has made that statement. We do not have enough mechanics to keep all of our planes in the air, we do not have enough MPs to protect our bases and guard prisoners. But, remarkably, when the Pentagon told the White House budget office that it would cost $5.8 billion more than was contained in the regular fiscal 2003 appropriation bill to pay the cost of those Guards and Reservists called up to active duty, the White House budget office told them they could only have $4.1 billion. As a result, many of those reserves will have to be sent home early, unless we appropriate a considerable amount above the White House request. In my view, this is ludicrous. It is one of those situations that continues because it is so outrageous that nobody really believes it is going on.

The truth is that some of the same people at the other end of the avenue who give lectures about the war on terrorism, particularly in the OMB, are particularly stingy when it comes to providing cash that is actually needed to conduct the effort. As a result, the resources needed by those who are actually engaged in that effort are not getting there and will not get there unless Congress acts to reverse the request.

I would give the House another example. We have heard a lot of talk in the last several days about a dirty bomb. The President and Secretary of Energy, a former Republican Senator, a man named to that office by the President and confirmed by the Senate when it was still in Republican hands, a man respected on both sides of the aisle, Secretary Abraham, has asked that we spend some money in this bill to deny terrorists access to the radioactive materials that could be used to build a dirty bomb. He asked that we clean up sites where we used to make nuclear weapons and increase security at those sites. He asked that we relocate low level radioactive materials in a central depository. He asked that we provide more security for the movement of nuclear weapons.

This the White House Budget Director did not say no to, they said ''hell,

no.'' I would like to insert in the RECORD at this point a letter written by the Assistant Secretary of Energy for the Budget to OMB in order to demonstrate what I just said.

THE SECRETARY OF ENERGY,
Washington, DC, March 14, 2002.

Hon. MITCHELL DANIELS, Jr.,
Director, Office of Management and Budget, Eisenhower Executive Office Building, Washington, DC.

DEAR MR. DANIELS: This letter and accompanying enclosure transmit the Department of Energy's proposal to request supplemental funding to meet urgent and compelling requirements for safeguards and security, emergency response, and energy security and assurance activities.

The Department of Energy is entrusted with the mission of designing, developing, manufacturing, assembling, stockpiling, refurbishing, decommissioning, and most importantly protecting the Nation's critical nuclear complex. To meet the Department's critical security mission, we are storing vast amounts of materials that remain highly volatile and subject to unthinkable consequences if placed in the wrong hands. These materials permeate the Departmental complex including sites under the programmatic jurisdiction of the National Nuclear Security Administration, the Office of Environmental Management, and the Office of Science.

The events of September 11 resulted in heightened security throughout the complex. Our sites were directed to conduct vulnerability assessments based on an evaluation of potential consequences of the type of event that occurred on September 11. These security vulnerabilities were assessed on a site-by-site basis and immediate action was taken to mitigate many of the concerns. As a result, the Department issued Interim Implementing Guidance to the Design Basis Threat document that outlined the basis for initial physical security measures. In conjunction with this guidance, I directed the Departmental Elements to reassess their security requirements and associated costs with a view towards maintaining the highest level of security commensurate with the revised threat and response strategy. Although the initial supplemental and funds appropriated by Congress helped respond to the most urgent near term security needs, the Department now is unable to meet the next round of critical security mission requirements.

The funding request of $379.7 million identified in the enclosure is a critical down payment to the safety and security of our Nation and its people. Failure to support these urgent security requirements is a risk that would be unwise.

I appreciate the time your staff has spent with us in discussions about the Department's security concerns and needs. However, as you can see, we need your financial support to continue addressing the critical security requirements that face the Department and our Nation. Accordingly, if you and your senior staff need a more detailed classified briefing of our requirements, threats, and strategies, please have your staff contact Mr. Joseph Mahaley, the Department's Director of Security, at 202–586–3345.

My point of contact on the specifics of this funding supplemental request is Dr. Bruce M. Carnes, the Director of the Office of Management, Budget and Evaluation/Chief Financial Officer, who can be reached on 202–586–4171.

Sincerely,

SPENCER ABRAHAM.

DEPARTMENT OF ENERGY,
Washington, DC.

MS. ROBIN CLEVELAND,
Program Associate Director, National Security Division, Office of Management and Budget, Eisenhower Executive Office Building, Washington, DC.

DEAR MS. CLEVELAND: The Department of Energy is now at a crucial juncture in executing our safeguards and security program. The Department's remaining safeguards and security budgets are not sufficient to implement the security posture requirements that appropriately respond to the September 11th attacks. On March 14, the Secretary transmitted to Director Daniels supplemental funding proposals fro safeguards and security, emergency response, and energy security. The Secretary's transmittal letter described the underlying need to increase our response capabilities for emergencies and improve the security posture of Department in order to adequately protect the public, our workers, and the environment. We appreciate your support for our $26.4 million supplemental request to increase emergency response efforts, however, we are very disappointed that we did not get your support for supplemental security funding.

We are disconcerted that OMB refused our security supplemental request. I would have much preferred to have heard this from you personally, and been given an opportunity to discuss, not to mention, appeal your decision. We were told by Energy Branch staff that the Department's security supplemental proposals were not supported because the revised Design Basis Threat, the document that outlines the basis for physical security measures, has not been completed. This isn't a tenable position for you to take, in my view. We are not operating, and cannot operate under Interim Implementing Guidance, and you have not provided resources to enable us to do so.

Given our current security funding and the physical security situation we face today, Mr. Joseph Mahaley, our Security Director, and I would like to meet with you to discuss our fiscal year 2002 and 2003 safeguards and security concerns. I can be contacted on (202) 586–4171 to arrange this discussion.

Sincerely,

BRUCE M. CARNES,
Director, Office of Management, Budget and Evaluation/CFO.

Mr. Speaker, we have much the same situation with the FBI. They have had a huge problem with respect to their computers. The gentleman from Florida (Mr. YOUNG) and I have tried to do everything possible to solve that problem, both last year and this.

The FBI is ages behind in both the overall architecture of their computer system and the security of that system. As a result, they have failed to convert massive amounts of information into a digital format so that it can be stored in a safe and remote location and so that it can be shared with agents working in other parts of the country or shared with other agencies, such as the CIA. The FBI has been asking for the resources to make that happen. But, again, there apparently are people running the Justice Department or people in OMB who think it would be too expensive.

In my view, you do not have to have a master's in public policy from Harvard or any other school to know that that is just plain nuts. Almost any person you would meet on the street would tell you that the $100 million the FBI is asking for to fix that system is cheap compared to the cost of letting one of those creeps get through the system with a dirty bomb or biological weapon or any one of the things that could bring havoc to our cities.

I would oppose spending any money that is not needed, but it is ridiculous to go down the road we are traveling now, short-sheeting some of the agencies who need more money now, not next year or the year after, in order to get the job done. You do not kill terrorists just by moving boxes on an organizational chart. You also need to back up whatever changes you make in reorganization with adequate resources. Those resources cost money, and we ought to provide it.

Now, the differences between the House and the Senate bills are not large, Mr. Speaker, at least not in relative terms. They have included earmarks for certain Members which we did not do in the House bill and which we should not do in the conference report. They have excluded several of the savings that are in our bill, and some of those we are going to disagree with. But, to me it is important to keep the Guard and Reserve funds and the other needed defense funds in this bill, and this motion would help to do that.

There are other small but important differences. The Senate is above the House by $5 million for U.S. Attorneys. I ordinarily would not be standing here asking for more money for U.S. Attorneys, but my information is that we are putting a real load on prosecutors with all of the arrests and detentions that we have engaged in, and that that money is needed.

□ 1515

They are below us on the U.S. Marshals, and I know that the marshals also need the money.

What this instruction says is take a look at the needs and go forward with the conference report that recognizes that we are, in fact, at war, and ought to be providing these higher levels.

Mr. Speaker, last week, the White House released a document calling for a new Department of Homeland Security. Perhaps the most compelling page in that document was an organization chart showing how many different portions of the government were engaged in the war on terror. I have a copy of that chart directly from the White House; but I would point out that what the White House neglected to provide to Congress, the press, or the American people, was a copy of what the organization of the war on terror would look like after that reorganization plan was adopted. What those charts will show is that most of the government activities related to homeland security will still be untouched.

Now, the debate on reorganization can wait for another day. We certainly have to have reorganization; and in some areas I think we have to go further than the administration has so far

proposed. But the point I am trying to make is that we can pass all of the reorganizations in the world, and we will still not deal with the problem, unless we adequately provide the financial resources necessary to demonstrate that we really mean business in closing the security gaps that now face this country on the homeland defense front, and that is the purpose of this motion. It simply says again, and I repeat, it says that in each instance we should adopt the higher of the two numbers between the Senate and the House in dealing with gaps in our homeland defenses, and it says that we should eliminate or not include in the conference report any dollar items that are meant for the purpose of what are known as ''Member earmarks.''

I think that is a very plain explanation, and I would ask for a ''yes'' vote on the motion.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I want to thank the gentleman from Wisconsin (Mr. OBEY) for offering this motion to instruct, for it gives us an opportunity to remind our colleagues what it is that we are doing here. We are dealing with an emergency supplemental appropriations bill to provide for the defense of the Nation and our homeland security. What we are talking about is repaying to the military services the funds that they have expended already on the war in Afghanistan. The services have used considerable amounts of money that normally would have been reserved for their fourth quarter training activities and maintenance activities, quality-of-life activities. So in effect, we are paying back money that has already been spent because of the war in Afghanistan.

So our troops are involved, our intelligence community is involved. We are talking about paying for the safety and security of the United States, at home and abroad. We are talking about recovery in New York City; and we are talking about promoting U.S. foreign policy to prevent future terrorist attacks. In other words, we were a government mobilized after the terrible, terrible attack on September 11 to protect America, to protect Americans, and to do everything humanly possible to guarantee that those tragedies are not allowed to happen again.

So I thank the gentleman from Wisconsin (Mr. OBEY) for giving us the opportunity to discuss this. But I cannot support his motion to instruct for a very simple reason, and it is not that I disagree with some of the items that he has spoken of and that he would like to see done. I know the gentleman from Wisconsin and I both have visited the agencies that he has mentioned and we both understand the needs that they have to bring their technology into the 21st century, for example.

But the gentleman from Wisconsin is an experienced expert negotiator; and I think because of that expertise, he understands that if we were to pass this motion to instruct, we would take away much of the flexibility of the conference committee to resolve many of the differences that exist between the House and the Senate.

The Senate bill is approximately $3 billion higher than the House bill. It does contain some special projects that were added in the other body which I would like to see taken from the bill, and I would like to have the opportunity to negotiate some of those special projects out of the bill, because from what I have seen of the bill so far, there are numerous projects that were added there that I do not think belong in this bill. But we have to have the ability and the opportunity to negotiate with our counterparts in the other body to reach a conference agreement that we can bring back to both Houses and pass quickly and get this bill to the President.

What is happening, Mr. Speaker, is that here we are in the middle of June. If the services do not have these monies replaced by July 1, their planning is already set to stand down training operations, to stand down sailing Navy ships, Navy vessels, to stand down flight hours, training hours for pilots. I do not want that to happen. So we need to expedite this, and we need to have the ability to conduct negotiations that are necessary to get this conference completed, and then passed by the House and the Senate, and then sent to the President for his approval.

So I think the gentleman's motion is well intended, but I think it really ties our hands behind our backs on the part of those of us who will be part of this conference that will be leading the negotiations with the other body.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I know my good friend from Florida, the chairman of the committee, and I do not think that he is any happier to have to fight this war on terrorism, at least in terms of resources, with one hand tied behind his back, any more than I am. And I think it is fair at this point to state what the record has been in the past on this issue.

After the tragic events of September 11, we were asked by the White House Budget Office to provide emergency funding of an unlimited nature for an unlimited number of years, a blank check. Both the chairman and I said no, we were not going to write a blank check to anybody; and we sat down and immediately worked out a compromise. Within 10 days, we had sent to the White House a bill that contained $40 billion in emergency resources to deal with those events.

We then proceeded to, as he said, visit security agencies all over town. We spent almost 5 days gathering information from the security agencies: NSA, CIA, Centers for Disease Control, FBI. You name it, we talked to them about what their emergency needs were, and we tried to meet them. In the end, over the threat of a veto from the White House, we were able to put almost $4 billion in additional funds into the appropriation bill to fight terrorism.

If we had listened to the OMB rather than our own instincts and rather than listening to the agencies who were charged with the responsibility for fighting that war, if we had done that instead of listening to those agencies, we would not have fixed the problem that the FBI had with its computer system. They had a problem under which more than 50 percent of their computers could not even send a picture of a terrorist to another FBI computer around the country. We fixed that, because we appropriated more money than was requested. We added to the security of our ports and our borders by providing more money than was requested. So we did not have to rely on traffic cones as deterrants on the U.S.-Canadian border in the unguarded checkpoints on that border. We took care of that problem.

In the supplemental which is now before us, this committee has tried to respond, even though the White House Budget Office did not. We tried to respond fully to the request of the FBI that they be given additional funds in order to hire the translators that are necessary so that some of the information which is lying on the floor in some of our security agencies can actually be reviewed. The Immigration and Naturalization Service asked for money for which they were at least partially denied; they asked for money so that they could institute a new system so that they would actually know when someone had overstayed their visa and had been asked to leave the country and had declined to do so. The Immigration and Naturalization Service wanted a system which would enable them to track those people so that we can give them the thumb and get them out of the country. Our bill corrected the oversight of OMB.

Air marshals. They still are not able to communicate directly with the ground. The House bill makes an attempt to fix that. It also made an attempt to correct the problem created by the White House Budget Office declining to approve the Pentagon request for the funds needed to reimburse them fully for the activation of the Guard and Reserves to fill in until we can train additional personnel.

So I fully admit that this motion would cost more money than the administration has asked for. I make no apology for it. I think it is needed. I think the average citizen would too, and I would urge Members to vote ''yes'' on the motion.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield 6 minutes to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, let me speak briefly to the motion that is before us insofar as it relates to parts of the supplemental that are not the military branch part; specifically, the Transportation Security Administration, which our subcommittee deals with. The House-passed bill includes some $3.8 billion in the supplemental for the TSA. We have yet to receive from the TSA the justifications for those figures. Yet the Senate bill, if we go along with this motion, if this motion passes and we have to go to the higher figure in the Senate bill, some $4.7 billion, we have no justifications for it. I cannot show to my colleagues the documents that say, this is what we actually have to have.

In the House-passed bill, we already gave more than was requested for several items. For example, we said, here is $20 million. Replace all of the magnetometers in 429 airports in the country, because the new state-of-the-art magnetometers will save the need for a lot of hand wands that are now searching you as you go through. The new machines will do that work for us. It will save many of us taking our shoes off as we go through the airport and having somebody, a federally paid employee, carry your shoes to be searched.

□ 1530

Those requests were not in the administration request. Yet, we put it in there, because we think it will save money down the pike. But we have yet to receive the justifications for the monies that we included in the House-passed version of the bill, which is significantly less for TSA than the Senate figures.

If this motion should pass and we have to go to the higher levels in the Senate bill, then who knows how many employees they are going to hire. At first they said, we need 33,000 people. A few weeks later they said, no, it is going to be more like 60,000. By the time we had our hearing, they were up to 73,000.

We said, whoa, let us stand back and talk about this. So we put a level in our House-passed bill that they cannot exceed in terms of the numbers of employees of TSA during the remainder of this fiscal year, 45,000 people, max. If we have to go to the higher Senate figure, then that personnel level is out the window.

We think it is wise to have some discipline, I say to the gentleman from Wisconsin (Mr. OBEY), on that hiring process during the remainder of this fiscal year that is covered by the supplemental.

In addition, we also put in the bill monies to allow the air marshals that are flying in the planes to be able to communicate independently to ground stations. That was not requested, and yet we think it is a very important thing at a modest cost. So I think there are a lot of items in the House-passed bill that perhaps would be negated if we were to have to go to the higher levels on the Senate bill.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding.

I would simply like to say that I completely agree with the remarks made by the gentleman with respect to the Transportation Security Agency. There is no question that that agency so far has been without a clue, and they are out of control. I think the gentleman has played an excellent role in trying to introduce them to reality.

Let me simply say that obviously that agency needs to be straightened out, but I am sure that he understands as well that eventually that agency is going to have to receive more money than is in either bill, probably.

I would be, for instance, very interested in working out a proposal under which we would appropriate the money that is needed to that agency, but hold it in reserve until they meet the standards that the gentleman has laid out, because I think both of us want to deal with the problem. We simply want to make sure we are not throwing money at an agency that does not know what to do with it.

Mr. ROGERS of Kentucky. Mr. Speaker, I appreciate the gentleman's thoughts, and he is correct. I appreciate the gentleman's comments. We are right now, as the gentleman knows, in the process of gearing up for the 2003 appropriations bills. In fact, I just got off the phone with the Secretary of Transportation about this bill and the 2003 bills coming up. In fact, we hope to mark up the 2003 bills in a few days, even, which will give us the chance to take a second look and see what is needed down the pike in 2003 without having to address that at this particular moment in time.

So I appreciate the gentleman's idea about the need for more funds in homeland security TSA next year, but I do not think we need it now.

I would hope that we would not pass this motion and tie the hands of the gentlemen as they negotiate with the other body. I appreciate the gentleman bringing this motion up because it gives us a chance to talk about the issue, but I would hope that it would not pass, because I do not want to tie the chairman and the ranking member's hands when they go to do battle with the other body.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Virginia (Mr. WOLF), another subcommittee chairman on the Committee on Appropriations.

Mr. WOLF. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the motion to instruct conferees of the gentleman from Wisconsin (Mr. OBEY). I believe that such a motion would prompt almost a guaranteed, if you will, veto, and would absolutely unnecessarily restrict the ability of the conferees in negotiating with the other body.

This is probably the most important bill that we will pass in this Congress, and in some respects, if we were to do this, it may very well jeopardize the passage, or if not jeopardize, certainly bog down the process.

The President has already indicated that he would veto the bill as being too costly, and if we move forward with this motion and go to all those higher levels, then the bill would go well beyond and above the funding level proposed by the Senate.

So for those reasons and the reasons that the gentleman from Kentucky (Mr. ROGERS) had covered, and the chairman, the gentleman from Florida (Mr. YOUNG), I would urge Members to vote no on the motion.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, I urge a yes vote on the motion to instruct, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 4 p.m.

Accordingly (at 3 o'clock and 40 minutes p.m.), the House stood in recess until approximately 4 p.m.

□ 1602

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LINDER) at 4 o'clock and 2 minutes p.m.

APPOINTMENT OF CONFEREES ON H.R. 4, SECURING AMERICA'S FUTURE ENERGY ACT OF 2001

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4) to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for

other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. MARKEY of Massachusetts moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4 be instructed, to the extent possible within the scope of conference, to ensure that no provision of the bill will create a deficit in the non-social security portion of the Federal budget during any year of the 10-year budget estimating period unless there are sufficient offsets under the bill so that there is no net deficit during such 10-year period.

The SPEAKER pro tempore. Pursuant to clause 7(b) of rule XX, the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Texas (Mr. BARTON) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I yield myself 2 minutes.

The motion which I am offering at this time on behalf of myself, the gentleman from Texas (Mr. STENHOLM) and many other Members is to ensure that as the Members of the House now meet with members of the Senate on the energy bill, that the Members from the House be instructed that none of the expenditures inside of the bill, as it is finally produced, using the number which is now in the House bill, $34 billion worth of subsidies, should be paid for out of the Social Security or Medicare trust fund.

The bulk of the subsidies in the bill go to the oil, to the gas, to the coal, to the nuclear industries. Some of it goes to the renewable industries. That is all fine, but it should not come out of the Social Security and Medicare trust funds.

Senior citizens in our country have worked too long and too hard in building those trust funds so they can be there to provide both for the income retirement guarantee and for the health care guarantee. Otherwise we will see a cutback in the quality of health care which senior citizens get and a cutback in the amount of money they will have on a daily or weekly basis to pay for the necessities in their life.

So this is the critical moment where we begin to decide whether or not we are going to be tough on the squandering of the trust funds. We have already seen over the last several weeks votes that now will extend the estate tax benefits to the wealthiest people in our country. There are going to be efforts coming up later on this week to do the same thing when it comes to the marriage penalty deductions.

What about the senior citizens? What about the people who built this country? What about the greatest generation? My colleagues do not have a surplus to do all those other things until they are sure they are not taking it out of the Social Security and Medicare trust fund.

Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Speaker, I want to ask a parliamentary inquiry. We are now debating the motion to instruct conferees; is that correct?

The SPEAKER pro tempore. That is correct.

Mr. BARTON of Texas. Mr. Speaker, the gentleman from Massachusetts (Mr. MARKEY) has 15 minutes and I have 15 minutes?

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Texas (Mr. BARTON) each have 30 minutes.

Mr. BARTON of Texas. Mr. Speaker, I am sure we can do this in less than an hour, I would hope.

Mr. Speaker, I yield myself such time as I may consume.

I want to compliment my excellent and good friend from Massachusetts for offering this motion to instruct conferees. It is obvious that some thought has gone into it. I do not believe anybody on our side of the aisle is for deficit financing or deficit spending, and obviously we worked very hard, as the gentleman from Massachusetts would, I think, acknowledge, to create a bipartisan bill, H.R. 4, that we are sending to conference.

I think after we have a little debate to flush out what exactly it is this motion to instruct conferees is attempting to do, I am going to recommend that we accept it. I do not see any reason we cannot agree, going to conference, to try to make sure the American people know that we want an energy policy for this country that is based on a balanced approach both on the production side and on the consumption side, and in no way are we trying to create through the guise of an energy policy a bill that would increase the public debt.

Having said that, I think we need to make a few points in order so that the Members that are in their offices watching this debate on television and other interested citizens understand that the energy bill that we are sending to conference is an authorization bill. It is not a spending bill. It is not an appropriation bill. So in one sense it has nothing to do with deficit spending or any other thing like that. It is trying to list a series of priorities for this country in terms of an energy policy.

Historically, the United States of America has adopted, as a general policy, that our energy policy is going to be based on free markets, where we attract private capital. We employ that private capital in the most cost-efficient fashion and allow private entrepreneurs to provide energy at the least cost of any industrialized society in the world. Because of that, the United States has the world's largest gross national product. We have the world's largest standard of living for a large industrialized nation, and we have tremendous opportunities, as we speak, for our children and our grandchildren.

So if the gentleman from Massachusetts (Mr. MARKEY) wants to say that as we go to work on a bipartisan basis for an energy policy for the present and the future that we try to ensure that our House conferees work to insist that it is all done in a cost-effective fashion and does not increase the national debt, I for one am going to endorse that and I would assume that in the absence of Chairman TAUZIN, what I say goes on this floor unless the Speaker sends me an urgent message to run the other way in which I would have to attack my good friend from Massachusetts (Mr. MARKEY) and try to impugn him, and I am not going to do that because I know he is a decent fellow at heart and has got the national interest.

So with that, Mr. Speaker, I would simply say that we are going to start this conference on a bipartisan fashion and it is going to be my recommendation at the appropriate time that we accept this motion to instruct conferees.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank our ranking member for yielding me this time.

Mr. Speaker, today we are going to conference on a bill that gives $34 billion in tax breaks to energy companies. Who is going to pay these costs? I heard my wonderful friend, the gentleman from Texas (Mr. BARTON), my colleague on the Committee on Energy and Commerce, make his statement, and with all due respect, we see this not only differently but very differently. Who is going to pay these costs? It will be the Social Security beneficiaries and future generations because that is where the cash is.

In California, and according to official estimates, electricity suppliers stuck California with at least $8.9 billion in illegal electricity charges between May of 2000 and June of last year. These estimates came before we started to learn about some of the unethical and possibly criminal trading activities of energy suppliers. Almost every day there are news reports about another company that has gamed the market in one way or another, and not only in California but in a host of States. For months my colleagues and I have been asking for a House inquiry into these matters. While others are investigating these serious flaws, and the Senate already is, the House has been conspicuously absent.

The House must have a meaningful inquiry before we consider a conference report on sweeping energy legislation.

We should not repeat what happened last year, holding one or two hearings and then declaring the problem solved. We should all support this motion to ensure that we do not saddle seniors and future generations with the costs of these energy company tax breaks. These tax breaks at $34 billion should be subjected to the same budget treatment as everything else. If you want it, pay for it and declare how you are going to do it. That is what is demanded of other parts of the Federal budget. That is what we should be doing with this. So I urge my colleagues to support this motion. It makes sense and it is fair.

Mr. MARKEY. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, I thank the distinguished gentleman from Massachusetts (Mr. MARKEY), our friend, for yielding time to me.

I do rise in support of this motion. Certainly, Mr. Speaker, it is time to enact a new national energy policy for the 21st century, but not, not, at the price of dipping into Social Security and Medicare to finance tax breaks for major oil companies. And that is exactly what the Republican-sponsored House energy bill would do through its lavish tax and royalty relief provisions for large oil companies.

This is not just political rhetoric. According to the nonpartisan Congressional Research Service, the House version will provide $35 billion in tax breaks. There is no offset provided and, of course, there are no budget surpluses to pay for it. Let me point out that one provision in the House bill would let companies that want to drill for oil and gas in the Federal waters in the Gulf of Mexico forego paying royalties to the American people. Truly a royalty holiday.

Under the House bill, a company drilling in Federal waters of between 400 and 800 meters deep can receive, for free, 5 million barrels of oil or gas equivalent. The owners of these resources, the American people, guess what they get? Zero. Zero. Zilch.

□ 1615

It gets even sweeter. Nine million barrels of oil or gas equivalent for drilling in waters between 800 to 1,600 meters for free. If they drill deeper, they get a whopping 12 million barrels of oil or gas equivalent for free.

Oil production in the Gulf of Mexico has soared by 65 percent over the last 8 years, with gas production in deep Gulf of Mexico waters increasing by 80 percent in the past 2 years alone. At a time when the Gulf of Mexico is booming in such a way, I do not feel that we need to give more oil and gas away to encourage the industry to drill.

In conclusion, executives of major oil companies will simply love the House energy bill. But a plain folk, a person who pays for gas for their vehicle, would have to wonder why they should be gouged twice: at the pump and at the U.S. Treasury.

Mr. Speaker, vote for this motion. Vote for our constituents' interest and not the special interests. I commend the gentleman from Massachusetts (Mr. MARKEY) for offering the motion to instruct, and urge bipartisan support.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I listened with great interest to the comments of the gentleman from West Virginia (Mr. RAHALL) about the oil and gas industry, and I know they are heartfelt. I would point out that this bill has a sizable section on clean coal technology that the gentleman is one of the co-authors of. I know the gentleman thinks that is an excellent part of the bill, and it is an excellent part of the bill.

Just as there are things that help his part of the country and his industry and his people, some of us think that some of the other parts of the bill that might have some impact on deep water drilling and keeping marginal wells and stripper wells in, we do not see those as efforts to help an industry so much as we see those as efforts to keep the working man working and to keep energy prices at stable levels.

Mr. Speaker, I understand that there can be differences of opinion, and I want the gentleman to know that we are going to accept this motion to instruct and go to conference in a bipartisan way. As some of the issues that the gentleman raised come up, Members will listen; and as the gentleman is also a conferee, I am sure the gentleman will listen, and we will report back a bill that the American people will find good for the country.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Speaker, I thank the gentleman for yielding.

I understand the bipartisan fashion in which he speaks. The clean coal language in the bill, while I am not detracting from the use of clean coal technology, I do not cosponsor this particular provision. It happened to come out of the Committee on Energy and Commerce, not the Committee on Resources.

I might also say to the gentleman, that the coal that happens to come from my particular region of southern West Virginia is already clean coal. Clean coal technologies are fine, and I do not speak against them, but we do not have to apply those technologies to the coal that comes out of southern West Virginia and eastern Kentucky, which is some of the cleanest burning coal, low sulfur content, high btu.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, we will stipulate that the gentleman's coal is clean. We might want to point out that coal in general has sizably larger emissions of VOCs than some of my dirty natural gas. It is about 95 percent, maybe 96 percent cleaner. We are going to work to clean up all energy sources. I would also hope that we will help to revitalize the nuclear industry which has no emissions.

Mr. RAHALL. Mr. Speaker, if the gentleman would continue to yield, I hope the gentleman does not forget about his lignite coal in his home State of Texas.

Mr. BARTON of Texas. Mr. Speaker, we have some lignite coal, and we are proud of it; and some of it was in my old congressional district.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to begin by acknowledging that now more than ever, America needs a balanced, forward-looking energy policy that will infuse our energy sector with both efficiency and competition, formulated to protect America against emergencies in the energy market. This bill does that.

I commend the gentleman from Texas (Mr. BARTON). I appreciate the spirit with which he has accepted this amendment to instruct. This amendment is not aimed at the committee. This amendment is aimed at the leadership of this House which continues to borrow on our Social Security trust funds in order to pay for those things that we need. This is a good energy bill. I commend the gentleman from Massachusetts (Mr. MARKEY) for his participation in this, and I see the gentleman from Louisiana (Mr. TAUZIN) is here. They have worked very well to put together a bill which has many good features.

We no longer can rely on the same old policy, and I am pleased to see that we are on the verge of having a national energy policy that will achieve many of these goals. There are many provisions in H.R. 4, as well as in the legislation passed by the Senate, that I have been a long-time supporter of, including access to capital for domestic oil and natural gas production; increased research in alternative fuels such as nuclear energy; advanced clean coal technology; a sound commitment to renewable energy; and improved energy efficiency and environmental standards.

Yet when the House considered H.R. 4, I was disappointed that the tax incentives, again that I have supported for many years, were not considered within the context of the budget process.

Last year, the President promised that we could have it all. He argued that the projected $5.6 trillion in surpluses within 10 years was enough for a large tax cut, a decent Medicare prescription drug benefit, increases in education spending, a national energy policy, and increases in defense spending.

This Congress could have taken time to look comprehensively at using the Tax Code to accomplish many goals, including some much-needed improvement to our energy policy. Regrettably, we made it considerably more

difficult to provide for the needed spending in the area of energy as well as other top priority issues that are facing this country.

Instead of figuring out how are we going to stop the tide of red ink and stop spending Social Security surplus dollars, the House leadership continues to push irresponsible tax cuts.

Just a few weeks ago, the majority leadership passed the supplemental appropriation that also makes room for a $750 billion increase in the debt limit. Those of us who said that we ought to sit down and figure out how to get our budget back in order before we approve another $750 billion in debt were ignored.

This week is no different. We are considering a permanent extension of marriage penalty relief. Permanent extension. Again, motherhood and the flag, everybody is for it; except our grandchildren should not be for it, but they do not have a vote.

We will also vote in a moment on another great-sounding issue, and that is requiring a two-thirds vote in order to raise taxes. But yet my friend from Tennessee was denied an opportunity to have an amendment on the floor that would suggest that we ought to have a three-fifths vote to borrow money. It is easier to borrow money because our grandchildren do not have a vote on that issue. It is tough to raise taxes. In fact, show me one Member of this body who stands up and says, ''I am going to raise taxes,'' and I will show my colleagues a Member that is about to get unelected in November.

But here we are. As a result, we are experiencing trust fund raids and deficit for the foreseeable future, instead of large projected surpluses, all to pay for this reckless economic plan.

Mr. Speaker, all we are asking is let us get back on a plan to balance the budget without using Social Security. The current estimates for this year's unified budget deficit are between $150 billion and $250 billion. That is deficits, and not all of it has to do with September 11. Not all of it has to do with the economy. As Members read in the Wall Street Journal today, Mitch Daniels, director of OMB, is finally coming around and beginning to have a moment of honesty: ''At this rate, there are not sufficient resources for a decent Medicare drug benefit, education spending, or energy policy.''

I do not understand the philosophy of folks who do not have a problem with leaving our children and grandchildren with a large debt just so we can have a tax cut or more spending today. I want our children and grandchildren to inherit a strong economy and a Federal Government that can meet its commitments for Social Security and Medicare. I definitely do not want them to inherit a massive national debt and legacy of deficit spending.

The motion to instruct conferees is very straightforward and reflects a principle that every Member of this body has solemnly vowed to protect. The motion simply states the conferees, to the extent possible, within the scope of conference, ensure that no provision of bill create a deficit in the non-Social Security portion of the Federal budget during the duration of the bill, unless there are sufficient offsets under the bill, thereby ensuring that it does not raid Social Security surpluses.

Until we deal with the long-term financial problems facing Social Security, we need to be very careful about any tax or spending bills that would place a greater burden on the budget in the next decade. If Members believe that more tax cuts and increased spending are more important than eliminating the national debt and protecting the integrity of the Medicare and Social Security trust funds, vote against this motion. I am glad nobody is going to vote against it. I believe Members should support it.

Mr. Speaker, I support the spirit of the gentleman from Texas (Mr. BARTON) for agreeing to this, and I do know that the spirit of the conferees will somehow find it in their hearts to talk to the leadership and get the leadership to go along with this excellent proposal.

The SPEAKER pro tempore (Mr. LINDER). Without objection, the gentleman from Louisiana (Mr. TAUZIN) will control the balance of the time of the gentleman from Texas (Mr. BARTON).

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we begin the final steps toward enacting a comprehensive national energy policy for our country, I want to remind the Nation and this House of two important facts. The first was that this House passed H.R. 4, the SAFE Act, Securing America's Future Energy on or about August 1 of last year.

We passed it by an overwhelming bipartisan majority. In fact, it passed out of the subcommittee by a vote of 29 to 1, and I want to thank the chairman of the Subcommittee on Energy and Air Quality, the gentleman from Texas (Mr. BARTON), for the great work the gentleman did in perfecting the core of this bill in subcommittee.

It passed out of the full committee by a vote of 50 to 5, and I particularly want to thank the gentleman from Michigan (Mr. DINGELL) for his extraordinary cooperation and bipartisan support for us to produce this energy policy for the House and the Nation. I thank the gentleman from Massachusetts (Mr. MARKEY) for the work he did, and the gentleman knows that we worked out quite a number of important features in the bill that he was interested in regarding conservation, alternative fuels and other areas.

The bottom line is we produced this bill for the House on August 1, 2001, before September 11. We produced this bill for the House when after years of sort of benign neglect, we came to a conclusion that this Nation needed as a matter of national security a cohesive energy policy which was not written in fits and starts, but balanced things and brought into play conservation and alternative fuels and new technologies and potential new sources of energy for our country.

We did it out of concern that we were becoming more and more dependent upon foreign sources that were not as reliable as they once were. At a time when we were facing about 57 percent of imports to satisfy this Nation's energy demands, we decided we had better do something. We better talk about conservation. We better talk about alternative fuels and new technologies and new means by which we could move about this country. We better tell the automobile industry that we wanted some fuel savings in the SUV fleet, and we wanted to make sure that there was in fact new and available sources of energy to power the electric grids of this country so the rest of America did not experience what California went through.

We did it on August 1, 2001. Then on September 11, 9–11, we witnessed the awful effect of this new age we have entered, this new age where this country is at war against terror; and it has dawned on us what we did on August 1 has even more relevance after 9–11.

Here are some numbers. I want Members to think about the fact that we are now buying a million barrels of oil a day from Iraq. It costs this country $21 billion a year. That $21 billion is money we send to the Iraqi Government, to that country. What do they use it for? They use it to build weapons of mass destruction after they have thrown the U.N. inspectors out. They use it to send money to the families of suicide bombers. They use it to build radar sites that lock onto the American planes that are patrolling the no-fly zones, and build missiles to try to knock down American airmen as we try to live up to and complete the terms of that peace agreement following the Persian Gulf War, planes that are carrying jet fuel that is made in part from Iraqi oil. How crazy is this? How insensible is this?

□ 1630

We have watched as one of our dearest energy commercial friends, Venezuela, has come under a regime that thinks Castro is a pretty nice guy. Fidel Castro, if you remember, was a guy that Nikita Khrushchev's son wrote about in the memoirs, who acknowledged that Castro asked and advised Nikita Khrushchev to launch a full scale preemptive nuclear strike against America during the Cuban missile crisis. That is the guy Mr. Chavez loves, and we depend upon Venezuela for so much of our energy supplies in this country. In fact, we depend upon Venezuela for lot of the reformulated gasoline that completes our clean air program in America. Think about that. Think about the fact that this country depends every day, every one of us that gets in an automobile, every one of us

that gets in an airplane, depends every day on people who are on the other side in this war on terror to make fuel available to us and that the money we spend to buy fuel from them helps to underwrite the terrorists who are attacking this country. And then I think you begin to realize how important this conference on energy is going to be and how critical it is that the work of this House on H.R. 4 be, as much as we can, sustained in the conference with the Senate.

The Senate has added some important features to the bill we passed. They have built a good electricity title that we are going to work on. Chairman BARTON has done a good job in building a House position. We are going to have a chance, with our Democratic colleagues, to hopefully add an electricity title to the bill that is going to better ensure transmission lines work, that they are there to move energy from areas of surplus to areas of demand, that we have enough electricity in the grid that nobody has to go through what California went through. We are going to continue to work with the Senate on the provisions it has added to make sure that we have other blends in the mix, like ethanol in the mix of our reformulated gasolines. And we are going to try to make sure that when we produce a bill, that it is well balanced, that it contains not just conservation and new technologies and alternative fuels, but it also contains some incentives to make sure we produce here at home gas and oil and fuel and coal and other electric supplies that we can depend upon because they are made in America, instead of being produced by people that we cannot trust in this world anymore. We are going to try to produce a balanced bill.

I am going to ask all our colleagues to stand with us as we go into conference with the Senate to make sure we have that.

If I could make just a point. That 1 million barrels a day we buy from Iraq, that is what we could produce in ANWR if we could include an ANWR provision in the conference. We are going to fight for one as we go to conference with the Senate.

So today as we begin this process, as the conferees are named, as we begin the process to produce a comprehensive energy policy for America, we ought to be reminded every day of that conference of 9/11 and how much more critical it is that this House and the Senate succeed in putting a bill in front of the President to sign before we leave here to go face the voters in November. This may be the most important national security work we do. We ought to do it well. We ought to do it right.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the ranking member for yielding me this time and I rise in very strong support of the Markey motion to instruct.

Make no mistake about it, the energy bill provides a world of opportunity for wasting taxpayer dollars in pursuit of very bad policy. I agree with my dear colleague from Louisiana about the need for renewables here at home. The problem is the bill pays very short shrift to that while it gives away $34 billion over 10 years and shovels money like coal into energy blast furnaces out of the Social Security trust fund.

We are really happy that the motion to instruct apparently has been accepted by the other side. But for the life of me, I do not know how they are going to make the numbers work, because a week ago the Republican majority had borrowed $207 billion from the Social Security trust fund and that number this week went up to $212 billion. And now this bill adds $34 billion in red ink on top of that. Somebody has to keep the ledger balanced at the end of the year.

What seems to pass for energy policy in this administration includes renewal of the Price Anderson Act which exempts nuclear power plants, for example, from liability for accidents and potentially streamlining the licensing process for companies that are seeking to bring old reactors back on-line—like the one in my district which just had a hole eaten in its head, and they are trying to figure out what to do about it. It has been shut down for months.

The failure of this administration to provide an intelligent energy policy and the failure of Congress to pass tough, no-nonsense campaign finance reform creates a climate for vast giveaways of taxpayer dollars. If you look at the nuclear industry alone, which the Vice President loves a great deal, they gave more than $13.8 million to Federal candidates in the 2000 election cycle. Most of our citizens do not have that kind of election clout.

So I would just say it is important to pass this motion to instruct conferees to protect the Social Security trust fund being tapped as the only place to get the money for the kind of corporate giveaways that are included in this bill. Unfortunately, the surpluses that had begun to build as of January 2001 have now plummeted into deficits in every single account in this government. The promise that was made with seven votes that we took here on this floor ''not to break the lockbox'' has been broken seven times. We are now in the red already this year, as of yesterday $212 billion. This bill worsens that problem.

I urge my colleagues to vote for the Markey motion to instruct and stop the raid on Social Security trust funds being cashed out to the corporate energy giants.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from North Carolina (Mr. BURR), the vice chairman of the Committee on Energy and Commerce.

Mr. BURR of North Carolina. Mr. Speaker, my only regret is that we had not had this debate and this level of cooperation about the economic stimulus package, because had we started it sooner, it would have been bigger. The fact is the economy would go faster and we would not have the challenges that we do about programs that the American people want.

I find it ironic that we have a debate about robbing money from Medicare in the same month that we hope to pass a $300-billion-plus Medicare prescription drug benefit for seniors who desperately need it across this country. We will in this House, once again as we did 2 years ago, pass it, but in all likelihood we will not do it with a unanimous vote.

Mr. Speaker, H.R. 4 does a tremendous amount, and I think we are in agreement on the highlights of this bill. It is the SAFE Act. It is about securing America's future energy needs. It is about making energy policy and energy availability predictable and, most importantly, affordable. The House passed a comprehensive national energy bill which builds on the President's national energy policy and that was to promote economic development and domestic energy supplies and encourage increased efficiency and conservation.

This motion to instruct will be accepted, and we should, because nobody wants to rob Social Security and Medicare. But the fact is that many of the areas that have been pointed out as tax breaks are, in fact, issues that were lobbied for by all Members, because they deal with conservation.

Let me just point out a few. We give a tax credit for residential solar energy because we know that we need to diversify the sources that we get our energy from. We give tax credits for fuel cells, the possible best breakthrough in the future, for less of a reliance on the fuels that we currently import. We give modifications and extensions for provisions relating to electric vehicles, clean fuel vehicles, clean fuel vehicles' refueling property. We give tax credits for energy-efficient appliances. We give credits for energy-efficient improvements to existing homes. We give allowance and deductions for energy efficiency for commercial properties. We give investment and production tax credits for clean coal technology.

As a member of the North Carolina delegation where we just passed smokestack legislation which cleans up our State, it is challenging, but we cannot do it without the Federal Government's investment in clean coal technology.

By the way, Mr. Speaker, in addition, we in this bill increase the LIHEAP authorization levels. That is the needs of low-income Americans for heat in the winter, and I am sure that is probably calculated in these predictions of what we steal from Medicare and Medicaid.

The fact is that, Mr. Speaker, we are challenged with many more things than just energy policy this year. This one bill makes predictable not only the

supply but the cost. We as a Congress will be challenged with additional needs of supplemental appropriations to fight a war on terrorism. We will be challenged to find the money for the Medicare prescription needs of our seniors. But since we have taken care of some of it in budget resolutions, we may be challenged as money runs short. We can find the areas we get it from. We have before. We will again. We will live up to the fiduciary responsibility that the American people have entrusted in us.

I hope that all of our colleagues will join us in supporting the motion to instruct conferees, protecting the bank that we are in charge of but, more importantly, in passing an energy policy that is so overneeded in this country, making sure that our future is, in fact, secure.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I thank my friend from Massachusetts who has been such a leader on energy and environmental issues for so long in this Congress.

I am glad to note some points of agreement.

First of all, as the previous speaker made it clear, the important issue of energy policy is one where there has to be a strong Federal Government role. Sometimes there is rhetoric in this Chamber that assumes that the Federal Government is simply a problem. Indeed, Ronald Reagan in his first inaugural said, ''The government is not the answer to our problems. The government is the problem.'' I am glad to join the gentleman from North Carolina in repudiating that simplistic and inaccurate misstatement. As the gentleman said, without a Federal Government investment, we cannot have a good energy policy. Obviously if you think the Federal Government is just a problem, you do not want it to go around investing, presumably spreading problems.

He is right. The free market has a role to play, but the government has an indispensable role. Those who would denigrate government and those who would think that you could somehow do away with it are reminded here, and I am glad to see that we have this agreement, this is a bill to expand the role of the Federal Government in dealing with our energy problem. I welcome that area of agreement. We may have disagreements about how to do it.

We have one other disagreement, though, and let me just say, there are some areas where I wish the gentleman from Louisiana had gone even further. He mentioned some of the unattractive regimes with whom we must deal to get oil. I would have added Saudi Arabia. Indeed, when I look at the list of things we find wrong with most of these countries that have been criticized, I find Saudi Arabia right up there. It seems to me we are a little inconsistent. Things that we find indefensible in some regimes, they appear to be almost virtues when the Saudis do them. But I agree we should be across the board.

As to conservation, I wish we would go further. I wish the President of the United States had not backed off his predecessor's proposals regarding air conditioning. When we are talking about the need for energy at that peak period in the summer when air conditioning is such a drain, under the previous administration, the presidency of President Clinton, we had very good energy-saving proposals. The President has cut back, and here is the common theme. The President cut back because, well, we would have had to pay for that a little bit in air conditioning. The gentleman from North Carolina said, why are we objecting? We are giving a tax cut here and a tax break here. There a tax break, here a tax break, everywhere a tax break.

I am for many of those; not for all of them. The problem is the attitude that says to the American people, here are some freebies. The one word that people never mention is ''sacrifice.'' We are not talking about going around in sackcloth and ashes, whatever those look like. I do not know myself, but I have heard that often enough. What we are saying, however, is you cannot have it all. You cannot have more spending on these programs and more tax cuts for those programs, and then more tax cuts in general, and then still make everything work. There is a failure here to tell people the truth.

We vote here, but not under oath. Maybe we ought to vote under oath sometimes and not just testify under oath. Everybody is going to vote for this, they tell us, but I do not think it is going to be carried out. It has a particular relevance to Social Security and Medicare. It is not the case that money spent here will in and of itself reduce Social Security benefits.

□ 1645

That is not the argument. It is not the case that it will reduce in and of itself the money in Medicare. But here is what is happening. People make projections, and they look at the cost of Medicare and Social Security as currently structured 20 years from now and they say we will not have enough money to pay for it.

But what they then do by increasing spending and reducing taxes is to exacerbate that very problem. This is a self-created problem. We say there will not be enough money at the Federal level to meet the commitments of Social Security and Medicare. So how do we respond to that? Let us reduce the revenues that would otherwise be available for it.

That is why people are being frightened with the need to privatize Social Security, although we have heard less of that these days. We could all look forward, of course, to the average working person retiring and being told he or she now has a private Social Security account and, of course, his or her friendly analyst would be glad to give that person a wholly objective impression of what stocks to buy and which accounting firms had been involved in manipulation there.

But that is the problem here. What you do is you tell people you can have it all, we can have the standard of living we have already had, we can conserve, and we can cut taxes, and we can continue everything else, except when we get to Medicare and Social Security, people are going to be told we have to cut back.

One of the previous speakers mentioned the prescription drug program. The prescription drug program that was passed 2 years ago was inadequate. It did not give middle income older Americans a fair deal, and neither will the one that will be coming forward. Indeed, it has been held up because the first impulse on the majority side was to cut Medicare to pay for it. Well, the Members were not ready to vote for that now, so we are going to get a still inadequate prescription drug program.

But the consequence of this bill and every other bill, and we are not objecting at this point to doing some of these things, we are objecting to pretending you can do them with no choices being made, and that is probably even a better word than ''sacrifice.''

What the majority wants to do is simply avoid choices, to tell everybody they can have everything. What this will result in is, on the one hand, people will spend and cut taxes and raise the debt limit and increase the deficit and reduce the revenues that are coming into the Federal Government and turn a surplus into deficit, and then they will say in an entirely other context, hoping nobody remembers, oh, and by the way, we are going to run out of money, and, therefore, we have to reduce Social Security benefits. Therefore, we have to restructure Medicare. Therefore, we have to cut back. Therefore, we cannot afford an adequate prescription drug benefit program.

I am pleased that my friend from Massachusetts has offered this. I do note one other thing that I meant to mention. I did hear the chairman of the subcommittee who began the debate say, ''Why are we so upset? This is, after all, not an appropriations bill, it is just an authorization bill. That is, this simply says we can spend the money. It does not spend the money.''

Note the apparent assumption that just because we say something does not mean we mean it. When you say do not worry, this is just an authorization bill calling for the expenditure of these billions, but it does not actually spend them, I am reminded of the couplet from Tom Lera that I cannot quite remember, but it did involve Wernher Von Braun, the former German rocket scientist who became a part of the American science movement, and I remember the rhyme which was basically

he was in this song disclaiming responsibility for the damage his creations had done in England, because, the words went, in effect, I am not responsible. I am only in charge of when they went up. I am not responsible for where they came down, said Wernher Von Braun.

Well, you are responsible when you authorize and write into law for the expenditures that come. So what the gentleman from Massachusetts said is absolutely accurate: Do not pretend that we can continue to cut taxes, incur deficits, spend in other areas, and not have that have a negative impact on our ability to continue to fund Social Security and Medicare. So I am glad that people are going to vote with us. I just wish they meant it.

Mr. TAUZIN. Mr. Speaker, I am honored to yield 4 minutes to the gentleman from Iowa (Mr. NUSSLE), the distinguished chairman of the House Committee on the Budget.

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, what is probably most humorous about the last statement on the floor is that the Democrats do not want to take credit when it is going up or when it is coming down. In fact, this year the Democrats presented no plan, no budget, no ideas, no answers, no solutions, nothing. Not on energy, not on Medicare, not on agriculture, not on Social Security, not on anything that is addressing the needs of this Nation. Not on homeland security, not on defense, not on intelligence. None of those things were presented in a budget this year.

Let us just review the bidding of how we got here. Last year, not this year, last year the Republicans, together with the President, introduced a budget that said energy needs to be a priority. When you are 60 percent dependent on foreign fossil fuels for the energy of your nation, you have got a problem.

People come to my town meetings and they wonder sometimes a little bit about why we are entangled in the Middle East. Wake up, America. There is your reason. We have not had a long-term energy strategy. We have allowed it to deplete over time. The last 8 years have certainly been no friend to energy. And so, yes, of course, we find ourselves with that as a necessary priority. It has impacted our economy, it has impacted the creation of jobs. So last year we put into the budget to have an energy strategy, and last year in August we passed this bill in order to address it within the, fit within budget, fit within surpluses as far as the eye could see, and we managed the problem.

Now today Democrats are running to the floor saying, ''My God, what happened? Where is the surplus? Where did it go? Why are we in deficits?''

Well, there is a little incident that occurred September 11, you may have remembered that, I realize you discount it now, but pretty significant, in which in a bipartisan way, thankfully, Republicans and Democrats reached into that surplus, and they took out money for the emergency, they took out money for homeland security, we took out money to fund the war, and we took out money to stimulate an economy that was already in doldrums, that went into the doldrums even further as a result of that attack, and we did that in a bipartisan way. And now, 7 months later, you wander to the floor and say where is the surplus? We spent it, folks. We spent it, appropriately so, on the needs of this country.

So we had an energy bill that fit within the budget, and we appropriately spent the surplus and did whatever it took in order to address what happened in September.

Now you wander to the floor and say where is the surplus? Why are we in deficit? Well, addressing that deficit, we passed yet another budget plan this year and we said we can get back out of deficits if we control spending. We can have an energy plan, we can address the needs of homeland security, we can win the war, we can stimulate the economy. Yes, we will be in deficit, but it will be periodic and we are able to get back out of it if we can control spending.

So the gentleman from Massachusetts comes to the floor here and he says, where are the choices? Where is the sacrifice?

We have a plan that shows you where the choices are. Where is your plan? You do not have one. The very distinguished gentleman from Texas presented a plan. His plan was our plan, with a trigger. We do not agree with the trigger. We will agree to disagree.

But the interesting thing is the only plan you presented was our plan. The Senate, excuse me, the other body, cannot even pass a budget. And you wander in here and you say where are the choices?

Mr. Speaker, wake up. We are going to accept this motion to instruct conferees. But how did we get here? Remember back to what happened in September. Do not demagogue Social Security. Obviously for political purposes you can go ahead and do that, but we need this energy strategy to get our economy going, to become less dependent and less entangled in the Middle East. It fits within the budget. It responsibly allows us to win the war and get the economy going. We need to pass this bill and get it through conference.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding me time.

I appreciate my friend, the chairman of the Committee on the Budget, for acknowledging at the last part of his comments that there was an attempt to offer a second amendment or budget this year, but we were denied.

The gentleman is entirely correct; it was your budget on spending, but it was not your budget on borrowing money from the Social Security trust fund. We wanted a trigger. We wanted to avoid discussions like we are having today.

I also want to remind my chairman, the chairman of the Committee on the Budget, that we did present, the Democratic party, did present an alternative budget last year, the Blue Dog Democrats led and were followed by the overwhelming majority of Democrats on this side, that said we should not allocate all of the $5.6 trillion projected surplus into spending and tax bills because they might not happen and there might be an emergency. We lost. We were in the minority.

I am used to losing when I am in the minority. What we are not used to doing is having the majority win and not assume the responsibility for your actions. The debt ceiling is going to have to be increased, and yet you want to duck that.

But the gentleman is absolutely correct, and I appreciate his kindness and his remarks.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Texas (Mr. BARTON), the chairman of the Subcommittee on Energy and Air Quality of the Committee on Energy and Commerce.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I want to point out the obvious before I get into a little of the substance. We are technically debating a motion to instruct conferees, and we are going to accept it. Some are trying to pick a fight, and the Republicans are in a good mood today. We do not want to fight. We want to go to conference and work on a bipartisan basis for an energy policy.

The Committee on Energy and Commerce, the distinguished gentleman from Louisiana is the distinguished chairman of it, passed this bill 50 to 5, with the good help of the gentleman from Michigan (Mr. DINGELL) and the gentleman from Virginia (Mr. BOUCHER) and others. My subcommittee passed it 29 to 1. We are the ''happy face'' committee. We want to go to conference with the other body and work in a bipartisan basis.

So we are very willing to say we do not want an energy policy that increases the national deficit. Let us think about that a little bit. This country for over 150 years has had an energy policy that is based on private markets, where we allocate capital through the free enterprise system to create energy sources at the lowest possible cost possible. Because of that, we have the world's greatest economy.

Now, if we were really having a debate today, I would posit the question, if you have an energy policy that is balanced and tries to have a production component and an environmental component and a consumption component

that results in lower prices, is that going to increase or decrease the national deficit? Or if you have an energy policy that tries to be anti-energy that results in higher energy prices, is that going to add to or subtract from the deficit?

I would say an energy policy that is balanced and that has the net result of a balanced approach, that has lower energy prices, is going to result in either lower deficits or, probably, surpluses.

To put this in personal terms, if you go to the gas pump and pay $1.25 a gallon, or if you go and pay $2.25 a gallon, which helps your economy the most? Obviously, if you only pay $1.25.

If you get your electricity bill and you pay 7 cents a kilowatt, is that better than getting an electricity bill that you pay 17 cents a kilowatt? Obviously, if you pay less, you have more money to do other things for your family.

Well, the energy bill before us actually is a balanced bipartisan approach to try to create an energy policy for the 21st century that results in moderately priced energy, in large quantities, so we can continue to have the kind of free market economy that we have had.

Now, let us look at some of the specifics in the bill. Let us see whether we think these are good things or bad things. These are in the bill. These are not debating points, they are in the bill.

We require that Federal buildings reduce their energy consumption by 35 percent. We require that we put more money into the Low Income Heating and Cooling Program, the LIHEAP program. That was an amendment adopted in my subcommittee that was offered by the gentlewoman from California (Mrs. BONO).

We have increased funding for the DOE weatherization program. We have a requirement that the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) worked out on a bipartisan basis that our trucks and cars need to reduce the amount of gasoline that they consume by 5 billion gallons over 5 years.

We have increased research grants for alternative fuels like hydrogen and things of that sort. We have a very good program for advanced clean coal technology. We have increased funding requests for fusion energy, hydrogen energy, bioenergy, renewable energy and solar energy. We have a program to try to do some research for ultra-deep water, oil and gas drilling in the Gulf of Mexico, which I think is a good thing.

□ 1700

I could go on and on. But the bottom line is, this is a balanced bill, it is a bipartisan bill; it is a comprehensive bill. We need to accept this motion to instruct, go to conference, and work with the other body to bring back a conference report that results in lower energy prices for the American people for the next 20, 30, 40, 50 years. And with the leadership of the gentleman from Louisiana (Mr. TAUZIN), who is going to chair the conference, I am very confident that we are going to do that.

Mr. MARKEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I would just add that this bill was considered in at least two committees; and in the Committee on Ways and Means, there was anything but a bipartisan, balanced bill. Indeed, what we did have was a letter from the gentleman from Iowa (Mr. NUSSLE) assuring our committee that this bill could be passed without taking any money from Social Security and Medicare; and as indicated by his remarks on the floor this afternoon, it is pretty clear that has changed completely.

Indeed, much has changed since September 11. This bill was passed before them, before the collapse of Enron, and before the Bush budget sprang a leak of red ink that began with a trickle and has now become a flood. Many things have changed, but one thing that has not is the commitment of some here to a bill that is not so much an energy policy as a collection of unjustified tax breaks, loopholes, and special provisions to aid traditional energy industries.

I like the idea of balance in an energy bill, but what we have is some sweet words about the environment, a little sugar coating for new environmental technologies, and most all of the tax benefits going to the same old polluting industries.

For the gentleman from Louisiana (Mr. TAUZIN) to suggest that this has something to do with taking a million barrels of oil a day from Iraq, I think, is really misleading.

If this bill passes in today's form, it would not reduce that amount by one barrel; indeed, I would say not one pint. What this bill does is to give more tax breaks to the companies that are bringing in the million barrels of oil a day from Iraq. It does not change or limit their ability to do that.

And the suggestion that we would replace that oil by exploiting the Alaskan National Wildlife Refuge (ANWR) would be a serious mistake that would jeopardize an irreplaceable environment for little real energy benefit.

Mr. TAUZIN. Mr. Speaker, I yield 30 seconds to the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Speaker, I just have to report to the Congress what I just got. I just found out that the next motion to instruct, which is going to be on the supplemental offered by the Democrats, is going to be to accept the higher spending level between the House and the Senate.

Mr. TAUZIN. Come on.

Mr. NUSSLE. Now, where is that money going to come from, I ask my colleagues. Not $27 billion; they want the other body's version of $31 billion. Where is that coming from? Is it coming from Social Security? Why are you not down here demagoguing that?

Mr. FRANK. Mr. Speaker, will the gentleman yield? I will answer him. Will the gentleman yield for an answer.

The SPEAKER pro tempore (Mr. LINDER). The gentleman will suspend.

Mr. FRANK. Mr. Speaker, would the gentleman yield?

Mr. NUSSLE. I do not have any time.

Mr. FRANK. Or any knowledge of the rules either, apparently.

The SPEAKER pro tempore. Who yields time?

Mr. MARKEY. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I would just say to the gentleman from Iowa, because he wanted to know where the money could come from, I had several places. I am personally prepared to say that incomes over $300,000 do not need a tax reduction which is scheduled to go into effect as urgently as we need energy and security. So to the extent that we have outstanding tax reductions that have not gone into effect for incomes over $300,000, reducing the rate on that, there are tens of billions to be gained by that; that would be one place. And personally, I would look at some of the money in the agriculture bill also.

Mr. MARKEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

For a minute I thought the chairman from Louisiana was calling for church by saying ''Come on'', but let me hope that he can do the same for me. We are familiar with that terminology, ''come on,'' but let me explain to the American people my support for this particular motion to instruct. I am delighted that my good friends, including the gentleman from Texas, is willing to accept it. But let me put a face on the value of the motion of the gentleman from Massachusetts.

Last year at this time, or last year in the summer, we were vigorously discussing the energy bill. At that time we had a $5.6 trillion in surplus. We now are a year later and the tragedy of September 11 has occurred, and we are now at a mere $400 billion. We do not have a prescription drug benefit.

The chairman knows that I come from oil country and clearly have worked collaboratively, and I thank him for the amendments that were passed, the $5 million on bioengineering and the one dealing with assessing the amount of resources in the Gulf. We come from that area. So this is not a condemnation as much as it is a reality check on facing the fact that we have no money. This is an important amendment.

Mr. Speaker, might I also say, coming from the community where Enron has collapsed and we have people who are unemployed and who are still

struggling, I would hope that as this bill goes to conference that some conversation can be raised on the issues dealings with the Enron collapse and how it has impacted the energy industry and, in particular, how we have been able to deal with the employees, the ex-Enron employees who found themselves standing in the back of the line with no money, no resources in a bankrupt company.

So what we are suggesting is that this is an important motion to instruct, because we do not have the money we had last year. I hope this motion will be accepted, but I also hope we recognize the concerns we have, Mr. Speaker, and I hope together we can ''come on'' with this message and face the fact that we need not go into Social Security and Medicare.

Mr. TAUZIN. Mr. Speaker, I yield myself the balance of the time.

Let me say again to the gentleman from Massachusetts (Mr. MARKEY) we will certainly accept his motion to instruct and we will ask Members to vote for it. More importantly, I will ask the gentleman and the other members of the conference committee in the House to join with us in a cooperative spirit to make sure we finish the job that we started here on August 1 in this House, and that we complete a good package for the President to sign before we leave here.

I want to correct the record. It was not just two committees which produced this bill. It was the Committee on Ways and Means, the Committee on Energy and Commerce, the Committee on Science, the Committee on Financial Services, and the Committee on Natural Resources. This was a collaborative effort of not just Democrats and Republicans, but of many committees of this House; and this represented the best of this House's ability to come together and do something good for this country in a time of need. Little did we know on August 1 just how much we would need this bill, but we know today.

This is not about the surpluses and the deficit issues that the country faces; we will get into those great debates when we get to them, and there will be time for that. This is truly about whether we can now close this deal with the Senate, the other body, to make sure that we pass an energy bill that really protects this country into the years ahead with predictable, affordable sources of energy to keep this economy strong and to keep our Nation secure so that we do not have to depend upon people we cannot depend upon. That is going to be a good debate with the other body, but it is a debate worth winning.

Mr. Speaker, I thank my colleagues from both sides of the aisle who joined with us in an overwhelming vote of support for H.R. 4 when it left the House, and I ask them to join us in another big vote when we return from the conference committee with a successful product.

Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the gentleman from Texas (Mr. STENHOLM) and I and the gentleman from Massachusetts (Mr. FRANK), the gentlewoman from Texas (Ms. JACKSON-LEE), the gentleman from West Virginia (Mr. RAHALL), the gentleman from Texas (Mr. DOGGETT), all of us want an energy bill. All of us know that we need a new energy plan for our country. That is not what this debate is over. This debate is over who is going to pay for the energy bill.

Now, last summer, August 1, we raised this issue. The Republicans contended that they could vote for a $1.7 trillion tax cut, and the President said, do not worry, there is plenty of money left over for Social Security, plenty of money left over for Medicare. And the Republicans on the House floor said, what is your problem? There is a surplus. There is plenty of money. Let us pass this energy bill now. Now, we hear the chairman of the Committee on the Budget out here on the floor saying, the surplus is gone, all gone. Now, the Democrats said that last August 1, but it is kind of like the dog ate my homework. Al Qaeda ate the surplus. Now, we were saying this on August 1. It is gone.

Now, what are we told? Do not worry. Who cares if we have deficits? Who cares? Grandma cares. Grandpa cares. Because there is only one other place to go: the Medicare and Social Security trust funds.

What this energy bill does is set up an oil rig on top of the Social Security and Medicare trust funds, and it begins to drill into those trust funds. That is why they care, because grandma and grandpa were told last summer, do not worry; there is plenty of money. Instead, a pipeline is being constructed into their pockets. They are being tipped upside down and the money from their trust funds is going to be shaken out onto this House floor and transferred over to the oil, to the gas, to the nuclear, to the coal industries.

Now, we can all debate on whether or not they deserve subsidies, but I think we should all agree, it should not come out of the Medicare and Social Security trust funds for the greatest generation. That is not an energy plan that comports with the crisis that we are in. It is patriotic to fight al Qaeda. It is patriotic to fight terrorists. It is not patriotic to take the money out of the Social Security and Medicare trust funds. We must find that money from some other place in our country, and the majority and the President have a responsibility to promote that plan. They have yet to do so.

Vote for the Markey-Stenholm resolution rejecting the plundering of the Medicare and Social Security trust funds.

The SPEAKER pro tempore (Mr. ISAKSON). Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRANK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this will be a 15-minute vote on the motion to instruct, followed by a 5-minute vote on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY). After these votes, the Chair will appoint conferees on both sides.

The vote was taken by electronic device, and there were—yeas 412, nays 1, answered ''present'' 2, not voting 19, as follows:

[Roll No. 223]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)

Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Sabo

ANSWERED ''PRESENT''—2

McCrery
Thomas

NOT VOTING—19

Blagojevich
Bono
Clayton
Combest
Conyers
Goss
Hall (OH)
Houghton
Hunter
Lynch
Maloney (NY)
Menendez
Owens
Payne
Pelosi
Peterson (MN)
Quinn
Smith (TX)
Traficant

□ 1736

Messrs. NORWOOD, POMBO, and FOLEY and Mr. PRICE of North Carolina changed their vote from ''nay'' to ''yea.''

Mr. THOMAS changed his vote from ''yea'' to ''present.''

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES

The SPEAKER pro tempore (Mr. ISAKSON). The pending business is the question of agreeing to the motion to instruct on H.R. 4775 on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 181, nays 235, not voting 18, as follows:

[Roll No. 224]

YEAS—181

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Holt
Honda
Hooley
Horn
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Moran (VA)
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Pallone
Pascrell
Pastor
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Velazquez
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—235

Aderholt
Akin
Armey
Bachus
Baird
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Udall (NM)
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—18

Blagojevich
Bono
Clayton
Combest
Goss
Hall (OH)
Houghton
Jones (OH)
Lynch
Maloney (NY)
Menendez
Owens
Payne
Pelosi
Peterson (MN)
Quinn
Smith (TX)
Traficant

□ 1749

Ms. HART and Mr. RAHALL changed their vote from ''yea'' to ''nay.''

Mr. ROSS changed his vote from ''nay'' to ''yea.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOSS. Mr. Speaker, this afternoon I had to depart early for a previously scheduled meeting at the White House. As a result, I was not able to be present for rollcall votes 223 and 224. Had I been present, I would have voted ''yea'' on rollcall vote 223 and ''nay'' on rollcall vote 224. I request that this statement appear at the appropriate place in the RECORD.

The SPEAKER pro tempore (Mr. ISAKSON). Without objection, the Chair appoints the following conferees: Messrs. YOUNG of Florida, REGULA, LEWIS of California, ROGERS of Kentucky, SKEEN, WOLF, KOLBE, CALLAHAN, WALSH, TAYLOR of North Carolina, HOBSON, ISTOOK, BONILLA, KNOLLENBERG, OBEY, MURTHA, DICKS, SABO, HOYER, MOLLOHAN, Ms. KAPTUR, Mr. VISCLOSKY, Mrs. LOWEY, Mr. SERRANO, and Mr. OLVER.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4, SECURING AMERICA'S FUTURE ENERGY ACT OF 2001

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. TAUZIN, BILIRAKIS, BARTON of Texas, UPTON, STEARNS, GILLMOR, BURR of North Carolina, DINGELL, WAXMAN, MARKEY, BOUCHER, GORDON and RUSH.

From the Committee on Agriculture, for consideration of section 401 of the House bill and sections 265, 301, 604, 941–948, 950, 1103, 1221, 1311–1313 and 2008 of the Senate amendment, and modifications committed to conference: Messrs. COMBEST, LUCAS of Oklahoma and STENHOLM.

From the Committee on Armed Services, for consideration of sections 401 and 6305 of the House bill and sections 301, 501–507, 509, 513, 809, 821, 914, 920, 1401, 1407–1409, 1411, 1801, and 1803 of the Senate amendment, and modifications committed to conference: Messrs. STUMP, WELDON of Pennsylvania and SKELTON.

From the Committee on the Budget, for consideration of section 1013 of the Senate amendment, and modifications committed to conference: Messrs. NUSSLE, GUTKNECHT and MOORE.

From the Committee on Education and the Workforce, for consideration of section 134 of the House bill and sections 715, 774, 901, 903, 1505 and 1507 of the Senate amendment, and modifications committed to conference: Messrs. MCKEON, NORWOOD, and GEORGE MILLER of California.

From the Committee on Financial Services, for consideration of Division D of the House bill and sections 931–940 and 950 of the Senate amendment, and modifications committed to conference: Mr. OXLEY, Mrs. ROUKEMA and Mr. LAFALCE.

From the Committee on the Judiciary, for consideration of sections 206, 209, 253, 531–532, 708, 767, 783 and 1109 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas and CONYERS.

From the Committee on Resources, for consideration of sections 401, 2441–2451, 6001–6234, and 6301–6801 of the House bill and sections 201, 265, 272, 301, 401–407, 602–606, 609, 612, 705, 707, 712, 721, 1234, 1351–1352, 1704, and 1811 of the Senate amendment, and modifications committed to conference: Mr. HANSEN, Mrs. CUBIN and Mr. RAHALL.

Provided that Mr. GEORGE MILLER of California is appointed in lieu of Mr. RAHALL for consideration of sections 6501–6512 of the House bill, and modifications committed to conference.

From the Committee on Science, for consideration of sections 125, 152, 305–306, 801, Division B, Division E, and section 6512 of the House bill and sections 501–507, 509, 513–516, 770–772, 807–809, 814–816, 824, 832, 1001–1022, title XI, title XII, title XIII, title XIV, section 1502, 1504–1505, title XVI, and sections 1801–1805 of the Senate amendment, and modifications committed to conference: Messrs. BOEHLERT, BARTLETT of Maryland and HALL of Texas.

Provided that Mr. COSTELLO is appointed in lieu of Mr. HALL of Texas for consideration of Division E of the House bill, and modifications committed to conference.

Provided that Ms. WOOLSEY is appointed in lieu of Mr. HALL of Texas for consideration of sections 2001–2178 and 2201–2261 of Division B of the House bill, and modifications committed to conference.

From the Committee on Transportation and Infrastructure, for consideration of sections 121–126, 151, 152, 401, 701, 2101–2105, 2141–2144, 6104, 6507, and 6509 of the House bill and sections 102, 201, 205, 301, 701–783, 812, 814, 816, 823, 911–916, 918–920, 949, 1214, 1261–1262, and 1351–1352 of the Senate amendment, and modifications committed to conference: Messrs. YOUNG of Alaska, PETRI and OBERSTAR.

Provided that Mr. COSTELLO is appointed in lieu of Mr. OBERSTAR for consideration of sections 121–126 of the House bill and sections 911–916 and 918–919 of the Senate amendment, and modifications committed to conference.

Provided that Mr. BORSKI is appointed in lieu of Mr. OBERSTAR, for consideration of sections 151, 2101–2105, and 2141–2144 of the House bill and sections 812, 814 and 816 of the Senate amendment, and modifications committed to conference.

Provided that Mr. DEFAZIO is appointed in lieu of Mr. OBERSTAR for consideration of section 401 of the House bill and sections 201, 205, 301, 1262 and 1351–1352 of the Senate amendment, and modifications committed to conference.

From the Committee on Ways and Means for consideration of Division C of the House bill and Division H and I of the Senate amendment, and modifications committed to conference: Messrs. THOMAS, MCCRERY and RANGEL.

For consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. DELAY.

There was no objection.

PROPOSING A TAX LIMITATION AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

Mr. SESSIONS. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 439 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 439

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 96) proposing a tax limitation amendment to the Constitution of the United States. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution and any amendment thereto to final passage without intervening motion except: (1) two hours of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) an amendment in the nature of a substitute printed in the Congressional Record pursuant to clause 8 of rule XVIII, if offered by the Minority Leader or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for purposes of debate only.

Mr. Speaker, House Resolution 439 provides for the consideration of H.J. Res. 96, proposing an amendment to the Constitution of the United States with respect to tax limitation.

The rule provides for 2 hours of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule provides for one amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD, if offered by the minority leader or his designee, which shall be considered as read and shall be separately debatable for 1 hour, equally divided and controlled by the proponent and opponent.

□ 1800

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, today the average American pays more in taxes than for food, clothing, shelter, or transportation combined. For too long, the tax burden imposed by the government has been going up, not down.

The Tax Limitation Amendment starts from this very simple premise: it should be harder, not easier for the government to raise taxes. Raising taxes should be an absolute last resort, not an easy, quick fix for excessive government spending.

I have observed with great interest the spirited debate surrounding our efforts to make portions of our President's tax cuts permanent. Last week, the House passed a bill that would permanently repeal the death tax. In the same manner, the House will later this week consider a bill that makes permanent relief from the marriage penalty tax.

Throughout these debates, it is apparent that there are those who would support repealing parts, if not all, of this historic tax bill. These individuals would prefer that married couples be penalized for entering into holy matrimony. They feel that the Grim Reaper and the tax collector should visit American families and farmers on the same day. They believe that the Federal Government makes better decisions than families about how best to spend their hard-earned money.

This line of reasoning is inconsistent with the fact that people all across this Nation overwhelmingly support tax reduction. I only wish that both bodies of Congress would reflect the sentiment clearly expressed by the American people. The people of this great Nation will not be fooled by those who would support a tax cut during an election season, only to work to repeal it the very next session of Congress.

Many Members have stood on this floor of this distinguished House extolling the virtues of lower taxation. Today they will have the opportunity to show their constituents exactly where they stand.

The annual floor consideration of the Tax Limitation Amendment gives us an opportunity to take a stand on the side of the American taxpayer. By enacting the Tax Limitation Amendment, we protect the taxpayer and pledge that we as a Congress will focus inward on cutting waste, fraud and abuse instead of immediately raiding the pockets of American taxpayers.

By requiring a supermajority to raise taxes, an incentive for government agencies would be created to eliminate waste and create efficiency, rather than simply turning to more deficit spending or increasing taxes.

Mr. Speaker, this legislation does recognize and make allowances for times of extenuating circumstances such as during a time of war, a national emergency, or when taxes may need to be raised.

The Tax Limitation Amendment would allow Congress to raise taxes in those circumstances; but in the meantime, it would prevent the intrusive and penalizing tax increases that have been enacted with recklessness to fund government expansion for the last few decades.

It is time the Federal Government joined the States and listened to the voices of Americans: it should be harder to raise taxes. Had this amendment been adopted sooner, the four largest tax increases since 1980, which occurred in 1982, 1983, 1990, and 1993, all would have failed. The tax increase in 1993 was the largest tax increase in American history, and it passed by just one vote. These tax increases today from 1993 total $666 billion, taken from the American taxpayer.

The bottom line of this debate, Mr. Speaker, and let us make no mistake about it. Those Members who support this amendment are here to support the hard-working taxpayers of America. Those Members who are opposed to it are here to defend the tax collectors of America. To me, it is really just that simple.

The Tax Limitation Amendment also allows for a simple majority vote to eliminate tax loopholes. The de minimis exemption would allow nearly all loopholes to be closed without the supermajority requirement.

Mr. Speaker, we will also hear that the government will be unable to function if a supermajority is required. We all hear this as Members, but I encourage Members to look at the States. Thirteen States have some sort of supermajority limitation in effect.

The millions of Americans living in these States have enjoyed slower growth in taxes, slower growth in government spending, faster growth in economies, and lower unemployment rates.

Today we can take one step closer to retaining liberty and ensuring future generations the freedom our Founding Fathers intended America to enjoy. This debate is about requiring a two-thirds vote to raise taxes, and it boils down to a debate about liberty and freedom for the American people.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the seventh time in 7 years that the House has considered this same constitutional amendment. We appear to have some slower learners on the other side of the aisle. This is an amendment that would require a two-thirds majority to pass any provision that raises revenue for the government. The House has rejected it six times before, and I hope today will mark its seventh consecutive failure.

Before we get into a debate Members have heard before, I want to begin by putting it in context. Late last week the President finally agreed to make homeland security a Cabinet-level priority, something Democrats have been pushing for months, and called on Congress to get to work creating an entirely new structure. It is a huge job, one that raises a lot of questions and will take a lot of work.

Meanwhile, prescription drug prices are still sky high nearly 2 years after many Republicans got elected promising to do something about it; and still there is no credible Republican plan to help senior citizens who cannot afford their pharmaceutical bills. There is no question that the House has a tremendous amount of important work left to do this year, including all 13 appropriations bills, none of which has been considered yet.

Instead of addressing these and other important issues this week, Republican leaders are once again wasting the House's time on a gimmick they call the Tax Limitation Constitutional Amendment. We know it is a waste of time because, as I mentioned before, it has failed each of the previous six times the Republicans brought it to the floor: in 1996, in 1997, in 1998, in 1999, in 2000, and in 2001. And we know it is irresponsible because of what it does.

For instance, this amendment would make it nearly impossible to close any of the countless loopholes that shameless tax dodgers use to avoid paying their fair share. For example, right now the gentleman from Massachusetts (Mr. NEAL) and the gentleman from Connecticut (Mr. MALONEY) are trying to close the loophole that allows big corporations to flee overseas to avoid their tax obligations. This amendment would make it even harder to stop these tax evaders, which is probably what Republican leaders want anyway. After all, they have repeatedly blocked the Neal-Maloney bill in the Committee on Rules.

If that were not bad enough, this amendment would do serious harm to America's democratic system. The Founding Fathers designed our government around the principle of majority rule. Writing in ''The Federalist Papers,'' James Madison wisely argued against supermajorities like the one Republicans are advocating today, stating that, ''The fundamental principle of free government would be reversed. It would be no longer the majority that would rule: the power would be transferred to the minority.''

Make no mistake, this is exactly what this constitutional amendment would do. It would allow a relatively small minority, one-third plus one, to stop widely supported, meaningful legislation.

Mr. Speaker, right now we are in a global war to protect the American way of life, and Republican leaders are trying to undermine our democratic system of majority rule here in the House of Representatives. I urge my colleagues to defeat this misguided constitutional amendment and preserve majority rule in the United States of America and allow the House to get on with the real business before it.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there has been a lot said about how we are doing this for the seventh time. I understand that the gentleman from Texas is simply opposed to the concept of making it more difficult to raise taxes. That is what this is all about. The gentleman has stated his point very clearly. I would also like to point out that it was conservatives and Republicans in this House who made sure that the idea of a balanced budget was talked about for many, many, many years, and tried many different ways. We did not grow weary. We knew it was the right thing to do; and despite the onslaught of Members voting against it, we kept going. I am sure we did it more than seven times, but the American people understood what it meant.

I did not know this until today, Mr. Speaker, but the 27th amendment to the Constitution was proposed on September 25, 1789. It was declared to have been ratified by the legislatures of 39 of 50 States dated May 18, 1992. What was this? This was known as the Madison amendment. This was the Madison amendment to the Constitution, which I think made sense, and I am sure it took a long time, as we have heard. And what that was all about was to say Members of Congress could not get a pay raise during the term in which they are serving. They have to wait another term.

Our Constitution is a wonderful document, but occasionally we run into some things that need to be perfected. We are about a perfecting amendment today, and I am proud of what we are doing.

Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. PENCE), a member of the Committee on the Judiciary.

Mr. PENCE. Mr. Speaker, I thank the gentleman for his outstanding leadership on the Tax Limitation Amendment.

Mr. Speaker, I am new to this institution; but with regard to the notion that taxes are not yet high enough, it is going to be ever my ambition, whether I serve here for 5 more years, 5 more days, or 5 more decades, to always be a slow learner on that issue.

The truth is that the people of Indiana that I represent overwhelmingly believe two things: taxes are too high, and government spends too much. I believe that the argument for the Tax Limitation Constitutional Amendment is drawn from the remarks of the gentleman from Texas (Mr. FROST). He alluded to two issues that Congress will take up this year, one of which is already accounted for in the budget that we adopted, a prescription drug benefit for which there is a Republican plan that will be brought to this floor this month. But also the gentleman alluded to the President's call for the establishment of the first Cabinet agency since the 1970s, the Department of Homeland Security. The day it opens, it will be the third largest Cabinet agency in the executive branch, $39 billion as the President has outlined it.

Now, there are those of us on this side of the aisle who see the President as calling for us to reorganize the government. But one can infer from the implications of the gentleman from Texas (Mr. FROST) that there may well be an intention to grow government in the wake of this national emergency, as has been the practice that history teaches in the wake of many crises in our Nation.

It is precisely at a time like this when America is reeling from a national emergency and preparing to grow the executive branch, when this Congress is preparing to respond to the needs of hurting seniors, that there needs to be a break on the system, Mr. Speaker. A break on the system that says that we demand what the American people demand, and that is that we go to our pocketbooks first, that we tighten our belts in this institution before we go to the American people. Tax increases must be a last resort, and a supermajority is designed to make it be just that.

□ 1815

Does that, as the gentleman suggests, undermine our democratic system? If that is the case, then our rules for a supermajority about amending the Constitution apparently undermines our democratic system. Or the requirement of a supermajority to impeach a President undermines our system. Or ratifying international treaties by a supermajority. The practice is a part of our democratic system and it is a much needful part as these days of emergency beckon us perhaps to an era of larger government beyond what our children could possibly imagine.

States that have passed tax limitation amendments, those laboratories of democracy, Mr. Speaker, they ought to be teachers to us today. The States that have passed amendments like the TLA have shown greater economic growth, better job creation and have raised taxes less than half the time than States without tax limitation amendments. Chief Justice John Marshall said in the landmark McCulloch v. Maryland Supreme Court case, ''The power to tax involves the power to destroy.''

The American people believe in their hearts, an overwhelming majority, in that simple principle, if you owe taxes, pay taxes, but they only want this Congress to ask them to pay more taxes as an absolute last resort. That is a last resort accommodated by the tax limitation constitutional amendment.

Mr. FROST. Mr. Speaker, I yield myself 1 minute. Mr. Speaker, it is hard to understand why the Members on the other side of the aisle are so antagonistic to democracy. There is not a single matter that comes before this House of Representatives on a regular basis that requires a supermajority. Everything is done by majority vote in the House of Representatives. True, in the United States Senate there are some limited chances to use a supermajority. Ratification of treaties, a very limited exception. But everything that comes before the people's House requires a majority, not a supermajority.

Why do they fear the will of the majority? It is very difficult to understand. Once again, I would point out this has been defeated six times. They are very slow learners, indeed.

Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me this time. If you think that our current Tax Code is just right, that it is fair, that it is equitable to everyone, including the most powerful corporations in this country, that all are being treated fairly and are paying their fair share, and that there are not any lobbyists here in Washington that manage to get special loopholes written into the Tax Code so that they can shift the cost of our national security to you instead of paying their fair share, then the proposal that is up tonight is just right for you. The purpose of this proposal is not tax relief, but to freeze, with constitutional protection, all of the various loopholes and preferences and backdoor arrangements that plague our tax system. The provisions that make our Tax Code more complex and more inequitable so that some are not paying their fair share and those folks that are out there working hard for a living, working with small businesses and farms and ranches around this country, they are having sometimes to pay more than their fair share to make up for those who escape through the loopholes.

And so what do we have here? We have a provision that if we attempt to close one of those loopholes, that it will take not a majority, it will take two-thirds of this House. If we could easily get a majority to clean up all the special interest provisions in this Tax Code, it would have been done a long time ago. But Republicans are not satisfied to have a mere majority required. They insist on requiring two-thirds of this body having the courage to stand up to the special interests that riddle our Tax Code with all these special preferences. That will never happen.

So many of our Republican colleagues are a little like Will Rogers: they have never met a tax loophole that they did not like. And so what we really have is a measure here that ought to be called the ''tax loophole preservation'' amendment, because that is exactly what it is.

My good friend from Texas (Mr. SESSIONS) says, not to worry, we have a ''de minimis'' provision in this amendment that will permit repeal of tax loopholes and preferences. But the ''de minimis'' provision is one of the most

defective features of this entirely defective amendment. No one knows what ''de minimis'' really means. The tax loophole problem, the abusive corporate tax shelter problem, is not minor, not de minimis. Some have estimated the cost is as much as $10 billion a year. I think that is pretty significant.

The gentleman from Massachusetts (Mr. NEAL) will speak shortly. Some of us share his concern with Stanley Works or, as one of my friends in Austin says, they really ought to be called Stanley Flees. That corporation and others, we have gotten to a point with abusive tax shelters that is so bad that they have the audacity to flee this country, get a mailbox in someplace like Bermuda, misuse our tax treaties and set up a new Bermuda Triangle out to the Barbados. Refusing to pay their fair share of taxes, they shift burden to people in this country that are willing to make a sacrifice after September 11, that feel we have some responsibility to work together as a country and pay our fair share. We will be freezing into law those special provisions if this amendment were adopted.

And, of course, there is the fiscal responsibility concern. That is why a group like the bipartisan, nonpartisan Concord Coalition has come out so strongly today against this proposal, noting that it ''defies all notions of fiscal responsibility.'' This is a group that has worked so hard to get us a balanced budget and now sees balances so quickly eluding us in a sea of red ink. This amendment would only make our budget situation worse.

Everyone who wants to see our tax system improved, who wants to see more equity and fewer accountants necessary to file a tax return on April 15, less complexity and more simplicity in our system, all of us who want real change, need to vote against this amendment.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, once again the gentleman from Texas (Mr. DOGGETT) is wrong. Had he read the amendment that is being proposed, revenue-neutral legislation which raise taxes here and lower taxes there in an equal amount do not require a two-thirds vote. They can be passed by a majority vote. So if the gentleman from Texas wanted to close all of these loopholes that he was talking about, maybe including some that benefit the oil industry, then perhaps enough money could be raised to repeal the marriage tax penalty or to provide further relief on the death tax to small business owners and farmers. As long as he wants to give a tax break for the money that he raises on closing the loopholes, then it is a majority. But if he wants to stick the American public with a tax increase and not give a tax break, then it requires a two-thirds vote.

So all I am saying is that if the gentleman from Texas really wants to be generous with the taxpayers because of his very sincere opposition to loopholes, tell us where you would lower taxes and then you would get a majority vote.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds. I have been sitting over here trying to figure out why are these people so antagonistic to majority rule and it finally occurred to me. They are worried that they are not going to be in the majority after this election and they are going to be in the minority, and so they want minorities to be able to have a veto power over the will of the majority. It is very interesting.

Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. TANNER).

(Mr. TANNER asked and was given permission to revise and extend his remarks.)

Mr. TANNER. Mr. Speaker, I went before the Committee on Rules last night and asked that rather than consider a constitutional amendment, which I do not favor normally, to restrict the raising of revenue, I thought it would be much better and more honest and forthright if we changed restricting the ability of the Congress to raise revenue to restrict it from borrowing money.

We owe $6 trillion collectively, every man, woman and child in this country, and we see that today as was the case yesterday, we continue to see the amount of borrowing go up. The problem is excessive spending and unbalanced budgets because Congress in the past has not had the will to either cut services to come in line with the existing revenue or to raise revenue to pay for the services that they deem to be in the public interest at that particular time.

The most insidious tax increase in the world is for us to continue to borrow money, because that requires us to pay interest. I hope every young person is listening to this, because what we are doing is saddling your generation with debt that we are unwilling to raise the money to pay for the services that we think we require today. That is what is going on. It has been going on, and this will do nothing to stop that. In fact, this will make it worse. Because if we have to do some things that were unforeseen last year when some of us voted for the tax bill when we did not know about 9/11 and if we have to do some things to spend money to protect the citizens of this country, the passage of this will restrict that ability to do so, number one. And, number two, what we are really doing is engaging in the politics of shifting responsibility, not accepting it. We are shifting to the Constitution something that it was not intended to do. But beyond that, I just feel so strongly that what we are doing is so wrong to the next generation by continuing to borrow money because we do not have the willpower to raise the money to pay for what we need today that we are enjoying the benefits of.

One could argue from now until kingdom come. The gentleman from Texas (Mr. STENHOLM) was the father of the balanced budget amendment. He worked on it for 14 years, I guess, before we got it up, and it was good and we passed it. Unfortunately, we have not been able to live up to it, but it is not because we are unwilling to do so, in many instances. It is because it is tough. It is tough to raise the money to spend $1 million a copy on a cruise missile, to build the aircraft carriers we need, to do the things we need in this country. That is not easy to do. But it is our responsibility to do it. Instead, we shift it to the next generation by saying, well, no, we are not going to raise taxes. As the gentleman said, we are not going to stick it to the American public today, to us. We are going to stick it to the kids. Kids are people, too, and the people that are going to pay the bills for what we have been doing are not here. They do not have a voice.

It is hard to raise taxes. Nobody comes here saying, ''I want to raise taxes. Send me to Washington.'' It is easy to say, I want to cut taxes. But yet I want to build the strongest military in the history of the world. But we are not going to ask you to pay anything for it. We are going to borrow the money and send it to the next generation.

The President sent us a budget down here that does not balance without using Social Security money for 10 years, for the next decade, and nobody has raised a voice to say, look, we owe $6 trillion. We are paying $1 billion a day in interest. You talk about taxes. If you want to make sure that all of us are overtaxed the rest of our lives, continue to borrow money and continue to pay $1 billion a day in interest and leave that to your children to pay. Just like we say we do not want to leave them a country where the air is so bad one has to wear a mask to ride a bicycle, and the water is so foul that fish cannot live in it and kids cannot swim in it, I do not want to leave them a country that is so burdened with debt that they are going to be paying over $1 billion a day in interest on the consumption we had while we were in charge and either would not pay for or did not have the fortitude to cut the programs that we did not think were necessary.

This is an ill-conceived constitutional amendment. If you are really serious about a constitutional amendment, put one in that says it takes a supermajority to borrow money. Then we will get down to the brass tacks of why we are here.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the gentleman from Tennessee and his comments. You raise taxes, you increase spending. We know there are two sides to this equation. What the gentleman talked about that

he offered in the Committee on Rules last night was to balance the budget and not borrow any more money. But we have also got to make it more difficult to raise taxes. The fact of the matter is the last tax increase we had in 1993 that was retroactive, that reached back, the bottom line is they increased taxes to pay for more spending. That is what they did with it. They spent the money that they taxed on the American people. That is what the party did, and that is why we believe it ought to be more difficult to do that.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BARTON) who is really the father of this fabulous tax limitation amendment, a gentleman who carried not only the ideas but also the legislation, a fabulous friend of Texas and a fabulous friend of the taxpayer.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks and include extraneous material.)

□ 1830

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, it is ironic that my good friend the gentleman from Texas (Mr. FROST) from the 24th District was talking about being afraid of the majority. This bill has passed with majorities every time it has come to the floor. My guess is later this evening when we vote on it, we are going to get over 200 Republicans to vote for it and somewhere between 30 and 40 Democrats. I wish we could get 90 Democrats and actually get the two-thirds vote, but because the Constitution says you have to have a supermajority to pass a tax increase, we have not been able to reach that hurdle.

I am okay with requiring a two-thirds vote to pass a constitutional amendment, because you need consensus in the country. As long as two-thirds of the House Democrats oppose this, it is not going to pass, even if we get 80 or 90 percent of the House Republicans. So the Constitution says to do important things you have got to show that you have got a super-consensus.

I also think that it is ironic that in the other body, which is controlled by the Democrats right now, it takes a supermajority to bring a bill to the floor. My good friend from the Committee on Rules knows this. If 41 Senators do not want a bill to come to the floor in the other body, it will not come to the floor. It takes a supermajority in the other body to invoke cloture. I think it should take a supermajority to raise taxes on the American people.

The Constitution as it was originally adopted had an absolute prohibition against income taxes, an absolute prohibition. In 1913 the Supreme Court said income taxes are constitutional. In 1914 President Woodrow Wilson passed a temporary income tax bill. The tax burden on the average taxpayer has gone up 4,000 percent since 1914; 4,000 percent.

Those of us that support this amendment say it is now about time to give the taxpayers a break, to require a supermajority two-thirds vote to raise taxes.

Mr. Speaker, the Tax Limitation Amendment has 150 cosponsors and is supported by over three dozen pro-taxpayer, pro-growth, and small business organizations.

I am proud to be an original cosponsor of H.J. Res. 96, the Tax Limitation Amendment, which would require a two-thirds supermajority requirement for net tax increases. I have long been a firm proponent of tax limitation since my arrival in Congress in 1985. The American Taxpayers deserve the right to know that Members of congress will not spend their money needlessly or without a strong consensus. One vote is simply not enough.

I strongly believe it must be more difficult for Congress to raise taxes. That is the primary purpose behind this amendment. In fact, taxes are higher now than they have ever been and federal revenues are growing at an alarming rate. Individual income taxes are higher now than ever before. By raising the bar on tax increases, we place the focus where it should be—on cutting wasteful spending.

There has long been in our political system a bias toward raising taxes. Spending benefits are targeted at specific groups. These special interests successfully lobby Congress and the President for more spending. Taxes, on the other hand, are spread among millions of people. Taxpayers usually cannot come together as effectively as a special interest group with a specific appropriation to defend. As Congress seeks fiscal responsibility and spending remains high, the built-in pressure forces Congress towards more taxes. The supermajority provision balances this pressure.

The Tax Limitation Amendment will provide flexibility to Members who want to honestly adjust the tax code without raising taxes. The language of the Amendment subjects net tax increases to the supermajority requirement. Any bill that would increase some taxes, but also reduce others by a larger amount, could still pass with a simple majority. Also, any fundamental tax reform which would have the overall effect of lower taxes could still pass with a simple majority. The Tax Limitation Amendment will keep the current tax code from getting much worse and will lock into place any new system which may replace it.

The amendment does not require a two-thirds vote for every tax increase in any bill. Individual provisions of bills which increase internal revenues are not along subject to the two-thirds requirements. Any entire bill which overall would increase the internal revenues beyond the de minimis amount is subject to the two-thirds requirement. As a result, Congress could pass by a simple majority a bill which does have provisions increasing the internal revenue, yet on the whole does not have an increase beyond the de minimis amount.

The Tax Limitation Amendment is intended to make major tax increases more difficult. It is not intended to stop all tax legislation. Most legislation making corrections or small changes to the tax code are structured to be slightly revenue positive, at least in some years, because it is very difficult to make a bill be exactly revenue neutral in all the relevant time periods. Since bills which are a net revenue loss are subject to complicated budget process rules, the Tax Limitation Amendment allows these and other small increases to pass with a simple majority.

Opponents of the Tax Limitation Amendment argue that we are trying to protect tax loopholes; however, the truth is that the de minimis exemption would allow nearly all loopholes to be closed without the super majority requirement. Most loophole closing would not produce enough revenue to surpass the ''de minimis'' test, and, therefore, could be passed with the current simple majority. Only the combining of several major loopholes would exceed the ''de minimis'' amount and require the two-thirds vote.

Experience in the states proves tax limitation works. The millions of Americans living in states who have tax limitation in their state constitutions know they are better off. These people have slower growth in taxes, slower growth in spending, faster growing economics, and more shrinking unemployment rate.

Taxpayers would enjoy the same type of benefits and protection on their Federal returns if the Tax Limitation Amendment is adopted on a national scale. With supermajority requirements for tax increases, American taxpayers would see fewer and smaller growth in taxes and spending, and a stronger economy and employment base.

In fact, the American taxpayers would be taxed billions of dollars less if tax limitation had been in effect during the last five major tax increases. Four of those five bills passed with less than a two-thirds supermajority. The 1993 tax increase, the largest in history, passed by one vote. In order to achieve a supermajority, that tax increase would have had to be much lower to even have a chance of passing.

Any tax increase that passes with a two-thirds vote in each chamber of Congress will have greater support among the American people than an increase that is passed by the slimmest of margins. Such a consensus should be required from both Congress and the American people before we start increasing tax bills again. That is why I am here—to make future tax increases more difficult.

April 15 has become known in this country not for the warm weather that usually accompanies it, but for the ''Tax Man'' who on this day reaches into the pockets of the American taxpayer to take too much of their hard earned money. Americans are frustrated with the size of their individual tax bills and the effect that the collective tax burden has on the economy, their businesses, and their lives. The American people want to know that Congress is trying to help them. Making future tax increases more difficult is the perfect response. It is time to stand up for the American Taxpayer. It is time to pass the Tax Limitation Amendment.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL).

(Mr. NEAL of Massachusetts asked and was given permission to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, for the seventh time since Republicans assumed the helm of this institution, we are taking up a constitutional amendment on tax increases. If I

said it once, I have said it 10 times, or at least seven times; this is the wrong amendment. Why do we not channel our energies into simply balancing the budget? That is the responsible position to take. Do you know what? We could pass a balanced budget here without any difficulty whatsoever. The country would be better off.

Let us talk about the ''gimmickry of the week'' that we witness here time and again. Remember not long ago when we had a balanced budget amendment to the Constitution that they were all hollering about on the other side? Well, it strikes me as being odd that we were able to balance the budget without disturbing the Constitution.

Why we are back to deficit spending in large measure is because of the tax cut. That is why we are here today. The President has proposed $48 billion more for defense. He is going to get much of what he wants. He has proposed $38 billion for homeland security. He certainly is going to get much of what he wants. In this institution our response is, ''Let us cut taxes, the estate tax. Let us move to an artificial gimmick on raising taxes in this institution.''

Well, let us say very easily today that perhaps the Director of the Budget had it right. He now says, a presidential employee, by the way, that moving the government back into balance by 2005 ''is very iffy. We know what the models that we have been using are telling us, but they are very obsolete.''

What a difference a year makes, Mr. Speaker. It seems the much-touted $1 trillion tax cut that was based on glowing predictions about endless government surpluses now apparently has vanished, while the House leadership and the President's Budget Director wobble on the burden of controlling spending.

I am going to suggest tonight a great opportunity: Have every Member who submits a request to the Committee on Appropriations publish the letter. Let us have the Committee on Appropriations publish the letters. Let us find out who asks for the most money in spending, put it in front of the public for an opportunity to examine it, and then let us have the debate about spending.

The same people that march to the well hollering about taxes all the time, they load up the requests of the appropriators. They are the ones that help to drive spending. They make the demands on the appropriators. Let us publish those letters, and not put the appropriators on the spot the way we do here time and again.

This type of amendment is not only futile, it is dangerous. If this amendment were to pass and get enacted, it would make legislation such as legislation I proposed on those companies that are running off to Bermuda much harder to pass. A Member said not long ago that the American people do not object to paying their taxes fairly. Why is it they will not give us a vote here on those companies that are running off to Bermuda in this aura of patriotism that the American people are experiencing because they do not want to pay their share?

Will Rogers did say it right. He said this country has come to feel the same when Congress is in session as when a baby gets hold of a sledge hammer. Oppose this dangerous gimmick.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman from Texas for yielding me time.

Mr. Speaker, I think the question is, when are taxes too high? We have a system in the United States that has made us successful, I think, based on the fact that those that work hard, that save, that learn, that try, that invest, end up better off than those that do not. So when, at what point, are taxes so high that it loses some of the free enterprise motivation that has made us so successful in this country?

We are now faced with a dilemma. How can any free nation survive when a majority of its citizens now dependent on government services for so much no longer have the incentive to restrain the growth in government and the growth in taxes? Today the majority of Americans can vote themselves more generous government benefits at little or no cost to themselves, and, as a result, they have little incentive to restrain the growth in taxes.

So I think the question one has to ask is, somehow we have to somehow, someplace, come to grips with, at what point do we lose that motivation that has made us great in the first place, and, with our redistribution of wealth, discourage the kind of effort of so many people that are trying to work a little harder and learn a little more and save a little more and invest a little more?

Listen to this: 50 percent of Americans now pay less than 4 percent of the total individual income taxes, while the top 5 percent pay most of the individual income taxes. At the same time, the folks who are paying the least for government are receiving the most benefits. Americans who receive nearly half of the Federal benefits pay only 1 percent of the income taxes. Many of those beneficiaries are poor, but an increasing amount are middle class and wealthier citizens.

So what is the restraint, when most of the population is going to benefit from higher taxes? It seems to me part of that restraint that we should consider to keep the motivation that has made us great in the first place is having a supermajority to increase taxes.

The gentleman from Texas earlier said, let us have a supermajority for increasing the debt limit. I agree on that, too. Let us not hoodwink the American people with increasing the debt so that we can spend more money.

It is not the tax cut that has resulted in this deficit spending. Let me give you one example. In 1998, we said we promised a balanced budget in 2002 based on a prediction of revenues that have ended up this year, even with the tax cut, $120 billion more than we projected in 1998. So our revenues are higher than we projected. We are still in deficit spending, and that is because we have dramatically increased spending, even over and above what the war on terrorism has cost us.

Let me just conclude by saying our founders created a system where taxes are the price for government benefits and services. The idea is that voters would restrain the growth and expansion of government because of the personal costs to themselves in taxes.

If we are going to keep the motivation that made our system great in this free enterprise system, then there has to be a supper-effort on the part of this Congress and presidents of the United States to restrain the growth in borrowing and restrain the growth in taxes.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, with the greatest amount of humility and a desire to be genteel in this very gentle place, I would offer to say to you, Mr. Speaker, that I am disappointed and saddened that my colleagues and friends would cause us to engage in a frivolous discussion, almost a hoax on the American people.

This debate is irrelevant and unnecessary. Let me share with you the reason why. First of all, as many of my colleagues have already said, this amendment has been brought to the floor some six times and defeated. A constitutional amendment requires approval by two-thirds of both Houses and three-quarters of the State legislatures of the United States of America. In the very legislation that is written, it provides a waiver. The waiver acknowledges that when there is a declaration of war in effect, the Congress may waive this article.

Now, whether or not there has been a specific declaration of war, the President has repeatedly said this Nation is at war. Having just come back from Afghanistan, I can tell the Nation that we are spending $1 billion a month fighting terrorism in Afghanistan. And yet my friends want to bring a frivolous amendment to the floor talking about a two-thirds amendment dealing with increase to the revenue.

Let me tell you what the Founding Fathers thought about that when they gathered some 200 years-plus ago, excited about a new Nation, excited about democracy, excited about a Constitution that would reflect a democracy. James Madison argued that under the supermajority requirement, the

fundamental principles of free government would be reversed. It would no longer be the majority that would rule. The power would be transferred to the minority.

That is what my friends are asking us, to in fact give a one-third minority the right to control the whims, the desires and the needs of the American people.

Just a year ago this Nation had $5.6 trillion in surplus. Now, with an enormous, unnecessary tax cut, fostered and run through by the Republicans, we have almost zero. Out of that zero we must pay for the war against terrorism, we must provide protection to the people of the United States as it relates to homeland security. We must give our first responders the kind of dollars that are necessary to ensure the protection of the American people.

We were tragically, tragically hurt by the serious attack on the United States of September 11. New York in its tragedy and in its mourning looked to the Federal Government to provide the resources. I am sorry to say that I do not believe New York has even received the full $40 million that we have promised them. People are still hurting and people still mourning, but yet we have this amendment that is ridiculous inasmuch as it has never passed and we are asking for this Congress to stand here and debate something that will not pass.

But, more importantly, it makes no sense. I wonder whether any of the appropriators are on this particular amendment? Why? Because they realize what they are facing behind their closed doors trying to fund the needs of the American people. They realize we have no prescription drug benefit, as I previously said. They realize we have the danger of going into Social Security and Medicare.

Mr. Speaker, let me tell you, in 1993, this Congress did a most courageous thing. It was my colleagues in the Democratic party that cast a vote that provided us with the most prosperous years we could have ever had; $5.6 trillion in surplus, the ability for the economy to be generating jobs. Now, in my own community of Houston in the State of Texas, we have over 5-plus percentage of unemployment. We have people who are unemployed. That means that we need unemployment insurance. We have airlines who are teetering. We need transportation security resources. The borders need to be secured.

Mr. Speaker, why are we giving this hoax on the American people? And, most importantly, most importantly, if I can again refer you to the Founding Fathers. For those of us who cherish the Constitution and who understand the Bill of Rights, Mr. Speaker, this is, again, a hoax. Two-thirds, which then allows the American people to be diminished, if you will, by a one-third minority controlling the majority.

Let me say this, Mr. Speaker, as well. In this legislation, this proposed amendment, there is some language that says that there is an exemption, a waiver; that if this increase to the Internal Revenue system or stream of money is de minimis, then it is okay.

□ 1845

Well, I know when we are sitting around as families around the kitchen table, there is a question about what is de minimis. What is de minimis? Will we be in a protractive, legal litigation in Federal courts trying to understand what is de minimis to protect Social Security, de minimis to protect the Medicare system, de minimis to fight the war in Afghanistan, de minimis to be able to secure our borders, de minimis to be able to pay our military personnel or our veterans?

Mr. Speaker, I wish I did not have to come to the floor and argue against the value of what we do in this place; but, Mr. Speaker, this is a hoax, it is frivolous; and I hope my colleagues will vote it down as they have six times before.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume. The opportunity to be able to come to the well of this House and to speak is really a wonderful thing. It is an opportunity for people to express their views and visions, but we should remember that a majority of the Members have voted for this each of the six times that we voted on it, and today is another opportunity for us to seek that supermajority that it will require.

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE), a member of the Committee on the Judiciary.

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it has been said recently that this is a frivolous debate. Well, I would submit that there is no more important debate that we can debate here in the Congress. For those of us who believe in the principles of a limited government, economic freedom, individual responsibility, the question of how easy it should be to raise taxes is a very relevant debate to have every day that we have it.

Now, we have been told that the Founding Fathers would not approve this. Well, the Founding Fathers did not approve the Federal income tax. In fact, they expressly prohibited it. I would suggest that if the Founding Fathers were alive today and realized that 22 percent of the national income is now taken in taxes, they would applaud this move. They would applaud this move, because they realized that they believed in limited government, economic freedom, and individual responsibility.

If we look across the country today we see several States, nine in fact, that have such provisions. Arizona, the State that I come from, is one of them. Now, we recently had a huge deficit in Arizona and the States, unlike the Federal Government, are prohibited from carrying debts. So in Arizona, the debate has been this year on how are we going to bring spending in line with revenue. That is a debate that we ought to have every year in the Federal Government, because we run deficits. We can do that here; we should not be able to. That is why we need a balanced budget amendment as well.

But until we have one, we ought to make it more difficult to raise taxes. In Arizona, it has forced a debate that is healthy. There they have decided we are going to cut spending in this area and this area. There have been a few gimmicks, yes; but in large measure, they have actually done what we ought to be doing here. We ought to cut frivolous spending and take it from there.

So I commend the authors of this legislation, I support the rule, and I commend my colleagues for bringing it forward.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I believe I am a cosponsor of that resolution, and I am going to vote for it. But what I object to is the continued reference on this House floor, the continued effort on the part of some Members of this body to deceive the American public into thinking that we are balancing our budget. I do not care if a Democrat said it or a Republican said it, or I do not care if Adam's house cat said it. We are not.

The fact of the matter is that the President submitted a budget that was passed by a Republican majority in the House and the Senate last summer when the Republicans still controlled both bodies, as they did for 7 years. For 6 of those 7 years, we had deficit spending. As a matter of fact, I find it strange that we have to address the tax problem, because taxes have been addressed four times in the past 20 years when, for 41 of the past 42 years, Congress has run a deficit.

So I am going to say this very slowly. The President just submitted the first $2 trillion budget. The Republican Congress passed it. The Republican Congress increased spending by 8 percent last year and decreased revenues by 16 percent. That equated to, and I am going to say this very slowly so that no one misses it, $232 billion. This is the month of March. Actually, the number is, and I do not have it in front of me, but it is on my Web site, because I memorized it. The deficit has increased by $363 billion. That is a thousand times a thousand times a thousand times 363 in the past 12 months. The debt is now over $6 trillion. This was just March. It is now over $6 trillion. Two weeks ago my Republican colleagues voted to raise the debt limit by $750 billion; that is a thousand times a thousand times a thousand times 750. That is not balancing the budget.

Mr. Speaker, my point is, we are bringing the wrong constitutional amendment to the House floor. We

have had but one vote in the past 7 years on a balanced budget amendment to the Constitution. We sent it to the Senate. It failed by one vote. If we are really concerned about the future of our country, and if we have some guilt about sticking our kids with our bills, which is what we are doing; none of my colleagues would go buy a car, a $40,000 Lexus and say, I have a 7-year-old, bill him when he grows up. None of my colleagues would go to the Realtor in their hometowns and say, I want the most expensive house in town and, by the way, I have a 4-year-old grandchild, stick them with the bill, plus interest. But it is precisely what you have been doing with this country; and, guys, I think you are missing the point.

My Republican colleagues have run the House for the past 7 years. The ''they'' you keep talking about that is raising spending is you. When you go to shave tomorrow morning, look in the mirror. You all did it.

I liked you all so much better when you said you were for a balanced budget amendment, and I like you so much less when you do not do it.

Pass a balanced budget amendment to the Constitution. We have found time to take care of nutrea eradication on the Eastern Shore of Maryland. We found time to take care of tigers and rhinoceroses. We have named every post office in the United States of America. We have found time for a debate for all sorts of things that really are not all that vital. But, Mr. Speaker, we cannot find time to bring a debate and have a vote on a balanced budget amendment to the Constitution in the almost 4 years you have been Speaker, because it gets in the way of your tax cuts.

Quit sticking my kids with your bills. Quit robbing the 1 trillion, 270 billion dollars that is already owed to the Social Security trust fund. I have memorized that one too. Quit robbing the $228 billion that you have stolen from the Medicare trust fund. Quit robbing the over $500 billion, a thousand times a thousand times a thousand times 500, that is owed to the Federal Employees Retirement System right now. There is not a penny in any of those accounts and, for God's sake, as you tell the troops how much you love them, quit stealing the $167 billion, and I memorized that one too, that you owe to the military retirees' trust fund. There is not a penny in any one of those accounts.

All you are concerned about is taxes when you ought to be concerned about fulfilling the promises we made to each and every American, because each and every American falls into those categories. Quit stealing from them; pass a balanced budget amendment to the United States Constitution.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I appreciate that what the gentleman is talking about is very important; but part of this equation that was not talked about was every single time that we have a new person that gets employed in this country, the Social Security trust fund shows a deficit, and every single time a person goes to work and draws a paycheck in this country, that shows as a deficit also. So by America working harder, with the old, antiquated Social Security system that we have, it all increases what is known as the debt of this country, because we do not save that money, we spend it. So what the gentleman has talked about is part of our own system which is creating the deficit, which is why we need to change it.

So whoever comes to work for the first time tomorrow and for whoever is drawing a paycheck today, simply by working, we are creating a debt, because it is a liability that this government has to pay for. But that should not imply that that is necessarily irresponsible. It is the system that we have. Yes, it is Republicans and some Democrats that have suggested that we change that too. But let us not suggest it is spent, it is a future liability. Being responsible and being irresponsible should have been something that I wish the gentleman had spent some time on also, because this debt that is being set before us is from people who work in this country.

Mr. Speaker, I yield 2 minutes to the gentleman from Houston, Texas (Mr. CULBERSON), a bright young gentleman.

Mr. CULBERSON. Mr. Speaker, I thank the gentleman for yielding me this time on this important debate that I am hopeful there are many people out there watching tonight. I am pleased to join with the gentleman from Mississippi (Mr. TAYLOR) and with my colleague, the gentleman from Texas (Mr. SESSIONS), in supporting this constitutional amendment which tracks the language that has been adopted in many State constitutions across the country. I am pleased to hear the gentleman from Mississippi (Mr. TAYLOR) say that he will support this amendment to the United States Constitution tonight, limiting the ability of the United States Congress to raise taxes, because it is all too easy to raise spending here.

I think it is important to remember what the gentleman from Arizona (Mr. FLAKE) said is occurring today in the State of Arizona. Because Arizona has a tax limitation amendment that requires a supermajority before taxes can be raised, the State of Arizona is going through precisely the debate that the gentleman from Mississippi (Mr. TAYLOR) so correctly points out that we ought to be engaged in here is how do we control spending. Arizona is first asking, what can we do as a legislature to control spending before we go to raise taxes, because Arizona has a two-thirds supermajority requirement before taxes can be raised.

Mississippi has a three-fifths supermajority requirement before they can raise taxes. The State of Arkansas has a three-fourths requirement. California requires a two-thirds supermajority; Colorado, a two-thirds supermajority; Delaware, a three-fifths supermajority; Florida, a three-fifths supermajority. Louisiana, Missouri, Montana, Nevada, Oklahoma, Oregon, South Dakota, Washington, all of these States have supermajority requirements in their State constitutions to control tax increases because the power to tax is the power to destroy.

The founders, the authors of those State constitutions recognized that it is important to force the debate in those legislative bodies to focus on controlling spending first and to limit the ability of those legislatures to increase taxes.

This would be an extraordinarily healthy thing for the United States Congress to have this requirement in the U.S. Constitution to force us all to think carefully before we raise spending and, above all, to make it more difficult for us to take more money out of the American taxpayers' pockets.

Mr. Speaker, I am proud to join the gentleman from Texas (Mr. SESSIONS) in coauthoring this important legislation.

Mr. FROST. Mr. Speaker, I yield myself the remaining time.

This is not a complicated matter. Either one believes in majority rule, or one does not. This is the people's House; the majority rules. My friends on the other side somehow have gone astray and do not believe in the basic principle of democracy, of the majority rules. This constitutional amendment should be defeated for the seventh time.

Mr. Speaker, I yield back the balance of my time.

□ 1900

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have had a vigorous debate again today about an important issue. I simply believe it should be more difficult to raise taxes. I think that that will help America. I think most Americans understand what we are talking about. It is so easy to raise taxes today. That is why they have been raised in the past.

I am going to continue to bring this effort to the floor. I am going to keep talking about a balanced budget. We are going to keep talking about the things that will bring honor and dignity to the taxpayer of this country, and will solve our problems with the deficits. This is part of that overall debate.

I am proud of what we are going to do here today. This vote is on the rule. The rule is a fair rule. It is a rule that was passed yesterday in the Committee on Rules by a voice vote. I am going to ask all my colleagues to please vote for this rule. We will have a vigorous debate here in just a few minutes on that bill, but I would like to ask that we support the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 439, I call up the joint resolution (H.J. Res. 96) proposing a tax limitation amendment to the Constitution of the United States, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to House Resolution 439, the joint resolution is considered as read for amendment.

The text of H.J. Res. 96 is as follows:

H.J. RES. 96

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE—

''SECTION 1. Any bill, resolution, or other legislative measure changing the internal revenue laws shall require for final adoption in each House the concurrence of two-thirds of the Members of that House voting and present, unless that bill, resolution, or other legislative measure is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount. For the purposes of determining any increase in the internal revenue under this section, there shall be excluded any increase resulting from the lowering of an effective rate of any tax. On any vote for which the concurrence of two-thirds is required under this article, the yeas and nays of the Members of either House shall be entered on the Journal of that House.

''SECTION 2. The Congress may waive the requirements of this article when a declaration of war is in effect. The Congress may also waive this article when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any increase in the internal revenue enacted under such a waiver shall be effective for not longer than two years.''.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 1 hour of debate on the joint resolution.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Joint Resolution 96 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there has been a vigorous debate on the rule. Most of the debate on the rule was on the merits of House Joint Resolution 96. It is a simple and straightforward proposal. It proposes to amend the United States Constitution to require a two-thirds vote for tax increases, and by requiring a two-thirds vote on tax increases, there would be a requirement that there be a consensus within the Congress, and hopefully within the American public, that taxes should go up.

I think that given the history of some of the tax debates that have occurred since I have been in Congress, that type of consensus is sadly needed. The American public has been asking Senators and Representatives, Republicans and Democrats, to be Americans first and partisans second, and to be both bipartisan and nonpartisan when approaching the problems facing the country.

All too often, we have very hot debates and very split votes with very narrow majorities, and the American public, I think, is probably as evenly politically divided today as at any time in the history of the country. The Republicans control this House by six votes, the Democrats control the other body by one vote. The 2000 Presidential election was the closest Presidential election in the history of the country.

I do not think that the voters, in dividing themselves so evenly, voted for gridlock and expected nothing to be done during the 2-year period in 2001 and 2002.

With a constitutional amendment to require a two-thirds vote to raise taxes, neither side will be able to use majority voting power, narrow as it may be, to one-up the other and to pass a tax increase. Maybe a constitutional provision that has the effect of forcing bipartisanship will bring about the bipartisanship in economic issues that has been so sorely lacking, as contrasted to the bipartisanship in facing the war on terrorism.

I can tell the Members, I do not think I would be standing here today presenting this constitutional amendment to the House of Representatives if it were not for the one-vote margin by which the then-majority Democratic party passed a big tax increase in 1993, 218 to 216 in the House and 51 to 50 in the other body, where then-Vice President Gore was called upon to break a tie. Because of the reaction of the American public against the majority using its voting power in the way that it did, it had a sea change in the 1994 elections and brought Republicans to majorities in both the House and Senate.

So I think that by requiring bipartisanship on tax policy, which is one of the two key elements of our Federal economic policy that Congress has control of, spending being the other, we are going to be able to perhaps force both parties to compromise, to seek consensus, and to seek support before going for a tax increase.

Now, I have looked at what this constitutional amendment would have done to tax increases over the last 22 years, had it been in effect. What I came up with is kind of surprising. The opponents of this constitutional amendment repeatedly state that it will be impossible to ever pass a tax increase, nohow, no way, if a two-thirds vote was required in the Senate and in the House of Representatives.

Since 1980, there have been 16 tax increases enacted into law by the Congress of the United States. Surprisingly, 10 of those tax increases passed both Houses by two-thirds majorities, if we look at the vote on the conference report, which is the final version of the tax bill.

That included the 1980 reconciliation act; the 1980 crude oil windfall profits tax; the $50 billion Social Security tax increase, which was necessary to restore solvency to the Social Security trust fund in 1983; the 1986 reconciliation act; the 1986 tax reform act, which increased taxes in 3 of the 5 following years and decreased them in the other 2; the 1988 Miscellaneous Revenue Act; the 1989 reconciliation act; the 1992 energy policy tax act; the 1996 Small Business Job Protection Act; and the 1998 Internal Revenue Service restructuring act.

All of those were tax increase bills, I would submit, of more than a de minimis amount, because the smallest of these raised taxes by $1 billion, which I think very few people would argue being de minimis.

The tax increases which were enacted that failed of a two-thirds vote in the House were the 1982 Tax Equity and Fairness Responsibility Act, or TEFRA; the 1984 deficit reduction act; the 1985 reconciliation act; the 1987 reconciliation act; the 1990 reconciliation act; and the 1993 reconciliation act, which was the big tax increase that I referred to earlier on.

So people who really want bipartisanship being forced upon the Congress on tax policy should vote in favor of this, because it will mean, the way the voters are presently divided, that neither political party will have the votes to be able to pass a tax increase on the American people solely with their own votes. They will have to reach out and compromise with the other party, and then sell this issue to the American public.

That is why I am in favor of this constitutional amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Before I begin my statement on the constitutional amendment, I just have one factual correction for the distinguished chairman. The 2000 election was not the closest race in American history. In 1960, John Kennedy beat Richard Nixon by 118,000 votes. In 2000, Al Gore got 556,000 votes more than George Bush. It was, in fact, close in the Electoral College.

Mr. Speaker, I rise in opposition to this proposed constitutional amendment for the seventh time in as many years. As the ranking Democrat member of the Subcommittee on the Constitution of the Committee on the Judiciary, I would urge my colleagues not to treat the Constitution as if it were some derelict warehouse on which people could plaster their political posters.

The Constitution is the fundamental document of our Nation which sets the rules of government to protect our democracy and the rights of individuals. Yet, week after week, year after year, we come to the floor of the House to consider proposed constitutional amendments that are in fact little more than glorified press releases.

This constitutional graffiti has become so commonplace, so much part of the ritual of this House, so much of the way we all mark the passing of the seasons, that it has become something of an inside joke among the people who work here and the people who report on our work.

This is the seventh time since 1995 that the House has been subjected to this supermajority proposal. We will waste a couple of hours debating this before it is voted down yet again. We have also considered amendments concerning the nonexistent epidemic of flag-burning, victims' rights, and anything else that Republican pollsters think might play well in the 30-second campaign ads.

The core flaw of this amendment is that it requires a two-thirds vote of both houses of Congress to raise taxes. This is profoundly anti-democratic in that it enables a one-third minority to overrule almost two-thirds.

That includes any tax reform measure that would eliminate special interest loopholes, such as the loophole that allows American industries to incorporate in Bermuda and avoid paying taxes in the United States, or any of a number of multi-million dollar favorites that fill the thousands of pages in the Internal Revenue Code.

If this amendment were to be adopted, a small minority could block the elimination of these outrageous and unfair tax loopholes, but a simple majority could put new loopholes into law. In fact, it would be a one-way rachet. A majority elected by the American people could establish new tax loopholes for large corporations, or for anyone else. And if the American people, as is the process in our democracy, became very angry at this and threw out the rascals and elected a different majority to Congress next year, they could not change it because they would need a two-thirds majority to change what a simple majority did the year before. It is a one-way rachet. That is an absurd constitutional anomaly.

The gentleman spoke of making it necessary to have a two-thirds, a bipartisan consensus, to change tax policy. That is not what this amendment does. It requires a two-thirds consensus, a bipartisan consensus, to change taxes in one direction, but a simple majority in the other.

So a majority in Congress one year can reduce taxes, can get elected on a slogan of let us reduce taxes by $100 billion, and then it turns out that what they did reduces taxes by $1 trillion. Then the American people think it is more important not to clobber Social Security so they elect a different majority next year and say, restore the taxes up to the $100 billion they said they were going to cut. But no, that means a two-thirds majority.

If Members want the Tax Code to become even more unfair, even more slanted towards the special interests, even more complex than it now is, then this amendment is the best chance to do so. This amendment would tie Congress' hands in economic emergencies unrelated to war, and it would tie Congress' ability to protect Social Security or Medicare, to respond to financial crises, or to the next fiscally irresponsible President. That makes no sense.

Now, is there any special reason we need this constitutional amendment? The courage shown by the first President Bush and by President Clinton eliminated what many had considered permanent deficits. This was accomplished by cuts in spending and targeted tax increases. Many of my Republican colleagues blamed President Bush and demanded the head of his OMB director. Many of those same colleagues denounced and opposed President Clinton's budgets.

Well, the discipline imposed by the majority in Congress and President Bush I and President Clinton, worked, and we got rid of huge budget deficits and we finally got budget surpluses to show for it. We were able to start paying down the national debt.

What has happened since then? In little more than a year, the current President Bush and his supporters in Congress have managed to undo the work, the hard work, of more than a decade. We are running deficits, an over $230 billion deficit this year into the foreseeable future, and will continue to do so even without such needed reforms, which will cost money, such as a prescription drug benefit under Medicare, which most people here claim to support.

We will continue to raid the Social Security and Medicare trust funds. That is not because of a flaw in the Constitution, it is because of a failure of leadership, and a failure, a lack of courage to make tough decisions. This sort of fiscal crack-up is what happens when Members of Congress try to promise the American people something for nothing.

□ 1915

The first President Bush in 1980 called candidate Reagan's promise to slash taxes, increase spending, and balance the budget all at the same time voodoo economics. That was a slander against voodoo. Now instead of sound fiscal policies, we get this constitutional amendment, again designed to take our attention away from what is going on. The American people do not need symbolic politics. They need real leadership.

Supermajorities, Mr. Speaker, are anathema to the democratic system of government. That is why the Framers of the Constitution limited them to a very few areas, such as the impeachment of an elected President or amending the Constitution, the fundamental document of our government, itself.

And let me add one thing. We today have a given philosophy or most people have a given philosophy: it is good to reduce tax; it is bad to increase them. Maybe the majority of opinion of the American people agree with that. Maybe not. That is what elections are about. But even assuming that most people think that today, maybe our grandchildren 50 years hence will not think that. Maybe 50 years hence our grandchildren will think, or the majority will, that it is a good idea to increase taxes in order to pay them for Social Security or for whatever will seem necessary for them at that time.

Who are we today to tie their hands and say that our grandchildren and our children, that a minority shall rule in their day? Who are we to say because we have a particular opinion on an issue that 50 years from now our grandchildren shall be bound by our opinion on that issue, that if they want to increase taxes in 50 years to pay for what they think is more important than a lower tax rate, we will tell them no, you need a two-thirds vote, one-third can block it? That is saying that we are writing a particular opinion about a particular issue into the Constitution, and we should never do that. The Constitution is a guide to process. It distributes power to different agencies of the government. It reserves the right of people against government to free speech and so forth. It does not enact particular ideas, particular economic doctrines, or it should not at any rate.

Just how small a minority could hold this Nation hostage under this amendment? A group of Senators representing one-tenth of the population of the United States, those from the smaller States, could block any effort to raise revenues, to reform the Tax Code, to improve law enforcement, to exercise fiscal discipline, to balance the budget or do anything else that the remaining 90 percent of the Nation believes is absolutely necessary. Is this what the Members of this House really want?

In Federalist Number 58, James Madison, perhaps the Father of our Constitution, argues as follows. He said:

> It has been said that more than a majority ought to have been required . . . in particular cases, if not in all . . . for a decision. That some advantages might have resulted

from such a precaution cannot be denied. It might have been an additional shield to some particular interests, and other obstacle generally to hasty and partial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice or the general good might require new laws to be passed, or active measures to be pursued, the fundamental principle of free government would be reversed. It would be no longer the majority that would rule: this power would be transferred to the minority. Were the defensive privilege limited to particular cases, an interested minority might take advantage of it to screen themselves from equitable sacrifices to the general weal, or, in particular emergencies, to extort unreasonable indulgences.

And that of course is exactly what this amendment would do. It would say that in time of economic crisis or of real necessity where the majority felt it necessary to increase taxes to pay for whatever it was they thought it necessary to pay for, a minority, a one-third minority, could say no or could say okay, but only if you change the abortion laws in one way or another. The one-third minority would be able to blackmail the majority of the Nation.

We are now in a time of crisis, and the very real possibility that, as we seek to meet the challenges of the future, economic as well as military, a determined minority may be able to blackmail the Nation, is truly terrifying.

This debate is not about a particular tax rate. It is, as Madison rightly pointed out, about the very fabric of our democracy. We should not be considering this nonsense. We just did it last year. I know there is nothing I can do to dissuade the majority.

I thank my colleagues for their indulgence. Thank goodness like April 15, this preposterous notion comes up only once a year.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I appreciate the gentleman yielding. If I have been listening to you and hearing you correctly, do you believe that the debate on this constitutional amendment tonight is a waste of time?

Mr. NADLER. Yes, essentially I do. I do believe it is a waste of time and that it is a ridiculous proposal. We have rejected it six times in 6 years. We are going to reject it again. The gentleman knows that, and we ought to be debating the appropriations bills. We ought to be debating the reorganization of our homeland security. We ought to be debating a prescription drug bill for Medicare. We ought to be debating Social Security. We do not have time for all that, we are told. We have time for this.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield further?

Mr. NADLER. Yes, I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Let me propose a deal for the gentleman. Since we should be debating something else, if the gentleman will yield back the balance of his time, I will yield back the balance of mine and we can vote right away on this.

Mr. NADLER. Reclaiming my time, if we had scheduled something else for this time now instead of just going home for dinner, I would be happy to do that. But since the leadership of the House has decided this is more important than anything else and nothing else is available, that would not serve.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT) since the gentleman from New York (Mr. NADLER) wants us to debate this waste-of-time constitutional amendment further.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me time.

Contrary to the statement of the gentleman from New York (Mr. NADLER) that this is some kind of inside joke, what this actually does is it reveals clearly those of us in this House who are seriously committed to reducing the tax burden on the American people and making it tough to raise that tax burden in the future. Those folks who believe that will vote ''yes.'' It separates them from the folks that really do not care how high taxes are or how high they might go in the future. They will vote ''no.''

The amount of money taken out of the pockets of working Americans in the form of taxes is simply too high. This House has made significant efforts this year and in previous years to reduce the tax burden on the American people. We have done that in cooperation with the President. We have been successful in passing some of those pieces of legislation into law. It is also important that we protect hard-working American families from a future of excessive taxation.

Let us face it. Taxes are just too high in this country. By making it more difficult to raise taxes, H.J. Res. 96, the debate that we will hear this evening, it will do just that. H.J. Res. 96 would impose fiscal discipline and constrain the growth of Federal Government by requiring a two-thirds vote for any bill that increases the internal revenue by more than just a de minimis amount. The amendment would exclude any increase from the lowering of an effective rate of any tax. Congress may enforce and implement the amendment through legislation as authorized by law. In addition, if the United States needs to increase revenues to wage the war on international terrorism or engage in military conflicts abroad, the amendment provides that the supermajority requirement could be waived if the Congress declared war or adopted a joint resolution to engage in military conflict which caused an ''imminent and serous threat to national security.''

Supermajority voting is not a radical idea. There are 10 instances in which the Constitution already requires a supermajority vote. For example, conviction by the Senate following an impeachment; overriding a Presidential veto; consent to a treaty; and amending the Constitution require more than a simple majority, and there are others. Moreover, Mr. Speaker, 14 States currently have tax limitation provisions for all, most, or some tax increases. Out of those, 12 States require a supermajority for any tax increase.

This amendment will help to stem the tax-and-spend policies that too often rule this place, that rule Washington. American working men and women now have to toil from January to late April just to satisfy their tax obligation. Only after Big Government's insatiable appetite for taxes is satisfied, can American families begin to look out for their own needs.

In the 1950s, the Federal Government took about 5 percent of the average American family's money, and that was after fighting World War II and the Korean War. Since then, that figure has increased by five times. It has up to about 25 percent of the American families' money going just to pay their Federal income taxes. If you add State and local taxes on top of that, it is even higher.

Today, the Federal Government takes about a quarter of what we earn, and I am not sure anyone here would even suggest that government has become 500 percent more productive and efficient. Add that to the tax burden imposed by States and localities, and working families face an even larger tax bill.

The tax limitation amendment would greatly help American families who are already struggling to pay mounting tax bills. It would also require Congress to focus on options besides raising taxes to manage the Federal budget, helping to impose fiscal discipline, something we need in this place, and to constrain the growth of government, something we talk about a lot but far too often do not do.

Mr. Speaker, let us do right by working American families by supporting this legislation.

Mr. NADLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking minority member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I thank the ranking member of the subcommittee, and I am interested that everybody is now ready to turn this debate in and just have a vote; but yet it was scheduled late in the hour of today, and now we are anxious to get out of here. Let us leave.

Well, I just left the White House where there was a meeting with Members of both bodies about a homeland defense department. We have not figured out what the budget is going to be or where the money is coming from, and I am glad to note that our chairman of the Committee on the Judiciary, the gentleman from Wisconsin

(Mr. SENSENBRENNER), was at that meeting. And we are going to have to produce a lot of money from somewhere. It is not in the budget right now.

Could I ask, if we have this law in effect, if this constitutional amendment was prevailing, would we be able to raise that additional money? I think not. And so I would just like to remind us that we are in a serious, different situation.

When the previous President, Bill Clinton, left the White House, we had a $280 billion surplus. We now have a deficit of how much? $100 billion roughly. And now we are arguing the same kind of arguments. Let us make it bad.

My dear friend, the gentleman from Ohio (Mr. CHABOT), says we need to reduce taxes. Taxes are too high. Well, I have got an idea. Why do you not introduce some legislation to lower taxes? Why do you need a constitutional amendment to restrain yourself?

I remind you that since our former colleague Newt Gingrich's activities of 1994 have taken over, the Republican Party has controlled the House, and most times, the Senate. So what is wrong with passing bills to reduce taxes?

Now, I would like to turn to the other concern that in we are in a deficit situation. If Social Security is being jeopardized, do we really want to make it harder to account for how we are going to make up for these funds? I am not so sure if you really do. And if everybody keeps that in mind, we will be a lot better off in terms of how this budget thing is going to play out. We have got big bills coming along, and we are going to need money. And so to argue the same arguments that were heard in other Congresses when this same constitutional amendment was brought forward may not be consistent with what we are faced with at the present time.

Now, there is another reason that we may want to be careful about giving a minority one-third the right to determine the tax structure for an overwhelming majority, two-thirds.

□ 1930

That would be that there are a number of corporate tax provisions that are in the tax laws that would not be able to come up. My colleagues would not want that to happen, would they? We want to be able to go in and take out, for example, the tax benefits that come from setting up a company offshore and then reaping the benefit of little or no taxes and other corporate tax provisions that are being re-examined as we speak in the Congress now.

In fact, under this amendment, were it to pass, it would take more votes to close a tax loophole that might have been engineered by a powerful interest group than it would to cut Social Security, Medicare and education programs.

So I think this is not good economic policy, and for those reasons and some more that I would like to go into at a later point, I would urge everyone consider this measure very carefully as we move toward a vote tonight, and I thank my colleague from New York for yielding me the time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. HALL).

(Mr. HALL of Texas asked and was given permission to revise and extend his remarks.)

Mr. HALL of Texas. Mr. Speaker, I rise today in support of H.J. Res. 96, a tax limitation constitutional amendment. I have been a supporter of this amendment from the very first day I headed up here, and I will continue to support it as long as it takes to provide some constitutional protection against tax increases for hardworking Americans.

The tax increases that have been enacted since I have been in Congress have passed by a very narrow margin, sometimes by a single vote. It is my recollection that the Tax Reform Act of 1986 passed, I believe, by one vote. It was probably the worst Act this Congress ever passed. It was supported by President Reagan and it was supported by Rostenkowski. One of them knew what was in it, and I guarantee my colleagues it was not President Reagan.

Let me just tell my colleagues that legislation that hits everybody's pocketbooks ought to require more than a simple majority for a vote for passage. A two-thirds supermajority vote requirement would offer that protection that taxpayers need.

Let me tell my colleagues the biggest task in, of course, this legislation should not be whether Democrats or Republicans are for it, whether liberals or conservatives support it, but what most Americans want and how many Americans support this. If my colleagues would go home to their district and ask the first 10 constituents that they meet and just ask them the simple question whether they think it ought to be harder for us to raise taxes, I feel certain that all 10 of them would say yes. I have done that test and from in front of post offices on tax days and days that we were given runs with this bill in the years of the past, and I have never gotten a no from any of them. A simple question, does anyone think it ought to be harder to raise taxes. Every doggone one of them says yes.

Most Americans feel it is far too easy to raise taxes, and I think this amendment would let them know we understand their concerns and are willing to address them.

The economic climate today is not what it was last year when Congress worked with President Bush to enact some much-needed and deserved tax relief for our citizens. As a result, it is critical that we make a statement now that we are committed to controlling government spending rather than raising taxes in order to maintain a Federal balanced budget. It would be easy to balance the budget by simply raising the taxes; so it ought to be hard to do that.

We ought to balance the budget by cutting expenses, and any serious economic situation that might be, that might call for increased taxes would have to be addressed with the cooperation and understanding of all Americans and with more than a simple majority vote.

This legislation would ensure that such dialogue would take place. I urge my colleagues on both sides of the aisle to support this commonsense measure.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, it is kind of hard to take this resolution seriously. We have heard references to a balanced budget. This resolution has nothing to do with a balanced budget. Balanced means that one's spending does not exceed their revenues, but as we read the resolution, there is no limitation on spending. There is no limitation on size of government. Spending can be increased with a simple majority. Paying for the spending takes a two-thirds vote.

New programs can be enacted with a simple majority. Increase the size of government with a simple majority, but two-thirds vote in each House will be required to pay for that new spending or we just run up a deficit.

We have heard reference that the States have a simple majority to raise taxes, but those States balance their budgets as a matter of law. So if they cannot raise the taxes, they cannot do the spending. In this House, however, we can increase the spending whether we increase the taxes or not. We can run up a deficit and just leave it to the next generation to pay for it.

Further, Mr. Speaker, if we look at the resolution, we see what it does to corporate loopholes. To eliminate the corporate loophole that allows some corporations to move offshore and save taxes, that would require a two-thirds vote.

Finally, Mr. Speaker, this is a dubious effect, anyway, because the provisions can be waived with a simple majority any time the United States is "engaged in a military conflict which causes an imminent and serious threat to national security." Mr. Speaker, that has been the case almost continuously for the last 50 years, and it is not just for the conflict that we could raise taxes. It is during the conflict. So we would waive this provision and pass legislation, whether it has anything to do with terrorism or not.

Mr. Speaker, this resolution is a recipe for fiscal disaster. Increased spending with a simple majority, paying for that spending requires a two-thirds vote and a two-thirds vote to close corporate loopholes. For the sake of fiscal sanity, this resolution should be defeated.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I had not intended to speak this evening. I am not an attorney, one of the few in the House who I guess is not, but I decided to come and speak on certain practical aspects of this farcical legislation which we are voting on again this evening.

I heard a gentleman from the Republican side say this is about working families. Come on, let us not kid people in America. This is not about working families. This is about the super wealthy and the unpatriotic corporations who want to set up new tax dodges to move their profits offshore. For years they have been moving their foreign earned profits offshore to Bermuda and that has been accepted. Unfortunately, the Clinton administration left that loophole open and the Bush administration has tried to widen it.

Now they have got a new dodge. They strip their corporation and move the assets and profits to a tax treaty country, Luxembourg being one, but Luxembourg might require that they pay some taxes. God forbid they should pay any taxes. So then they also do the Bermuda trick so it has become now the new Bermuda Triangle.

This debate is too strange. It reminds me a lot of the Bermuda Triangle, but this is a new tax dodge being pushed by the same folks who brought us Enron, those same wonderful, ethical accounting companies, and now they have set up Stanley Works and other American corporations who are based in the United States of America, sell most of their product in the United States of America, have traditionally produced goods in the United States of America, of course now they are all going to China to produce their product. Some are still employing people here and it will say that they will pay taxes on their profits nowhere. That is the new Bermuda Triangle trick.

So, under this legislation, which is, of course, for working families, yeah, wink, wink, nod, nod, Stanley Works and other unpatriotic corporations and other unpatriotic multi-millionaires and billionaires would move all of their profits offshore, pay no taxes in the United States of America, still enjoying the defense and the blood of our young men and women in the military, still enjoying all the privileges of living in the greatest country on earth but paying nothing to support it, and guess what it would take to change that? A two-thirds vote of the United States House of Representatives. We cannot even get a simple majority vote to stop the unpatriotic corporations and these people from moving their profits offshore, and imagine what it would take to get a two-thirds vote.

It is pretty easy these days to buy half the House of Representatives. All they would have to do in the future would be cheaper, just buy a third of the House, and they could block any changes to close these loopholes. This is absolutely outrageous. At a time when America is engaged in a fight to defend our citizens against deadly threats from abroad and even perhaps within our own Nation, the wealthiest of the wealthy would pay nothing toward that fight, and under this legislation, it would be impossible to ever require that they pay some semblance of a fair share. This is absolutely outrageous. My colleagues should be ashamed of what they are trying to do.

Mr. NADLER. Mr. Speaker, I yield myself 30 seconds.

I simply want to point out that there have been no hearings on this resolution this year, no committee hearings, no committee markup. This came straight to the floor from I am not sure where, and this is a very cavalier way to treat amending the Constitution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I thank my friend from New York for yielding me the time.

It is bad enough we did not have hearings in committee. It is bad enough the bill is brought on the floor at this late hour, and now nobody wants to debate it. It has never passed. We have never had it in the Senate. This bill has never come up in the Senate, and now we want to rush to a vote. This is, I think, a serious disregard of a constitutional amendment.

Why did we bring it up? Is there somebody in the country, somebody's constituents that are urging that we have a constitutional amendment in which the majority rule would be taken away? I have not heard it. It has never passed the House ever, and yet it is being brought up now.

I think it is a little bit inappropriate, and I think our leadership should take a little bit more care about keeping Members late and then wondering why we should not even have a full debate on the matter. I feel very strongly that there should be a majority rule in terms of these kinds of questions. The supermajority should be rarely used, and it is my hope that as we have gradually begun to accumulate negative votes on this proposal, that we will get even more people voting against it tonight.

For a number of reasons, in addition to the ones that have already been discussed, I think that making it difficult to close loopholes is not a good way to proceed. This could create a lot of problems for us in a number of ways, and I am disappointed that we are proceeding in a very rushed manner.

We voted on this bill in April of 1996. We voted on this bill in April of 1997. We voted on this bill in April of 1998. We voted on this bill in April of 1999. We voted on this bill in April of 2000. We voted on this bill in 2001. Now we have it again with us today. What is the point? I think that this is a procedure that I have to have made very clear, that this is not the way that we should proceed on constitutional amendments.

I thank the gentleman from New York for allowing me this amount of time.

□ 1945

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this amendment, if passed, would contravene the fundamental principle of American democracy which is that majority rules. The gentleman from Ohio pointed out earlier that the principle supermajorities, meaning a minority can block something, is not a radical proposal. It may not be, but it is a fundamentally undemocratic proposal.

Mr. STARK. Mr. Speaker, I rise today in opposition to this ridiculous, misdirected constitutional amendment to require a two-thirds super majority vote for raising taxes.

The House Republican majority won't address the issues the American people want us to address because they just don't care or they simply can't get their act together. They won't give seniors a prescription drug benefit, their appropriations bills aren't ready to go, and they've about run out of taxes to cut. So instead they bring bills like this one to the floor in order to kill time and look like they're working.

I'm amused to see this constitutional amendment on the floor again this year. And my emphasis is on the word again. We have voted on this constitutional amendment seven items in the past seven years. Seven times, Mr. Speaker! And in each of the past seven years, the amendment has failed by large margins. Why has it failed? Because it's irresponsible and everybody knows it.

Requiring a two-thirds majority for Congress to increase taxes just doesn't make sense. For starters, it would risk the long-term solvency of Medicare and Social Security. It would also short-circuit our ability to produce balanced budgets and pay down the debt. Finally, it would undermine our efforts to enhance homeland security.

The Republicans' haughty talk about fiscal discipline is truly laughable. These Republicans who claim to be fiscally responsible are the same people who squandered our history-making surplus on a 1.3 trillion dollar tax cut. That tax cut, coupled with needed funding for the fight against terrorism, has plunged our nation into debt. And now they want to tie our hands with an ill-conceived constitutional amendment?

If the truth be known, the Republicans don't even need this amendment to make such a change. If they really want to require a two-thirds majority vote on raising taxes, they need only change the rules of the House. But that wouldn't be as flashy as a constitutional amendment. And it probably wouldn't fill up as much time, either.

What this House really needs is leadership. We need leaders who will respond to the needs of the American people, not puppets who do the bidding of giddy, right-wing conservatives. Leadership is what we need, but we clearly won't get it with this Republican majority. So let's go on with the charade, debate this dumb amendment, and vote it down as usual. No reason to get too excited about it; I'm sure it'll be back again next year.

Mr. BEREUTER. Mr. Speaker, this Member rises in principled and strong opposition to

H.J. Res. 96, the so-called ''tax limitation amendment.'' Certainly it would be more politically expedient to simply go along and vote in support of a constitutional amendment requiring two-thirds approval by Congress for any tax increase. However, as a matter of principle and conscience, this Member cannot do that.

As this Member stated when a similar amendment was considered by the House in the past, there must be a very great burden of proof to deviate from the basic principle of our democracy—the principle of majority rule. Unfortunately, this Member does not believe the proposed amendment to the U.S. Constitution meets that standard.

This Member has too much respect for the Constitution, majority rule, and for deficit reduction to vote for this transparently political maneuver. A better answer is to elect more people who make the maximum effort to vote against tax increase and, where appropriate, vote for tax cuts. That's real tax relief, not phony gamesmanship. This Member would ask that the attached two editorials, from the Omaha World Herald, and the Washington Post, be included with this statement in the CONGRESSIONAL RECORD. These editorials support this Member's position on the same legislation which was introduced in the previous 104th Congress. The Washington Post editorial noted that this amendment is likely ''to add to future deficits while disturbing the balance of powers and undercutting the democratic process by enshrining minority rule.''

While this Member could not support this bill (H.J. Res. 96), there should be no question of his continued and enthusiastic support for a balanced budget and a constitutional amendment requiring it. Tax increase should not routinely be employed to achieve a balanced budget. That is why this Member supported the inclusion of a provision in the House Rules requiring a three-fifths majority vote to pass a tax increase during the previous 105th and the 104th Congresses and would do so again. This supermajority requirement was adopted on January 7, 1997. However, to go beyond such a rule change and amend the Constitution as proposed in the so-called Tax Limitation Amendment, is, in this Member's opinion, an unreasonable and dangerous action. A change in house rules, of course, is not the permanent straight-jacket that a constitutional change would be.

In conclusion, this Member will vote against H.J. Res. 96, the so-called ''tax limitation amendment,'' as he has done in the past when this same legislation was debated on the House Floor.

[From the Omaha World Herald, Apr. 17, 1996]

GRANDSTANDING IN LIEU OF LEADERSHIP

The Republican push to make passage of tax increases more difficult was a shameless bit of election-year grandstanding.

GOP House members proposed adding to the Constitution an amendment requiring two-thirds majorities in the House and Senate in order to raise tax rates. An exception was built in for military emergencies.

In theory, the plan was to get the amendment through Congress with the required two-thirds majorities and then send it to the states. The amendment would be enacted if three-fourths of the state legislatures ratified it within seven years.

Supporters acknowledged that the measure was not likely to pass. But the vote—purposely scheduled for April 15, tax day—allowed them to classify congressmen as wimps or zealots on keeping tax rates down.

The amendment deserved to fail. It promoted a ''save us from ourselves'' gimmick as a replacement for leadership. It also would have allowed a majority of both houses to be overruled by one-third of the members, plus one, of either house. The Founders reserved such a supermajority requirement for rare instances, such as impeaching the president, overriding vetoes and ratifying treaties. But the raising of tax rates is a policy decision that should continue to be handled the way things ordinarily are in a representative democracy—that is, by majority rule.

This is not to say that raising tax rates should be easy. Indeed, when the House last year wrote a supermajority requirement into its rules, a World-Herald editorial acknowledged that there is room for reasonable disagreement on the question. We expressed the hope that the rule would lead to greater deliberation if a rate increase were proposed.

But changes in the Constitution shouldn't be necessary to get control of tax rates and spending levels. What is needed is more leadership from Congress and, in the current situation particularly, the White House. The job should be done by the people whom the voters have entrusted with making the tough calls on a bill-by-bill, program-by-program basis.

[From the Washington Post, Apr. 20, 1998]

. . . AND A TERRIBLE AMENDMENT

The House this week is scheduled to observe Tax Day a few days late by taking up a constitutional amendment requiring two-thirds votes of both houses to pass any bill raising federal revenue. It's bad idea that has been defeated before and deserves to be again. Supporters say it will lock in place what they regard as responsible fiscal policy. In fact, it would have the opposite result. Its likely effect would be to add to future deficits while disturbing the balance of powers and undercutting the democratic process by enshrining minority rule.

The country is about to enter an era of tight budgets. The prospect of a temporary surplus is in that sense particularly misleading. The cause will be demographic. The retirement of the baby boomers, beginning in fewer than 10 years, will both detract from revenues and add to costs. There will have to be benefit cuts, but there is no responsible way to deal with the problem just by cuts. Neither party would vote for such devastation, nor should it. Revenue increases also will be necessary; even then the country may have to shoulder additional debt.

This amendment would let one-third plus one of either house hold the country hostage in such circumstances. Who knows what the price of acquiescence in a revenue bill might be? It is not at all clear it would be the increased austerity the sponsors seek. An additional benefit here, a change in unrelated social policy there—those are the traditional coins for extracting extra votes. Does anyone seriously think that tradition will change?

The amendment would create a lopsided condition is still another respect. Taxes, against which it seeks to protect, are paid disproportionately by the better off. Benefits, which it would not protect, but put at greater risk, go largely to people when they are in need. The society is healthier because of these relatively modest shifts of income; the amendment would militate against them. It's a clumsy and unnecessary step in any number of wrong directions, and the House should vote it down.

Mr. BLUMENAUER. Mr. Speaker, for the second time in this 107th Congress, Republican leadership is bringing before the House this measure to amend the Constitution to require a super-majority vote to adopt tax increases. I continue to oppose this measure, which would simply provide greater obstacles for the Federal government to properly react to economic conditions. This amendment is fundamentally inconsistent with majority rule and would make it more difficult to react to the potential need to close corporate tax loopholes or to protect Social Security of Medicare.

This Congress needs to face current fiscal realities that have led to growing deficits. The President's tax cuts are compromising the government's ability to ensure security, fund domestic priorities, and honor our commitments to Social Security and Medicare, without burdening future generations with enormous debts. It is time for Congress to deal with the tax code and budget responsibly—not use the Constitution as a political prop.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise to oppose H.J. Res. 96, Tax Limitation Constitutional Amendment. There are three key points that are relevant to this constitutional amendment.

This Constitutional Amendment states that any bill changing the internal revenue laws will require approval by two-thirds of the Members of both the House and Senate.

A constitutional amendment must pass both houses of Congress by a ⅔ vote before it is passed onto the states for ratification.

Adoption of the 16th amendment in 1913 first allowed direct taxation of the American people by the federal government.

The underlying legislation of H.J. Res. 96, is an attempt to help the most well to do Americans through a constitutional amendment that limits the ability of Congress to raise taxes and cut deficits. It is no secret that this legislation is designed to disproportionately help the richest people in this country.

H.J. Res. 96 could make it difficult to maintain a balanced budget or to develop a responsible plan to restore Medicare or Social Security to long-term solvency. H.J. Res. 96 is a resolution proposing an amendment to the Constitution of the United States of America with respect to tax limitations, that would require any bill, resolution, or other legislative measure changing the internal revenue laws require for final adoption in each House the concurrence of two-thirds of the Members of that House voting and present, unless the bill is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount.

By requiring a two-thirds supermajority to adopt certain legislation, H.J. Res. 96 diminishes the vote of every Member of the House and Senate, denying the seminal concept of ''one person one vote''. This fundamental democratic principle ensures that a small minority may not prevent passage of important legislation. This legislation presents a real danger to future balanced budgets and Medicare and Social Security.

Under H.J. Res. 96, it would be incredibly difficult obtaining the requisite two-thirds supermajority required to pass important, fiscally responsible deficit-reducing packages. And at a time in our history when the Baby Boomers are now retiring, H.J. Res. 96 could make it more difficult to increase Medicare premiums for those most able to pay their fair share of the bill, and could make it difficult balancing both Medicare and Social Security payroll taxes in the long term.

H.J. Res. 96 would make it nearly impossible to plug tax loopholes and eliminate corporate tax welfare, or even to increase tax enforcement against foreign corporations. H.J. Res. 96 would also make it nearly impossible to balance the budget, or develop a responsible plan to restore Medicare or Social Security to long-term financial solvency.

I am deeply troubled by the concept of divesting a Member of the full import of his or her vote. As Professor Samuel Thompson, one of this Nation's leading tax law authorities, observed at a 1997 House Judiciary Subcommittee hearing on the same proposal: "the core problem with this proposed Constitutional amendment is that it would give special interest groups the upper hand in the tax legislative process."

By requiring a supermajority to do something as basic as getting the money to run government, H.J. Res. 96 diminishes the power of a member's vote. It is a diminution. It is a disparagement. It is inappropriate, and the fact that this particular amendment has failed seven times in a row suggests that Congress knows it.

H.J. Res. 96 will also make it nearly impossible to eliminate tax loopholes, thereby locking in the current tax system at the time of ratification. The core problem with this proposed constittional amendment is that it would give special interest groups the upper hand in the tax legislative process. Once a group of taxpayers receives either a planned or unplanned tax benefit with a simple majority vote of both Houses of Congress, the group will then be able to preserve the tax benefit with just a 34 percent vote of one House of Congress.

In addition, H.J. Res. 96 would make it inordinately difficult to make foreign corporations pay their fare share of taxes on income earned in this country. Congress would even be limited from changing the law to increase penalties against foreign multinationals that avoid U.S. taxes by claiming that profits earned in the U.S. were realized in offshore tax havens. Estimates of the costs of such tax dodges are also significant. An Internal Revenue Service Study estimated that foreign corporations cheated on their tax returns to the tune of $30 billion per year.

Another definitional problem arises from the fact that it is unclear how and when the so-called "de minimis" increase is to be measured, particularly in the context of a roughly $2 trillion annual budget. What if a bill resulted in increased revenues in years 1 and 2, but lower revenues thereafter? It is also unclear when the revenue impact is to be assessed, based off estimates prior to the bill's effective date, or subsequent determinations calculated many years out. Further, if a tax bill was retroactively found to be unconstitutional, the tax refund issues could present insurmountable logistical and budget problems.

I hope that my colleagues take seriously the path H.J. Res. 96 would lead us down were it to be adopted as is, therefore, I urge my colleagues to oppose H.J. Res. 96.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). All time having been yielded, under House Resolution 439, an amendment in the nature of a substitute, if printed in the CONGRESSIONAL RECORD and if offered by the minority leader or his designee, would be in order at this point. The Chair is aware of no qualifying amendment.

Pursuant to House Resolution 439, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have not voted in the affirmative.

Mr. CHABOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 227, nays 178, not voting 29, as follows:

[Roll No. 225]

YEAS—227

Aderholt
Akin
Andrews
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Berkley
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehner
Bonilla
Boozman
Boswell
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Coble
Collins
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeMint
Diaz-Balart
Doolittle
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hulshof
Hunter
Isakson
Issa
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pallone
Paul
Pence
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—178

Abercrombie
Ackerman
Allen
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Bereuter
Blumenauer
Boehlert
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Carson (IN)
Carson (OK)
Clay
Clement
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley
Doyle
Dreier
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gillmor
Gonzalez
Green (TX)
Gutierrez
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hostettler
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Pascrell
Pastor
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shaw
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watt (NC)
Weiner
Woolsey
Wu
Wynn

NOT VOTING—29

Berman
Blagojevich
Bono
Burton
Cardin
Chambliss
Clayton
Combest
DeLay
Dicks
Ford
Hall (OH)
Honda
Houghton
Jones (OH)
Lynch
Maloney (NY)
Menendez
Owens
Payne
Peterson (MN)
Peterson (PA)
Quinn
Reyes
Smith (TX)
Traficant
Watson (CA)
Waxman
Wexler

□ 2010

Messrs. MCNULTY, HILL, WYNN, LARSON of Connecticut, and Mrs. ROUKEMA changed their vote from ''yea'' to ''nay.''

So, two-thirds not having voted in favor thereof, the joint resolution was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CHAMBLISS. Mr. Speaker, on rollcall No. 225 I was inadvertently detained. Had I been present, I would have voted ''yea.''

Mr. PETERSON of Pennsylvania. Mr. Speaker, on rollcall No. 225 I was unavoidably detained. Had I been present, I would have voted ''yea.''

Mr. HONDA. Mr. Speaker, on rollcall No. 225, H.R. Res. 96—Constitutional Amendment Requiring a super majority vote to increase taxes, had I been present, I would have voted ''nay.''

Mr. FORD. Mr. Speaker, on rollcall No. 225, H.R. Res. 96—Proposing a tax limitation amendment to the constitution of the United States, had I been present, I would have voted ''nay.''

SUPPORTING RESPONSIBLE FATHERHOOD

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that the Committee on Education and the Workforce be discharged from further consideration of the resolution (H. Res. 442) supporting responsible fatherhood and encouraging greater involvement of fathers in the lives of their children, especially on Father's Day, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. SUNUNU). Is there objection to the request of the gentleman from Nebraska?

Ms. CARSON of Indiana. Mr. Speaker, reserving the right to object, and I do not intend to object, I yield to the gentleman from Nebraska to explain the resolution.

Mr. OSBORNE. I thank the gentlewoman for yielding.

Mr. Speaker, as we approach the upcoming celebration of Father's Day this Sunday, June 16, I am pleased to have this opportunity to speak on behalf of this resolution before us on the importance of fatherhood in this country. H.R. 442, introduced by the gentleman from Oklahoma (Mr. SULLIVAN), urges all Americans to support responsible fatherhood and to encourage greater involvement of fathers in the lives of their children, especially on Father's Day.

Over 36 years in my last profession, I worked with a great many young men who were fatherless. I saw directly the results of that fatherlessness, because if your dad does not care enough to stick around sometimes, even to see what you look like, there is a void in your life and sometimes you try to fill that void with all the wrong things. The number of children living in households without fathers has tripled over the last 40 years from just over 5 million in 1960 to almost 18 million today, which represents an increase of 350 percent. According to the National Fatherhood Initiative, 24 million children live without their biological fathers at the present time. Nearly one-half of our children will live at least part of their childhood without a father.

The problems associated with fatherlessness are far-reaching. The National Fatherhood Initiative cites numerous studies as it relates the following: a child living in a fatherless home is five times more likely to live in poverty than one who lives in a home with a father.

□ 2015

There is a much higher incidence of teenage pregnancy, suicide rates are much higher, they are two to three times more likely to commit a crime, much more likely to drop out of school, much more likely to get involved with drugs and alcohol, and I think, most importantly, and something that a lot of people miss, a fatherless daughter suffers just as much or more than a fatherless young man. It would appear that daughters are much more likely to be abused or assaulted if they do not have a father. A father acts as a protector for his daughter.

We need fathers to be active in their children's lives to instill values and act as role models. Fathers have a unique role to play in their children's lives to provide affirmation, affection and advice.

We have had a lot of conversation over the last several months about heroes. We hear the term quite often. I would like to point out another aspect, which I think has to do with persons being a hero.

Sometimes it is a person that gets up every morning and goes to work. It is a person who honors their marriage vows. It is a person who honors his commitment to his children. So, sometimes heroism is not something that is done in a moment of great danger, but it is something that is acted out on the stage of life over a long period of time.

We also would like to mention an anecdote here, which I think is accurate. This was kind of interesting. There was a chaplain who worked in a prison for men, and on Mother's Day the chaplain was asked by one of the inmates to get a card for Mother's Day. A greeting card company offered to provide several boxes of cards. So the word got around and nearly all of the inmates picked up a card and sent it to their mother on Mother's Day.

So they thought they would repeat the process on Father's Day. Father's Day came, they had a box of cards, and, strangely enough, according to this story, not one single inmate picked up a card to send to his father. The point was that probably in almost every case the father was absent, the father had abrogated his responsibility.

So I think on this particular occasion, when we look at our Nation, when we look at our Nation's future, if I could really ask for one thing, if I had one wish that could be granted, it would be that our fathers would fulfill their responsibility, that our fathers would be honored truly on Father's Day, because almost all of the social ills that we are looking at in our country today and all of the difficult things our young people are looking at really go back to the fact that our families are not intact, and particularly our fathers are not doing their job.

Mr. Speaker, I appreciate this opportunity.

Ms. CARSON of Indiana. Mr. Speaker, continuing my reservation of objection, let me say that, as you know, I introduced in the first session of this Congress H.R. 1300, the Responsible Fatherhood Act of 2001. It was legislation that sought to prescribe parameters for block grants to States and territories to implement at their option media campaigns promoting responsible fatherhood. It would have required the Secretary of Health and Human Services to contract with a nonprofit fatherhood promotion organization to develop and distribute media campaign literature that addressed the issue of responsible fatherhood to States, local governments, public agencies and private entities.

Although I have only been a Member of Congress going into my sixth year, annually I have sponsored a workshop for the Congressional Black Caucus weekend dealing with fatherhood and responsible fatherhood and responsible partnerships. My legislation would have developed a national clearinghouse to assist States in community efforts to promote and support responsible fatherhood by disseminating information under this media campaign.

I introduced also in the first session of the 107th Congress House Resolution 167, a resolution in support of fatherhood and in celebration of Father's Day.

This evening I am here, Mr. Speaker, to support H. Res. 442, which was authored by the gentleman from Oklahoma (Mr. SULLIVAN), on which my staff and his staff worked together to try to figure out how we could best solidify the two measures for the benefit of advancing legislation dealing with fatherhood and responsible fatherhood legislation.

I want to commend all of the responsible fathers who have worked laboriously to raise their children, along with their children's mothers, and who have provided college educations and lifetime opportunities for their children.

There are certainly countless numbers of men who have been engaged in responsible fatherhood and who have been an integral part of the well-being and growing up of their children, and now are involved in the lives of their grandchildren. I think they stand as beacons, as role models in terms of

what this country could in fact do for families if more fathers were responsible and accountable for their children.

My legislation that I offered in no way intended to insult the kind of participation that fathers have with their children. I recognize that there are situations, Mr. Speaker, where the father is unable to be at home in the same household with their children as their children grow up, but under my legislation we intend to try to connect children with their fathers in a very responsible way so that children can enjoy the benefits of having their fathers involved in their lives.

Approximately 50 percent of all children born in the United States spend at least half of their childhood in families without father figures. Three out of four adolescents in the United States report that they did not have adults in their lives that served as positive role models.

Children who are apart from their biological fathers are, in comparison to other children, five times more likely to live in poverty, more likely to bring weapons and drugs into the classroom, to commit other crimes, to drop out of school, to commit suicide, to abuse alcohol or drugs. Girls are inclined sometimes to become pregnant as teenagers.

The Federal Government spends billions of dollars to address social ills, and very little to promote responsible fatherhood. Child support is an important means by which a parent can take financial responsibility for a child, and emotional support is an important means by which a parent can take social responsibility for a child. It is important for the United States Congress as a body to promote responsible fatherhood and to encourage loving and healthy relationships between parents and their children in order to increase the chance that children will have two caring parents in their lives to help them grow up healthy, secure, responsible and accountable.

That is why I believe it is imperative, Mr. Speaker, that we do all that we can to ensure that every human being who is growing up to adulthood have access to two responsible parents in their lives and to ensure that fathers are not inhibited or prohibited through some archaic system from having active involvement in the well-being of their children.

Mr. Speaker, happy Father's Day again.

Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I simply want to add my voice to that of the gentleman and the gentlewoman in terms of raising the issue, as well as bringing to our attention the importance of fatherhood, especially as we approach Father's Day.

It just happens that in my Congressional district come Saturday we have a full day of activity that is designed to do nothing but promote responsible fatherhood, beginning early in the morning and going all day. It is a wonderful activity. Many of the individuals we find are looking for ways to reconnect with families, to reestablish relationships with their children. They simply need a little facilitation and a little bit of help.

I think this kind of discussion, this kind of initiative, and this kind of action will go a long ways toward that.

Ms. CARSON of Indiana. Mr. Speaker, I thank the gentleman from Illinois for his comments.

Continuing my reservation of objection, I yield to the gentleman from Oklahoma (Mr. SULLIVAN), and I thank the gentleman for his partnership in this effort.

Mr. SULLIVAN. Mr. Speaker, I thank the gentlewoman for hers as well.

Mr. Speaker, I would like to thank the gentleman from Nebraska (Mr. OSBORNE). I liked what he had to say.

Mr. Speaker, I rise today to offer H. Res. 442, to honor fathers on Father's Day and commend them for enhancing the lives of their children.

Fathers play a critical role in the development of our youth. In addition to traditionally being the head of the household, these men must serve as both spiritual leaders and protectors of their families. Millions of men throughout this country effectively execute these duties each day. Their children, in return, learn to be confident and productive citizens.

Our active fathers rarely get the recognition they deserve. Many understand that they must not only raise a child physically, but must also meet the emotional needs of their kids. Above all, dads must instill a sense of morality and spirituality in the hearts of their children.

Every child deserves the love and attention of their father. This is a simple fact. But we know that simple is not always synonymous with easy. In the chaotic and increasingly busy world, it is important to understand and, more important, to demonstrate that children are their fathers' number one priority. My children, Tommy, Meredith and Sidney, are my number one priority.

The children of today are the promise of tomorrow. With that in mind, the role of our fathers must be to continue to raise a Nation of leaders. We must teach our children to have a sense of optimism about the future and what lies ahead. Their generation will be better than ours. It will build on our wisdom to produce a bright and prosperous world.

Mr. Speaker, tonight I ask my colleagues to join me as we renew our commitment to being good parents. I especially call upon fathers throughout the country to instill those values that will change the lives of children.

I urge my colleagues to join me in supporting this important piece of legislation.

Ms. CARSON of Indiana. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Maryland (Mr. HOYER) for comments he may have in support of this effort.

Mr. HOYER. Mr. Speaker, I want to thank the gentleman from Oklahoma and the gentlewoman from Indiana for cosponsoring this resolution which expresses, I think, profound thoughts. We do not often express profound thoughts on the floor of this House.

Sunday will be Father's Day, and I will be blessed on Sunday. On Sunday two of my daughters, two of my granddaughters, and one of my grandsons will be at my house, and we are going to have a wonderful time. They are coming on Saturday. They will spend the night there. We will have a good time Saturday night and have dinner together.

My oldest daughter, who lives in Illinois, will not be there, but we will talk on Sunday. She will call and she will say, ''Dad, I love you, and I wish you a happy Father's Day,'' and nothing better will happen to me that day or any day. We lost Mom 5 years ago. Mother's Day was a special day at our house as well.

This resolution, as I say, articulates profound thoughts. As I was in the cloakroom, I heard the gentleman from Nebraska (Mr. OSBORNE) speaking. TOM OSBORNE is a special person in this body. Few of us, perhaps maybe none, have had the opportunity to be a father figure, not necessarily a biological father, obviously, but a father figure, someone to whom young men looked for guidance, for discipline, for direction, and for a sense of responsibility.

TOM OSBORNE, as all of us know, is one of the great football coaches in the history of America. So it was appropriate that he spoke and leads the effort on this resolution, because I know an awful lot of young men who perhaps did not have a dad at home, or did not have a dad that cared as much about them as we would have hoped he would have, looked to TOM OSBORNE for the growing of character that a father ought to give a son or a daughter.

□ 2030

So I congratulate the gentleman from Nebraska (Mr. OSBORNE) for the literally scores, hundreds, of young men, whose lives you have made a difference in.

Mr. Speaker, on page 2 of this resolution it says something very important: ''Whereas, the promotion of responsible fatherhood should not, 1, denigrate the standing and parenting efforts of single mothers whose efforts are heroic.''

That is so true. I know the gentlewoman from Indiana knows that to be the case. Young women, middle-aged women whose partners, in producing the greatest blessing of life, a child, do not participate in the raising of that child. This resolution says that not only is that good for the fathers, but it is absolutely critical for the children. Study after study shows us that there is nothing better for a child in the world than a stable family, than two

parents caring for that child and giving that child direction.

It goes on to say that ''this does not in any way lessen the protection of children from abusive parents.'' What a tragedy, that God gives to some a child, and they abuse that child and abuse that gift. ''Or cause women to remain in or enter into abusive relationships.'' Some of us know about that, and it is appropriate that we say that, that certainly a two-parent family that creates an abusive relationship is not a relationship in which children ought to be raised. It is a serious problem confronting our society; and as we consider this resolution, we look to the ''responsible'' in the reference to ''fatherhood,'' responsible towards the child and responsible towards the mom.

Lastly, it says that ''we do not want to compromise the health and safety of a custodial parent.''

I rise in support of this resolution because of its importance. We can appropriate all the money we want; we can have all the programs we want; we can have Head Start, we can have Chapter 1; we can have the CHIP program for child health; we can do all of those things, and nothing, nothing, nothing will be important, as important as two parents caring for that child they brought into this world.

I doubt, and I hope there is not a parent in this body or in this country that can hear the ballad that is so poignant, so compelling, the ''Cats in the Cradle.'' Those of my colleagues who remember the ''Cats in the Cradle'' song about the young man, the young man who asked dad to go out and play ball, the young man who asked dad to read the book, the young man who asked dad to spend a little bit of time with him. Dad is too busy. Dad is probably like some of us. He thinks things are too important, and he will be with his son a little later. And of course as that song continues, as my colleagues will recall, the dad gets older, the son gets older, and the dad says to the son, son, let us spend some time together. Of course by that time the son, like his dad when he was his age, has become preoccupied.

For those of us who have lived for some period of time who were very active when our children were young, who thought our lives were very important then, we perhaps look back and lament that we did not spend the time with our children that we should have. It is important not only that all of us urge fathers to be responsible, urge them to be engaged, but as well to urge ourselves to be the best possible parents we can, for nothing, nothing can be more positive for this country than that.

Mr. Speaker, I stand here tonight in support of House Resolution 442 which calls upon fathers around the country to use this Father's Day to reconnect and rededicate themselves to their childrens' lives.

This coming Sunday, June 16th, 2002, millions of Americans will celebrate Father's Day.

As a nation we set aside this day to recognize the tremendous impact that fathers have on the lives of children, as well as the stability of families.

As the father of three lovely and intelligent women, I know first hand the remarkable challenge, work and dedication it requires to be a good father.

It is through fatherhood that I live my most valued, joyful and reward moments.

On Father's Day, I would like to commend those who have fulfilled their responsibility as a father by providing materially for their families, as well as playing vital roles in the lives of their children, such as nurturer, moral instructor and mentor.

However, it is important for our society to take note that many children will face a void on Father's Day because they have no one with which to celebrate the occasion.

Today, an estimated 17 million children are living in households without a father. This makes the United States the world leader in fatherless families.

Children, on average, achieve more when they have involved, responsible, and committed fathers. A study released in May 2001, by the U.S. Department of Education, clearly shows how a father's active involvement in their child's education is particularly important for academic achievement, as measured by receiving mostly A grades and not having to repeat a grade.

In fact, research shows that children with absentee fathers are twice as likely to drop out of school, to commit a crime and to abuse alcohol and drugs. And, they have a five times greater chance of living in poverty and are more likely to become pregnant as a teenager.

The social implications of this reality are staggering. Action is needed to stop these vicious cycles of poverty and teen pregnancy.

I believe it is important to reinforce the values that all Americans share: hard work, self-discipline, and personal and family responsibility.

I support meaningful legislation that will help make both parents responsible for taking care of their children, such as improvements to the interstate enforcement of child support, as well as media awareness campaigns to promote responsible fatherhood skills.

It is important for society to send a clear and strong message to parents—especially teenage parents—that they must be responsible for their children—and I will continue to support and promote such initiatives.

It is my great pleasure to stand here tonight with my colleagues to reinforce the importance of responsible parenting and to commend fathers who have had a positive and lasting influence on the lives of their children.

Ms. CARSON of Indiana. Mr. Speaker, continuing under my reservation of objection, let me thank the gentleman very much for those very vital points that the gentleman inserted into this dialogue. It forces us to rethink our position in terms of the configuration of the family when we reflect on 9/11, as responsible fathers went to work to ensure that their families had economic well-being, only to be interrupted in terms of their life and being unable to go back.

So when we talk about fatherhood and partnerships and responsible fatherhood, we do consider that there are circumstances beyond the control of the biological father which would propel us into action to ensure that children do, in fact, have a connection with a responsible fatherhood figure, if you will, in their lives.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS of Oklahoma. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I appreciate her allotting me the time to say a few words on this, I think, very important issue. I want to say a special thanks to the gentleman from Oklahoma (Mr. SULLIVAN) and also to the gentleman from Nebraska (Mr. OSBORNE), who has been a tremendous role model and friend, who understands the need to have a role model and, truly, the gentleman from Nebraska has been a role model for many young men.

I, like many others, have lived trying to make sure, trying to be the kind of father that my children would like. I was raised in a broken home, and there were lots of nights I went to bed thinking about, hoping and praying that God would let me be a father one of these days and maybe I could be a father to my children and also my grandchildren, because I do know the meaning. My mother raised me outside of a small farming community of less than 200 population, and I always look back and think how my mom, as a single parent, how she did it. We all worked. We all worked three part-time jobs and we were able to make it. But that small town was like a father, so to speak. It just consumes itself in trying to make sure that we as young people followed certain standards and values, et cetera; and I am just thankful to have been raised in that small community.

But I would like for my colleagues to know that I lay awake at night and I wonder how in the world do we save the inner city kids? How do we save those kids who many of them do not know who their father is? Sometimes they do not know either parent, and they find there is no role model. I know the gentleman from Nebraska (Mr. OSBORNE) and I have talked about role models. I think each and every one of us in life is a role model in one way or the other, one way or the other. I think it behooves us to try to get that message across, that we are responsible to try to help raise the children in some way so that they can be responsible and so that they can enter their fatherhood somewhere along the way.

As the gentleman from Maryland was talking about, statistics prove it out. I know I have been on the selection team of the top 10 students at Oklahoma State University for about 15 years; and over that period of time, it has been amazing to me to see the outstanding students, and most of them had both parents. Let me say this to any young person who may come from a broken home, a divorced home, you can use it as an excuse, or you can use it as a building stone, a stepping stone. Because it is easy for us to say, well,

because I did not have a parent is the reason why I did not do this or maybe I turned out bad.

I am so thankful that the good Lord blessed me along the way. I stand in support of H. Res. 442, because I think we cannot do too much in trying to reach a lot of people and trying to make sure we provide for them that opportunity to be a father and be a role model as a father.

So I thank the gentlewoman from Indiana (Ms. CARSON) and the gentleman from Oklahoma (Mr. SULLIVAN) and especially my friend, the gentleman from Nebraska (Mr. OSBORNE), who I am just thankful that he will be coming to Oklahoma to be the presenter for my entry into the Oklahoma Hall of Fame; and I really and sincerely mean that, because as I have told my friend, as the Nebraska coach, we owe him a whole lot. I really want him to come because I want the people of Oklahoma to know the gentleman from Nebraska (Mr. OSBORNE) whom I have grown to love and respect as a fellow human being. But to the gentleman from Nebraska, we thank him so much for being part of our family here. I want to thank the gentleman from Oklahoma (Mr. SULLIVAN) and look forward to having him in Oklahoma. I thank the gentleman for what he has meant to the delegation in bringing this to our attention.

As I go through life, and as some here know, I am going home after this year, and people ask me what I am going to do, and I say I am going home to try to be the best father I can be, to be a papa, and to make memories.

Ms. CARSON of Indiana. Mr. Speaker, continuing my reservation of objection, I thank the gentleman from Oklahoma (Mr. WATKINS).

I too want to add accolades to the gentleman from Nebraska (Mr. OSBORNE) and certainly for the kind words from the gentleman from Oklahoma (Mr. WATKINS) and also to the gentleman from Maryland (Mr. HOYER) and the gentleman from Illinois (Mr. DAVIS).

As we continue this dialogue in terms of these measures that are before us, I think that the gentleman from Oklahoma (Mr. WATKINS) brought up a very valuable point, and I want to insert a very invaluable point, I believe. All children in the inner city are not the stereotypical kind that one would believe. I myself came from an urban area and was born to a teen-age single mother, and the gentleman from Oklahoma (Mr. WATKINS) made a good point that people can make choices about what it is that they want to be, and it is kind of difficult for us to muscle ourselves through life being branded as bastards, illegitimate, and coming from inner city areas. When you look back at some of the national episodes that occurred perpetuated by children that came from two-parent families, I think we have to stress the importance of building on the morals of an individual rather than classifying an individual by environment or by neighborhood or by all of these other systemic kinds of situations.

Continuing to reserve my right to object, I yield to the gentleman from Indiana (Mr. PENCE), whose oratory is almost as good as mine, but it is a joy to have him in the delegation. I was just with him the other night at a dinner. He would not want anybody to know that, but I have to tell that, and I do have a lot of appreciation for the good work that my colleague, the gentleman from Indiana (Mr. PENCE), does; and it is a pleasure to yield to him.

Mr. PENCE. Mr. Speaker, I thank the gentlewoman for yielding and for those kind words and, more to the point, for her original sponsorship of this important resolution tonight and to its author, one of the newest Members of this institution, the gentleman from Oklahoma (Mr. SULLIVAN), who has already begun to make a tremendous impression on all of his colleagues on issues important to the family. And to the gentleman from Nebraska (Mr. OSBORNE), my thanks to him for his leadership on this issue as well.

My father was Ed Pence, who raised a family of four boys and two girls that were the passion of his life until he passed away in 1988 at the young age of 58, leaving all of us to this day heartbroken. And let me say that my father was tough as a father with a drill instructor background. He was at times completely unfair. His punishments were unjustifiable and without appeal, but my father was there, and that privilege for me is one of the greatest evidences of God's grace in my life. And my father's presence in my life and the lives of my brothers and sisters I have tried to emulate and replicate in the lives of Michael and Charlotte and Audrey who sit at our home at this hour watching this important conversation. It is one of the sublime privileges of my life to be their daddy and to try to live up to the high standards of my father. But it was a standard that was set simply by the idea that we really celebrate tonight in the gentleman from Oklahoma's resolution, and that is it is about being there for dads.

Sometimes I wonder in my heart if in the sitcom culture that we have invented today we have not raised the bar too high for fathers, creating some standard where if dad is not there at the end of the day at school talking through every single problem conversation that their child had that somehow that father is not living up to the modern standard of a touchy-feely dad.

□ 2045

Today in this resolution we simply call on fathers to reconnect; to be promise-keepers, to live out the commitment that is not just biological but begins there and remains spiritual and relational through their lives.

Fatherlessness, as the gentleman from Nebraska said, is an epidemic in America. Forty percent of children who live in fatherless households in the United States have not seen their fathers in a year. Fifty percent of such children have never visited their father's homes. Nearly four out of 10 children born in America today are born in homes where their father will never live. It breaks my heart.

But I think that the leadership that the gentlewoman from Indiana (Ms. CARSON) is providing on this issue tonight is even more important, because if fatherlessness is an epidemic in America as a whole, it breaks my heart to say that in the last 25 years, fatherlessness has become a crisis in black America; that, for whatever reasons, whether they are a consequence of social welfare policies or trends or urbanization, black America, and particularly black American young men, have been growing up increasingly in a generation without their fathers at home. Six out of 10 black Americans today will be born and raised in a home where their fathers are not present, and it breaks my heart.

When we look at the statistics of what happens when dad is not around, children are five times more likely to end their lives in poverty, multiple times to become involved in crime and drugs and premarital sex and gang violence.

We must today come together, Christians and Jews, people of every race and every creed and every background and every party in this country, and declare war on fatherlessness, because it is, as the gentleman from Maryland (Mr. HOYER) said with great passion and eloquence a moment ago, it is something about which the survival of our Nation is tied up.

With this I close. The Bible talks of a time of renewal in the world, when the hearts of the fathers would be turned back to their children. It seems to me that the resolution offered tonight by the gentleman from Oklahoma (Mr. SULLIVAN), by the gentlewoman from Indiana (Ms. CARSON), and the gentleman from Nebraska (Mr. OSBORNE), is all about doing just that, in whatever small way we can in this institution to do our part to turn the hearts of the fathers of America back to their children; to sear their consciences as this Father's Day approaches, and maybe even begin the process in this place of turning Father's Day not into a day where you get a new pair of slippers, a new subscription to Sports Illustrated, some new homemade chiseled gifts and nailed boards, but maybe it is a day when fathers do not receive but they decide to give.

Those of us who have the privilege to call ourselves fathers or to be called daddy by somebody special in the world will recognize this holiday as a day when we can renew, as the gentleman from Oklahoma (Mr. SULLIVAN) suggests, renew and reconnect and rededicate ourselves to our children's lives.

Again, I commend the gentlewoman from Indiana for her passion, her leadership, her testimony, and the gentleman from Oklahoma (Mr. SULLIVAN).

Ms. CARSON of Indiana. Continuing to reserve my right to object, Mr. Speaker, I thank the gentleman from Indiana very much for his input, and I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentlewoman from Indiana for her early and constant leadership on this issue, and the gentleman from Oklahoma (Mr. SULLIVAN) for his leadership on this issue.

Two reasons, or more than two reasons, I rise to support this resolution: First of all, to pay tribute to America's fathers, many of whom are serving in the front lines of our war against terrorism, many of whom will not be with their children on Father's Day because of that.

I also would like to acknowledge my father, my late father, Ezra C. Jackson, who certainly represented a major force in my life; and then to pay tribute to my husband, Dr. Elwyn C. Lee, who plays a major role, not only in his children's lives, but that of his community.

That is why this resolution is so vital, because it emphasizes the importance and the very vitality of a man's love for his children. It indicates that that steady hand is needed, and the resolution calls for action. It literally asks fathers, wherever they may be, whether they are united with their families or they are not, it asks fathers to make an effort to be united with their children on Father's Day, and for the children to make an effort to be united with their fathers.

It is well known that this resolution also says that 40 percent of children who live in fatherless households in the United States have not seen their fathers in at least 1 year, and 50 percent of such children have never visited their father's homes.

As chair of the Congressional Children's Caucus, I see the poverty of children. When I see that, I am not only talking about the physical poverty, the financial poverty, but also the spiritual and social poverty of children; that when children do not have the steady hand of the dad, we can see the difference; that firm hand, that hand that either plays the local sports, that sits on the front row of that school ceremony, that visits that teacher, that waves you off to school.

There is something about the bonding between father and child, girl or boy, and I am gratified that this House would rise today on the eve of Father's Day to be able to acknowledge the importance of Father's Day.

I am affiliated with an effort called the U.S. Dream Academy. Senator ORRIN HATCH and the gentlewoman from Maryland (Mrs. MORELLA), Senator HILLARY CLINTON, Senator CORZINE, and many others have offered their support for this operation sponsored by Wintley Phipps. The idea of it is to work with children of incarcerated parents, those parents that are in prison.

What they have determined is that a child whose parent is in prison, and in particular, in many instances, it is the male parent, that child is doomed to the cycle of incarceration or imprisonment. The father, again, not in their lives. In many instances, this effort is to boost the child's self-esteem, but also to find ways to ensure that if there can be a relationship, even with that incarcerated parent, and there can be a support system on the outside that bolsters that child's ability to achieve, it is an important program.

This resolution applauds such efforts to create the opportunity for parent and child to be together, and that is for children to be with their parents. It promotes responsible fatherhood, so that fatherhood or the idea of being a father would not denigrate the standing or parenting efforts of single mothers whose efforts are heroic.

We are not trying to condemn or to criticize those individuals who have to raise their children alone, but we are saying to the fathers, wherever they are, they can make a holistic family by coming to those children and raising themselves up as a person to be admired, respected, and someone who wants to nurture and love their children.

We believe, of course, that putting fathers in the lives of children does not condone being abusive. We know there are circumstances where we must separate the children from the family; and, as well, we do not want to keep children or families, rather, or women in abusive relationships. That is not the intent of this resolution. Nor do we want to compromise the health or the safety of a custodial parent. Many times there are restraining orders.

To put all of that aside, we are not attempting to change situations where there is any jeopardy, but what we are saying is that in this Father's Day, this third Sunday in June, we want to make sure that children and fathers have an opportunity to come together.

So we urge in this resolution an understanding, we urge in this resolution love, we urge in this resolution bonding and friendship. I might simply say that we as a Nation understood the principles of motherhood and fatherhood; we have Mother's Day, we have Father's Day. We understand the toiling and the hard work.

We made efforts to ensure that when we built towns to the West, when we said, go west, young man and young woman, we would put together towns around families. The first thing that would be built would be the little schoolhouse.

We even know that the tragedy of slavery unfortunately undermined family systems. There was a great impact on that. We have to continue to mend that psychological crack, if you will. In all of that, we have come full circle to understand the value of fatherhood.

So, Mr. Speaker, I am very honored to join the leaders of this resolution. Again, I want to add my accolades to the gentlewoman from Indiana (Ms. CARSON), because she has been preaching this unity, this message about fatherhood, for many, many years. I am just delighted that she has brought this message to the United States Congress to be able to not only honor our fathers, to pay tribute to them, but also to challenge them to find their children, wherever they might be, and bring them close to them, and they will find great reward in the idea of fatherhood, both for themselves and for their children.

Ms. CARSON of Indiana. Continuing to reserve my right to object, Mr. Speaker, certainly I would like to do a premature congratulations to Alex Nock, who has worked very hard with the staff, and who in October will become a father. So I want to be the first one to tell him congratulations, and certainly to Ms. Nock. We look forward to this explosion of the population, and for him to move into the role that he has so aptly described in this resolution, along with the gentleman from Oklahoma (Mr. SULLIVAN).

Continuing to reserve my right to object, Mr. Speaker, I yield to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, I thank the gentlewoman from Indiana for yielding to me, and I thank and commend the gentleman from Oklahoma (Mr. SULLIVAN) for bringing this, along with the gentlewoman from Indiana, to our attention and to the floor. I would recognize also the gentleman from Nebraska (Mr. OSBORNE) for his leadership on this very important issue.

Mr. Speaker, we have many titles, many things we are called over the course of our lives. During school we have a lot of nicknames, and during my time in business I had a lot of fancy titles, and today we are called Congressmen or Congresswomen. But there is nothing more important than to be called ''dad.'' It is the most important title that I have.

I have had the opportunity to invest in many things that are valuable to me, whether it be my home, buying a car every now and then, or other things. But as my father would always say, my assets sit around the table, and they are the most important, most valuable things that we have.

We have many jobs. I have had many jobs in my life during my 20-year career in business, and I have an important job here serving the people in the Second District of Minnesota.

But there is no more important job that I have, no more important job that any father has, than in being a father to their children. That is really what this resolution talks about, is the importance of that, and the need to really reach out and honor that, thank those that do a good job, and encourage those fathers out there to take a more active role in their lives.

I have had the example in my life, as many have, and unfortunately, some have not, of having a great father to

guide me in this path. I can fondly remember the nights when he would tuck me in at night and come over to my bed and say my prayers.

Every night when I am home, which in our role is not often enough, but I always try to take time at the end of the night to go to each child's bedroom, and I am very blessed to have four children, along with my wife, Debbie, and spend time with them talking about their day, saying our prayers, giving them the sign of the cross on their forehead to keep them safe through the night and keep them strong in their faith, and help them grow in their lives.

□ 2100

But there are 24 million kids that do not have a father to come and talk to them at night or during the day or anytime. And it is those that we really our hearts go out to them and we should do everything we can to support them in our own way in role models. But the best thing that could happen for them is if their father was more involved. And that is what we are trying to do today, to encourage current fathers and future fathers to play a very important role in their children's lives.

As we celebrate Father's Day, we want to encourage them to remember, all fathers to remember that they have a role not just in bringing your child to life, but in teaching them, teaching them and working with them in their school work, working with them in terms of imparting your faith with them, working with them in helping them learn how to play sports, how to deal with some of the tough issues they face in life and dealing with young kids in their challenges that are giving them a hard time and sharing their stories as the struggles you went through.

So I would just commend and thank all fathers who are doing that today and commend them to redouble their efforts. I would encourage fathers that maybe have not really focused on that as much to really make a resolution this Father's Day to do that more. And I would also speak to the young men of the world that are not yet fathers to say, listen, if you are going to do that, you ought to take that act responsibly and you ought to have a commitment to those children that you bring into this world to bring them up as someone that you would be as happy to say that this is someone I have invested a lot of my life in and I am very pleased how they turned out.

So thanks to the fathers. Thanks again to the gentlewoman from Indiana (Ms. CARSON). Thanks to the gentleman from Oklahoma (Mr. SULLIVAN) for bringing this forward, as well as to the gentleman from Nebraska (Mr. OSBORNE).

Ms. CARSON of Indiana. Mr. Speaker, further reserving the right to object, I thank the gentleman from Minnesota (Mr. KENNEDY). Let me say before I release my right to object, to the coach, the gentleman from Nebraska (Mr. OSBORNE), in particular, because I know what an impact coaches have on the lives of young men, and even though I do not know the gentleman personally, I have observed him, and just his style suggests that he has touched many lives of young people who have been guided in a very positive way.

In Indiana we have Coach Dungy, who is head of the coaches, who is an incredible father himself to his biological children. But he has reached out and embraced other children who did not have the benefit of having the love of a father that he gives to his children. We have Mike Davis, an incredible coach at Indiana University, who has reached out and embraced other children who did not have the benefit of a personal father in their own life.

We have Emil, who just left to coach and went to the Oakland Raiders, who has created an incredible program for the benefit of children, particularly young men who did not have fathers. We have Tim Harris, who is a millionaire, African American, all of the men I have mentioned, African American men who are reaching out doing what they can do for the benefit of young men who are not so fortunate to have a father in their home. But to coaches in particular, they do have a very special segment in the lives of kids.

Mr. Speaker, I just wanted to tell the gentleman how much I appreciate him and the many numerous lives that he has touched along the way in his profession.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FLAKE). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 442

Whereas 40 percent of children who live in fatherless households in the United States have not seen their fathers in at least 1 year, and 50 percent of such children have never visited their fathers' homes;

Whereas approximately 50 percent of all children born in the United States spend at least half of their childhood in families without father figures;

Whereas 3 out of 4 adolescents in the United States report that they do not have adults in their lives that serve as positive role models;

Whereas children who are apart from their biological fathers are, in comparison to other children, 5 times more likely to live in poverty, and more likely to bring weapons and drugs into the classroom, commit other crimes, drop out of school, commit suicide, abuse alcohol or drugs, and become pregnant as teenagers;

Whereas the Federal Government spends billions of dollars to address these social ills and very little to promote responsible fatherhood;

Whereas the promotion of responsible fatherhood should not—

(1) denigrate the standing or parenting efforts of single mothers, whose efforts are heroic;

(2) lessen the protection of children from abusive parents;

(3) cause women to remain in, or enter into, abusive relationships; or

(4) compromise the health or safety of a custodial parent;

Whereas children with fathers at home tend to do better in school, to be less prone to depression, and to have more successful relationships;

Whereas boys and girls alike demonstrate greater self-control and ability to take initiative when fathers are actively involved in their upbringing;

Whereas promoting responsible fatherhood can help increase the chances that children will grow up with two caring parents;

Whereas a broad array of America's leading family and child-development experts agree that it is in the best interests of children, and the Nation as a whole, to encourage more two-parent, father-involved families;

Whereas in a study of fathers' interaction with their children in intact two-parent families, nearly 90 percent of the fathers surveyed said that being a father is the most fulfilling role a man can have;

Whereas according to a 1996 Gallup poll, 90.3 percent of Americans agree that fathers make a unique contribution to their children's lives;

Whereas married fathers are more likely to have a close, enduring relationship with their children than unmarried fathers;

Whereas the promotion of responsible fatherhood is a bipartisan issue; and

Whereas Father's Day is the third Sunday in June: Now, therefore, be it

Resolved, That the House of Representatives—

(1) urges men to understand the level of responsibility fathering a child requires, especially in the encouragement of the academic, moral, and spiritual development of children;

(2) recognizes the need to encourage active involvement of fathers in the rearing and development of their children;

(3) encourages each father to devote time, energy, and resources to his children, recognizing that children need not only material support, but even more importantly, a secure and nurturing family environment;

(4) commends the millions of fathers who serve as wonderful, caring parents for their children, while also recognizing that there are children who will have no one with whom to celebrate on Father's Day;

(5) urges mothers to encourage fathers to play an active role in child-rearing;

(6) calls on fathers across the Nation to use Father's Day to reconnect and rededicate themselves to their children's lives, to spend Father's Day with their children, and to express their love and support for their children; and

(7) urges American institutions, and government entities at every level, to promote public policies that encourage and support the efforts of, and remove barriers to, responsible fatherhood.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 442.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

(Mr. OSBORNE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

INITIAL SCOPE AND SUPPLEMENTAL RULES FOR THE JOINT INQUIRY BEING CONDUCTED BY THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE AND THE SENATE SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GOSS) is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I ask that the initial scope and the supplemental rules for the Joint Inquiry being conducted by the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence be published in the CONGRESSIONAL RECORD. Both the Joint Inquiry's initial scope and its supplemental procedural rules were adopted by the full membership of HPSCI and SSCI.

PREAMBLE

To reduce the risk of future terrorist attacks; to honor the memories of the victims of the September 11 terrorist attacks by conducting a thorough search for facts to answer the many questions that their families and many Americans have raised; and to lay a basis for assessing the accountability of institutions and officials of government:

THE SENATE SELECT COMMITTEE ON INTELLIGENCE

AND

HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

ADOPT THIS

INITIAL SCOPE OF JOINT INQUIRY

Pursuant to section 5(a)(1) of Senate Resolution 400, 94th Congress, Rule 6 of the Rules of Procedure of the Senate Select Committee on Intelligence, Rule XI(1)(b) of the Rules of the House of Representatives, and Rule 9 of the Rules of Procedure of the House Permanent Select Committee on Intelligence, the two Committees have authorized an investigation, to be conducted as a Joint Inquiry, into the Intelligence Community's activities before and after the September 11, 2001 terrorist attacks on the United States. The Committees have undertaken this Joint Inquiry pursuant to their responsibility to oversee and make continuing studies of the intelligence activities and programs of the United States Government and all other authority vested in the Committees.

The purpose of this Joint Inquiry is—

(a) to conduct an investigation into, and study of, all matters that may have any tendency to reveal the full facts about—

(1) the evolution of the international terrorist threat to the United States, the response of the United States Government including that of the Intelligence Community to international terrorism, from the creation of the Director of Central Intelligence's Counterterrorist Center in 1986 to the present, and what the Intelligence Community had, has, or should have learned from all sources of information, including any terrorist attacks or attempted ones, about the international terrorist threat to the United States;

(2) what the Intelligence Community knew prior to September 11 about the scope and nature of any possible attacks against the United States or United States interests by international terrorists, including by any of the hijackers or their associates, and what was done with that information;

(3) what the Intelligence Community has learned since the events of September 11 about the persons associated with those events, and whether any of that information suggests actions that could or should have been taken to learn of, or prevent, those events;

(4) whether any information developed before or after September 11 indicates systemic problems that may have impeded the Intelligence Community from learning of or preventing the attacks in advance, or that, if remedied, could help the Community identify and prevent such attacks in the future;

(5) how and to what degree the elements of the Intelligence Community have interacted with each other, as well as other parts of federal, state, and local governments with respect to identifying, tracking, assessing, and coping with international terrorist threats; as well as biological, chemical, radiological, or nuclear threats, whatever their source (such as the Anthrax attack of 2001).

(6) the ways in which the Intelligence Community's responses to past intelligence problems and challenges, whether or not related to international terrorism, have affected its counterterrorism efforts; and

(7) any other information that would enable the Joint Inquiry, and the Committees in the performance of their continuing responsibilities, to make such recommendations, including recommendations for new or amended legislation and any administrative or structural changes, or other actions, as they determine to be necessary or desirable to improve the ability of the Intelligence Community to learn of, and prevent, future international terrorist attacks; and

(b) to fulfill the Constitutional oversight and informing functions of the Congress with regard to the matters examined in the Joint Inquiry.

HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE SUPPLEMENTAL JOINT INQUIRY RULES

In connection with the Joint Inquiry with the Senate Select Committee on Intelligence into the events of September 11, 2001, authorized by the House Permanent Select Committee on Intelligence (''HPSCI'') pursuant to Rule XI(1)(b) of the Rules of the House of Representatives and Rule 9 of HPSCI's Rules of Procedure, and pursuant to Rule XI(2)(a) of the Rules of the House of Representatives, HPSCI adopts the following Joint Inquiry Rules to supplement HPSCI's Rules for purposes of the Joint Inquiry only:

JOINT INQUIRY RULE 1. JOINT PROCEEDINGS

1.1. HPSCI may conduct hearings jointly with the Senate Select Committee on Intelligence. All joint hearings shall be considered hearings of both Committees.

1.2. The Rules of Procedure of HPSCI and the Senate Select Committee on Intelligence shall apply in all hearings and other proceedings of this Joint Inquiry, except where superseded by these Joint Inquiry Rules, provided that, at any joint hearing, if any rules of the two Committees are inconsistent, the rules of that Committee whose Chairman or his designee is presiding shall apply.

1.3. For the purposes of the proceedings of this Joint Inquiry, all employees on the staff of either Committee working on the Joint Inquiry shall be considered to be acting on behalf of both Committees.

JOINT INQUIRY RULE 2. HEARINGS

2.1. All testimony at hearings shall be taken under oath or affirmation.

JOINT INQUIRY RULE 3. DEPOSITIONS

3.1. All testimony taken, and all documents, records, or other materials produced, at a deposition of the Senate Select Committee on Intelligence shall be considered part of the record of both Committees.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

HONORING MARTIN AND GRACIA BURNHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. TIAHRT) is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, I humbly stand before you today to honor Martin and Gracia Burnham, who are pictured here in a photograph from over a year ago.

Today is the day I had been looking forward to for over a year, a day when I could finally tell you that Martin and Gracia Burnham are no longer being held hostage by Muslim terrorists, but it is bittersweet.

The Burnhams' captivity by Muslim terrorists in the Philippines is finally over at 377 days and on Monday, Gracia arrived home in Kansas and was joyfully reunited with her three children, Jeff, Mindy and Zach. But I am deeply saddened to tell you that Martin will not be returning to Kansas. Martin was mortally wounded in rescue and has gone on to be with our Lord and Savior, Jesus Christ.

Martin was born in Wichita, Kansas, on September 19, 1959, the eldest son of Paul and Oreta Burnham, who served as missionaries and now reside in Rose Hill, Kansas, just outside of Wichita. Gracia is daughter of Reverend Norvni and Betty Jo Jones of Arkansas. Martin and Gracia met at Calvary Bible College in 1982 and were married in 1983. In 1986 they went to the Philippines where they have been and since have served as missionaries with the New Tribes Mission.

Martin and Gracia's three children, Jeff, 15; Mindy, 12; and Zach, 11, were all born in the Philippines. During their years of service, Martin was chief pilot for New Tribes Mission. He flew supplies to missionaries in remote locations, and Gracia assisted in a variety of roles supporting New Tribes Mission aviation program. Martin has been

commended as a skillful pilot but is known more for his friendliness and strong faith.

Gracia is appropriately named, and I have heard stories from her loved ones over the past few years and found them to be true when I had a chance to meet her on this Monday. I was in complete awe of her boundless spirit and vivaciousness. It was her grace and peace, however, that truly amazed me. I could feel the presence of God within her. It is no wonder that Martin and Gracia have touched so many hearts or that so many people across the world have been involved in efforts to free them.

Martin and Gracia were captured last May while on vacation to celebrate their 18th wedding anniversary. They were taken hostage and held for ransom because they were Americans. But Martin and Gracia's ministry did not end with their capture by terrorists. During the past year, they never lost their faith or joy of life despite their frail condition and the terror they endured.

Fellow captives who were freed earlier spoke of their love and strength. Martin and Gracia comforted their fellow hostages, shared their food and supplies, and helped raise their spirits through singing, telling stories and even reciting recipes.

Gracia became a mother figure to her fellow hostages, and Martin always graciously offered to carry things for both terrorists and other hostages. Martin and Gracia praised God and thanked Him for each day. Martin even reached out to the terrorists and tried to show them the ways of Christ. He constantly prayed for them.

On June 7 before Martin's death, he and Gracia prayed together and thanked God for his faithfulness and lay down for a nap. Martin stated, ''We might not leave this jungle alive but at least we can leave this world serving the Lord with gladness.'' He left the world serving the Lord with gladness and Gracia continues to do so.

I also want to honor Martin's parents, Paul and Oreta Burnham. For the past year they have taken care of Jeff, Mindy, and Zach. They have worked tirelessly to do all they can to bring Martin and Gracia home. I have been impressed with their humbleness, their strength and their faith. The Burnham family has shown us the power of faith and love. As Rhonda Holman, editorial writer for the Wichita Eagle said, ''Confronted by humanity at its most evil, they exemplified humanity at its best, responding not with fear and despair, but with unflagging hope. As they adjust to bittersweet events of Friday, may the Burnhams realize how deeply they have touched and inspired us with their strength.''

Over the past year, many of us who never met Martin and Gracia came to know and love them. We often felt helpless. Our prayers were heard by the Burnhams as Gracia told us in her first statement to the world following her captivity, she said, ''We want to thank each and every one of you for every time you remembered us in prayer. We needed every single prayer you prayed for us during our ordeal in the jungle.''

The outcome was not what I had hoped for or worked for or prayed for but I believe our prayers did make a difference. Please continue to pray for the Burnham family and their family and friends.

In closing let me share a couple of stanzas from a poem written by a friend of the Burnhams, Ted Miller. It is called the ''Final Score.'' The poem goes, ''We thought of you both every day, wondered what it was like, guns shooting, grenades going off, an all day jungle hike. It may be over in the jungle, but it will not all be left behind. May God pour out more grace on you and give you peace of mind.

''Martin said if he had to go, a martyr would be the way. Enjoy it Martin, we will join you soon, just one last thing to say. If bin Laden's bunch is keeping score, you may have killed my hero, but let me tell you the final score, Heaven one, terrorists zero.''

Mr. Speaker, the poem in its entirety is as follows:

FINAL SCORE

We all know Martin and Gracia, even if we have never met.

They were on our radios, church prayer requests, on our TV sets.

I remember that famous video, in my mind it's still planted,

All Gracia wanted was privacy, things I take for granted.

We all could probably confess, we never seem content,

That little short video changed my life, you can not know what it meant.

All this was no accident, this last year fits Gods plan,

While we were in our comfort zone, The Burnhams hid and ran.

But Gracia let me tell you, through all the hunger and pain,

We have grown closer to the Lord as one, no one died in vain.

Your families have held the ropes for you, they always did their best,

They pleaded for prayers, pleaded for help, never seem to rest.

We always knew how to pray for the kids, constant specific updates,

The things they missed about mom and dad, Gracia your funny cakes.

All these things that seem so small, your kids did not let go,

What a testimony they have been, as time passed so slow.

We thought of you both everyday, wondered what it was like,

Guns shooting, grenades going off, an all day jungle hike.

It may be over in the jungle, but it will not all be left behind,

May God pour out more grace on you and give you peace of mind.

Thanks for the opportunity to pray for you, what a blessing that it was,

God is still on the throne, we are excited to see what he does.

I thought of Gracia and Martin, shot, wounded on the ground,

As Martin slipped off to be with God, I think he heard this sound.

Thousands of angels welcoming him home, then there is the SON,

Welcome home Martin Burnham, well done my child well done!!!

Martin said if he had to go, a martyr would be the way,

Enjoy it Martin, we will join you soon, just one last thing to say.

If Bin Ladens bunch is keeping score, you may have killed my hero,

But let me tell you the final score, Heaven one, Terrorists zero—Ted Miller

NATIONAL MEN'S HEALTH WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise to call attention to this Nation's observance of National Men's Health Week which takes place this year from June 10 to June 16.

In May of 1994 Congress sent to the President a joint resolution establishing the week leading up to Father's Day each year as National Men's Health Week. It was signed by President Clinton on May 31, 1994, and became Public Law 103–264. The resolution requested our chief executive to issue a proclamation calling upon the people of the United States to observe this week with appropriate programs and activities.

As our sons and daughters across America scurry about this week to buy that special Father's Day gift and card, and as I wish my 90-year-old father and my 98-year-old uncle and my 88-year-old uncle and my 78-year-old uncle, I wish them all a happy Father's Day, I can think of no better way to honor our present and future generations of fathers than to learn more about the unique challenges men face and how we can help them preserve the precious gift of good health.

□ 2115

All of our citizens have benefited greatly from the strides made by medical science, but despite these advances, a review of our health statistics show that the health status of American men, and especially many of our ethnic minorities, lags far behind the rest of our citizens. The average life expectancy at birth for all men in the United States is 74.1 years, more than 5 years less than for women. The gap widens to almost 7 years when comparing the life expectancy of black males, which is 68.3 years, to white males which is 74.8 years.

I am especially concerned about the number one illness that contributes to the reduced life expectancy for men, heart disease. Despite the wealth of world class hospitals in Chicago, a study conducted by the Centers for Disease Control and Prevention in the year 2000 found that Illinois has the Nation's third highest rate of death from heart disease among African American men. According to the American Heart Association, all men have a greater risk of heart disease and heart attacks much earlier in life than women. Men must take this disease more seriously and understand that this killer can and should be prevented.

In addition to the disproportionately higher rates of heart disease and other

illnesses among African American men, census data has confirmed the tremendous growth of the Latino population in the United States. Hispanic men are also affected more than other groups by illnesses that can often be prevented or treated successfully if detected early. Hispanic Americans are almost twice as likely to have diabetes as non-Hispanic white Americans of similar age.

We can and must do more to educate all men about this disease. People with diabetes are also two to four times more likely to have heart disease and suffer from stroke. Advanced diabetes can cause blindness, kidney disease and severe nerve damage. The risk of getting diabetes, as well as many other illnesses, can be reduced by lifestyle changes such as maintaining a healthy weight, eating a healthy diet and exercising.

Another public health concern that can be reduced with proper health, education and screening is the rate of illness and death from HIV/AIDS. Approximately 35,000 people are living with HIV/AIDS in Illinois. More than three-quarters of those people are estimated to live in the Chicago area. Chicago ranks sixth in its number of living AIDS cases among the 100 largest U.S. Metropolitan Statistical Areas, and Illinois ranks seventh among all States in the United States. Communities of color are disproportionately affected by HIV/AIDS in Chicago and throughout Illinois. More than two-thirds of living AIDS cases and more than three-quarters of new cases occur among African Americans.

Directly related to this is data from the 1999 National Household Survey on Drug Abuse showing that Illinois ranks fifth in estimated numbers of people who recently used illicit drugs.

Heightened awareness of what men can do to protect themselves and their loved ones from AIDS, heart disease, preventable accidents, diabetes and other health risks is what National Men's Health Week is all about. Therefore, Mr. Speaker, I would urge all men throughout America and, quite frankly, throughout the world to pay more attention to our health so that not only can we maintain better health but so that we can continue to observe and have far more happy Father's Days with more fathers who are healthy, alive and well.

PRESCRIPTION DRUGS

The SPEAKER pro tempore (Mr. KELLER). Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise tonight to talk about an issue that we in Congress and most Americans are becoming painfully aware of, and that is, the differential between what we pay for prescription drugs in the United States and what people around the rest of the world pay for the exact same drugs made in exactly the same plants, under the same FDA approval.

What I have here tonight is a chart which shows what I think are 15 of the most commonly prescribed drugs in the United States and a comparison which was done. These are not my numbers. These were done by the Life Extension Foundation, and they have been studying this issue for a number of years and probably have done a better job of assembling raw data about the differentials, and I would like to go through some of the numbers on these charts.

Let me talk about, for example, Glucophage. Glucophage is an amazing drug, and let me first of all say, I am not here tonight to beat up on the pharmaceutical industry. They have done some wonderful things. We are all living longer and better quality lives because of the research that they have done, but Glucophage is a very important drug for diabetes.

The average price for a 30-day supply of Glucophage in the United States is $124.65. That exact same drug in Europe, again made under the same FDA approval, sells for $22. That is six times as much for the same drug, and that is a very important drug for the millions of Americans who suffer from diabetes.

Let us take another drug that is very common, commonly prescribed particularly for older women, women who are beyond menopause. Let us take Premarin. It is actually a fairly simple drug to make. In the United States, a 30-day supply sells for $55.42. That same drug in Europe sells for $8.95, and we do go down the list and we see it repeats itself.

Let us take a very commonly prescribed drug, one that my 85-year-old father takes. It is Coumadin. It is a drug that is used as a blood thinner, and the interesting thing, when most people start on these, particularly seniors, they do not just take them for a week or a month. Most of them will be on those drugs for the rest of their lives. So we are talking about huge expenditures when people start down the path of having to take these drugs.

They are important drugs, but let us take Coumadin. The price in the United States for a 30-day supply, $64.80 cents. That same drug in Switzerland sells for $15.80 on average. What a difference.

We are going to have a big debate in the next several weeks about whether or not we should extend Medicare coverage and have a new prescription drug benefit, and I think clearly if we were reinventing Medicare today, as they did in 1965, we would include a Medicare benefit, but this is not so much shame on the pharmaceutical industry because they are doing what any company would do, and that is, they are maximizing profits. It is shame on the FDA for doing this to our seniors, and it is shame on us for letting it happen.

Let me show you another chart. One of the things that disturbs me is how much the price of prescription drugs has gone up. In the last year we have numbers, the average Social Security recipient received a cost-of-living adjustment of 3½ percent. Prescription drugs went up 19 percent. We hear stories every day about these seniors who have to make difficult, painful choices that no American should have to make, and a big reason is because of the price.

What does this mean ultimately for the budget? I have a plan to make it easier for Americans to import through their pharmacist or by themselves these prescription drugs from other countries. My vision is that people would be able to go to their local pharmacy, and if they wanted the prescription filled today, they could literally pay the American price but the pharmacist would be able to say, listen, I can fill it today and the price for that Coumadin would be $64.80, or I can have this prescription filled in Geneva, Switzerland, and the price will be $16.80 and it will take three days and we will ship it FedEx and then the person will have it. I think many Americans would choose that option.

Let me talk about the numbers because this is a very big number. This is $1,800,000,000,000. That is $1.8 trillion. Even in Washington that is a huge number. What is $1.8 trillion? That is what the Congressional Budget Office tells us that senior citizens, people 65 and older, will spend on prescription drugs over the next 10 years. I am convinced that if we open up markets, if we allow people to buy drugs from other countries we can save at least 35 percent. If we multiply that out, it is $630 billion that we can save seniors. It is time to open up markets. It is time for Americans to pay their fair share of the cost of developing new drugs, but it is time to say that we will stop subsidizing the starving Swiss.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

(Mr. GREEN of Texas, addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ISRAEL) is recognized for 5 minutes.

(Mr. ISRAEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LANTOS) is recognized for 5 minutes.

(Mr. LANTOS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

(Mr. INSLEE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

(Ms. SOLIS addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

PERMANENT MARRIAGE PENALTY RELIEF ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Nebraska (Mr. TERRY) is recognized for 60 minutes as the designee of the majority leader.

Mr. TERRY. Mr. Speaker, I claimed this time tonight because I wanted to talk to America about an important bill that we have on the floor tomorrow. It is H.R. 4019. It is called the Permanent Marriage Penalty Relief Act. I am proud that the 107th Congress on 22 occasions over the last year-and-a-half has passed 22 tax reduction measures.

I am not going to come before my colleagues tonight and say that all taxes are bad or not necessary, but I will come before my colleagues and say what I strongly disapprove of, and one of the reasons why I ran to be in this House and fight for American families is to free them from the burden of excessive taxes.

Also, though, because American families today are spending about 22 percent of their income, more than that, it is the greatest percentage of income going to Federal taxes since World War II. Our taxes have become excessive and burdensome, and because of that, we are forcing more and more married couples, more and more people into the workforce, to make ends meet, because those same families are paying more for taxes than they are for their housing and their food, the daily necessities of life, and I think that is wrong.

In that totality of taxes that I think are excessive and that we need to lighten the burden and trust people with their own money, sometimes there are individual type of taxes that are just plain wrong; just plain wrong.

Last week, we voted to permanently repeal the death tax. I thought that one individually was wrong. I am thankful that tomorrow that this body has the opportunity to give working families, mothers and fathers, permanent tax relief on the marriage penalty.

What is the marriage penalty? First of all, I am going to in a second introduce the gentleman from Illinois (Mr. WELLER) from the Committee on Ways and Means, because he has dedicated his congressional life to this issue. As we near Father's Day, I will call him the father of marriage penalty relief, because he has been a pit bull and obsessive, thankfully on this issue, but what happens is in American families, as I mentioned earlier, we take so much of their tax monies, tax money away from them, and it forces them to make decisions like perhaps working longer hours or both parents working, when that may not be their choice. Because they both work in our tax structure, they, because they are married, will pay more in taxes than if they were single.

□ 2130

It is the marriage penalty. What is worse is it hits those families that earn from $20,000 to $70,000. It is not the wealthiest, who pay their share; but it hits the hard-working families where each earn between $20,000 and $70,000 the hardest. That is just fundamentally unfair. That is morally wrong, to tax marriage. The fact that they just walked down the aisle and said ''I do,'' and now have to pay more in taxes is just fundamentally wrong. It hits the middle-class families the hardest. That is fundamentally wrong.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. WELLER). Earlier I mentioned that the gentleman has exercised dogged determination in his career to right this wrong.

Mr. WELLER. Mr. Speaker, I thank the gentleman from Nebraska, who has been a real leader in bringing about tax relief. The gentleman and I share a common goal, and that is bringing about a recognition in government that taxes are too high, that working Americans work too long to pay their taxes, that we believe in the Republican majority that the American people can better spend their hard-earned income back home taking care of their families' needs than we can here in Washington.

And while the government needs some revenue to fund the activities of the Federal Government, we also need to recognize that families struggle, and we need to find ways to ease the burden on working families. That is why I was so proud just a year ago when the President signed into law the first major tax cut since Ronald Reagan was President. Prior to Ronald Reagan, it was John F. Kennedy, so it seems like every generation has a major tax cut. And now George W. Bush. But it was the commitment of the House Republican majority that drove this debate, even though we had essentially a hostile President in the White House under President Clinton, who did not share the view that taxes were too high. We continued to be persistent, and with the election of President Bush, we found an ally in our goal in bringing about across-the-board tax relief that benefits American taxpayers and that addresses the issues of fairness in the Tax Code.

I would note that what we nicknamed the Bush tax cut benefits over 100 million American tax-paying households who have seen their taxes lowered as a result of the House Republican majority, and signed into law by President Bush.

Mr. Speaker, 3.9 million tax-paying households, low-income families, no longer pay Federal income taxes because the Bush tax cut was signed into law. Unfortunately, one thing we discovered, sometimes we find that Washington works in a strange way. It is interesting in Washington, we can raise taxes permanently like Bill Clinton and the Democrats did in 1993, we can increase spending permanently, but you will find rules somewhere in the Congress that make it hard to permanently cut taxes.

Unfortunately, there was a rule in the other body which prevented permanency to the Bush tax cut, permanency to the across-the-board rate reductions, permanency to the elimination of the death tax, permanency to our efforts to increase opportunities to put more into your IRA and 401(k) for retirement savings, for education savings accounts for your children's education, and also our efforts to eliminate the subject of tonight's Special Order, the marriage tax penalty.

I commend the gentleman from Nebraska and the majority of this House for sharing a view that many of us have argued over the last several years that the marriage tax penalty is essentially a fundamental issue of fairness. The most basic institution in our society is marriage. Around marriage we build our families. Unfortunately, under our Tax Code for almost two generations, we taxed marriage. I felt, as I know many of my colleagues did, that it was a legitimate argument to come to this floor and say is it right, is it fair that under our Tax Code, that we actually taxed married couples more in taxes, higher taxes, just because they were married. In fact, on average, 23 million married working couples on average were paying about $1,400 in higher taxes last year than identical couples living together outside of marriage.

Essentially our Tax Code was saying the only way to avoid the marriage tax penalty was to get divorced or not get married in the first place. That is wrong. We believe the Tax Code should be marriage-neutral.

I am proud to say that several times this House Republican majority brought legislation to the floor and we passed out of the House of Representatives legislation supported by every House Republican, and I also want to note that up to 62 Democrats joined with us. We had bipartisan support for legislation which would permanently wipe out the marriage tax penalty.

Unfortunately, when we passed into law the Bush tax cut, it was a 10-year program which meant in the year 2010,

the marriage tax penalty relief would expire; and for a projected 45 million married working couples, they would see almost a $42 billion tax increase because their taxes were going to be higher because the marriage tax penalty was going to be reimposed. Is that right? Is that fair? I think not.

Let me explain how the marriage tax penalty occurs. The marriage tax penalty occurs when a husband and wife get married. They are both in the workforce and file their taxes jointly. When they do that, their combined income usually pushes these married couples into a higher tax bracket. That produces the marriage tax penalty.

I have a couple here I would like to introduce to my colleagues in the House. Jose and Magdalene Castillo of Joliet, Illinois. They have two children, Eduardo and Carolina. They have a combined income of about $82,000. They are a middle-class working couple in Joliet, Illinois. In their case, prior to the successful passage into law of the Marriage Tax Elimination Act this past year, the Castillo family suffered about $1,125 in higher taxes just because they are married.

Now, the question before this House tomorrow, we are going to propose legislation to be voted on in the House tomorrow which will make permanent the elimination of the marriage tax penalty. Really, the question is for 45 million married working couples like Jose and Magdalene Castillo, do we want to reimpose the marriage tax penalty? I think not.

My hope is that over tomorrow's debate we will see an overwhelming bipartisan majority who will vote to make permanent the elimination of the marriage tax penalty, so the marriage tax penalty will be one of those things that we used to talk about that used to exist in the Tax Code because the Tax Code is complicated and we are working in this House to make the Tax Code simpler, and that means making the Tax Code more fair.

By eliminating the marriage tax penalty for Jose and Magdalene Castillo, we are not only making the Tax Code more fair, we are simplifying the Tax Code. My hope is tomorrow an overwhelming majority in the House will join with us, and the Senate will follow suit, and we will send to the President legislation which will make permanent elimination of the marriage tax penalty.

Mr. TERRY. Mr. Speaker, according to the 2000 census, in the gentleman's district it is 59,536 couples that are affected by our current Tax Code. In my district of Omaha, Nebraska, it is 58,000 couples that have to pay more in taxes. When your great couple from your district, Jose and Magdalene Castillo, got married and said ''I do,'' I do not think it was to more taxes just because they went down the aisle together and did what we hoped that they would do and formed this bond, formed this family.

Mr. Speaker, we should not have a tax policy that is antifamily, antimarriage. We have heard stories on news programs throughout the years, older couples in particular, younger couples that refused to married, older couples that would get divorced because of the tax that they have to pay. If we are going to be a country that embraces family, embraces marriage, then we have to have a tax policy that walks the walk. I thank the gentleman for all the work he has done.

It has been mentioned that we passed marriage penalty relief in my two terms here. Just thankfully we have a President this time that agreed with it the last time around. Even in the first few months of the 107th Congress when this was a solo vote and the Senate had not taken it up yet, 282 Members, very bipartisan vote. It dropped a little bit when we had the Bush tax plan. We lost about 40 Members. In the Senate they could only get to 58.

The gentleman from Illinois (Mr. WELLER) mentioned this quirky rule that they have where it takes a supermajority of 60 votes to make reduction of revenue, i.e., a tax cut, they need 60 votes to make it permanent over there. We did the right thing and we negotiated a 10-year plan, a phase out of 10 years of a lot of these taxes. The marriage penalty is phased in much quicker to give these families relief.

Now we want to make sure we are doing the right thing for these families, these 45 million Americans, that it is made permanent, because in essence what we are going to say to these couples in the year 2011 is that you are going to have your taxes increased. You are going to raise taxes on over 3.9 million African American families out of that.

Mr. Speaker, does the gentleman from Illinois (Mr. WELLER) have any statistics, and my impression from some of what I have read, some of this tax actually hits minorities harder, and so I am just pleased that hardworking families will get some relief, and they deserve to have it made permanent.

Mr. WELLER. Mr. Speaker, if the gentleman would yield briefly, I would note in the legislation we passed out of the House of Representatives that was signed into law by President Bush, we helped an estimated 45 million married working couples in a number of ways. When you are a taxpayer, you are an itemizer, nonitemizer, if you are a low-income working family, part of the working poor, earned income tax credit, only out of that 20 million married couples received marriage tax relief through the Bush tax cut through the doubling of the standard deduction to twice that for single people. Those who do not itemize their taxes use the standard deduction.

And for the middle class, those in the 15 percent bracket who itemize their taxes, homeowners, those who give to their church, temple, mosque, they are homeowners and itemize their taxes, we widened the 15 percent bracket so they can earn twice as much in income and stay within the 15 percent as a single person. There are 20 million when you take advantage of the 15 percent widening which are the itemizers. And 4 million poor families, low-income families, benefit from the marriage tax relief that we provided in adjusting the eligibility for the earned income credit. Four million working-poor families who struggle, and thanks to Ronald Reagan received the earned income credit.

□ 2145

They would lose that marriage tax relief, that opportunity to have a little extra income to take care of their family's needs, if this is allowed to expire. That is just one more reason why I believe we need to make it permanent, because we do not want to see a $42 billion tax increase on 45 million married working couples who would be forced to pay higher taxes just because they are married. My hope is tomorrow when we debate making permanent the marriage tax relief that was part of the Bush tax cut, that an overwhelming majority of this House will vote in a bipartisan way to make permanent the elimination of the marriage tax penalty.

Mr. TERRY. Mr. Speaker, we have been joined by three of our good colleagues that have fought hard and feel strongly on this issue.

I yield to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. I thank the gentleman from Nebraska for yielding. I also thank and congratulate the gentleman from Illinois (Mr. WELLER) for his great efforts on the marriage penalty.

There are few issues that I feel more strongly about, and one of my main goals coming here to Washington was to eliminate the marriage penalty. I am very pleased that at least over the course of the next 10 years that we have accomplished that. It is a major goal that we have achieved, but our work is not yet done. I do not understand why we tax marriage. We as a Congress, we as a government, we as a people should be working to strengthen marriage, to strengthen families. Families are the foundation really for the strength of our country. We should do all we can to bolster it. When we charge married couples an average of $1,400 more just for being married, we are discouraging them from getting married. This makes no sense. They should not get that extra gift from Uncle Sam when they say ''I do.'' Something that makes this very personal to me is when I think about my son or daughter coming to me in a few years, maybe after this 10-year period, so I have to get this permanent, and saying, ''Dad, you've taught us well. You've taught us how to look at the numbers really well and we have noticed that it is going to cost us $1,000, $2,000, $3,000 more to be married. So what we are going to do is we are just going to live together, but we are going

to put that $1,000 or $2,000 to good use and we'll do good things with it.''

I do not want to have that conversation and no parent should have that conversation and no couple should struggle with those issues. We should be helping them to the greatest extent possible. We should be making this permanent. It is a shame that we were not able to make this permanent before. We were two Senators short, unfortunately, as the gentleman from Nebraska mentioned, and any of many States could have provided us those two Senators. We will not name any States in particular, but this is critical that we get it permanent. It is also bad budgeting. The budgeting after 10 years assumes that we are going to let the marriage penalty go back up. I know if the group that we have in this room and those that have worked so hard on the marriage penalty have anything to do with it, we are not going to let the marriage penalty tax be increased and brought back to life again in 10 years.

I strongly encourage all my colleagues to vote ''yes'' on tomorrow's resolution to back American families, to back marriage, to help the children that will come from that and to help the strength that comes from taking the bonds of holy matrimony.

I again thank the gentleman from Nebraska for having us here today and for his leadership as well as the leadership of the gentleman from Illinois.

Mr. TERRY. The gentleman from Minnesota (Mr. KENNEDY) has provided great leadership. The citizens of Minnesota should be pleased with his leadership on this issue. Probably the 59,000 affected couples in his district should thank him.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. I thank the gentleman for yielding. It is hard to speak with so many distinguished members of the Committee on Ways and Means here because you guys, we know, are the tax experts. But back in our little old briar patch, we know a thing or two about fairness. I do not think we even need to debate this, and the liberal Democrats would even admit that the marriage tax penalty is unfair because in essence you cannot carry your tax deduction with you. When you walk down the aisle, leave your deduction outside the church because you are fixing to lose it, as we would say.

The issue, I think, that is underlying this, and I think you have covered the substance of the bill pretty well, is just the fact that the liberals, particularly those on the other side of the Capitol, and this is a bicameral body, this legislative body. It is very similar to the Georgia legislature where we had a House and we had a Senate. This is a similar institution. When the House passed something, the Senate would pass something or the Senate would amend it. In this case we have got a body who hates tax reductions. Period. Fairness does not matter, all that matters is income, so they can go out and spend more money.

I always say that if I was walking down the street with two of the liberal Democrats from Washington and I had $15 in my pocket and they did not have any, the two of them would vote on who was going to pay for lunch and it would end up being me, and in their view that is fair. They did not have any money and I had money, so they voted and I have to pay for lunch, and that is fair. We all laugh about that, but I will tell you this. Look at it this way. Say you had a thousand people walking down the street or a thousand people in the room, and of that thousand people, 999 did not have any money, but one person had a whole lot of money. And so the 999 voted and said, ''You're going to be paying a little bit more, you're going to be paying extra, and you're going to be paying for all of us.'' They would say obviously that person who had money must have done something wrong, must have gotten real lucky, must have cut some corners short, and so of course it is fair. That is the view of so many Washington liberals of the tax dollars that our constituents back home make.

One of our colleagues today said, if you really want to know the truth of the matter, talk to somebody who has oil on his hands or dirt on his fingers and his sleeves rolled up in America and they can give you the view, and in about 3 seconds, the American workers back home would say the marriage tax penalty is unfair and ridiculous, get rid of it. And so the only question here tonight is, why are we not getting rid of it? It is because of this other body. The House has passed this over and over again.

The gentleman from Illinois (Mr. WELLER), as you pointed out earlier tonight, has practically made a career in this. I expect he has had a very spectacular career, made a great contribution to the governmental process, the debate process up here, but the reality is the folks on the other side of the Capitol love taxes and they block it every single time.

I know our good friend from Arizona is here just chomping to get at the bit.

Mr. TERRY. Mr. Speaker, the 62,397 married couples who have been hit by the marriage penalty in the gentleman from Georgia's district I am sure thank him for his leadership on this issue.

I want to bring into our discussion here the gentleman from Arizona (Mr. HAYWORTH) who, because of his leadership and vote tomorrow, the 52,429 married couples in his district will be trusted with more of their money.

I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank my colleague from Nebraska for yielding, my friends from Illinois and Georgia who join us here tonight, Mr. Speaker, and I stand in the well alongside my friend from Nebraska, traditionally at the podium given to our friends from the Democratic Party. I do so tonight to signal the fact that our vote tomorrow should be a vote that does not accentuate party lines, that when people go and register for a marriage license, they do not declare a political party preference, they are not required to register as Democrats or Republicans or independents or libertarians or vegetarians, they go and apply for a marriage license.

Tomorrow, Mr. Speaker, it is my fervent hope that we will see a bipartisan vote to restore rationality and common sense to the peculiar situation we find because of a quirk in the rules where we have failed to make this marriage tax relief permanent.

Mr. KINGSTON. If my friend would yield, I just want to say that quirk is, of course, there on purpose by the liberals who like to collect tax dollars and so I just wanted to emphasize a point that the gentleman has made several times in the past.

Mr. HAYWORTH. I thank my friend for making the point. I would appeal to all who come here, when you talk about tax fairness, there is nothing fair about penalizing people for getting married. I think back almost a decade and a half ago now to the news that I took my mom, when Miss Mary and I decided to get married, she said, ''Oh, honey, I'm so excited for you. After all, two can live as cheaply as one.'' My mom is a wise woman, but she is not a certified public accountant and she was not dealing with the Tax Code, because we have seen in so many cases for so long when couples would stand at the altar and say ''I do,'' they were unwittingly saying ''I do'' to higher taxes. And now with a commonsense reform that we have embraced on a bipartisan basis in this body, others on this Hill with a clever rule differentiation seek to take it away, we simply go on record tomorrow reaffirming that the Tax Code should have real fairness, that there should not be a penalty for marriage.

Indeed, confronting the challenges we confront in a society, knowing how beneficial it is to have healthy, happy households where men and women in a loving relationship of marriage bring up their children, there is no reason to penalize people who work hard and play by the rules.

And so tonight we come here to reaffirm our belief that we should rescind the marriage penalty permanently and tomorrow this House has a chance to go on record saying ''I do'' to lower taxes, taking away this barrier of discrimination that has affected the institution of marriage and taking another step for true tax fairness.

Mr. Speaker, tomorrow again we will hear the tired old arguments of class warfare. Let me simply reaffirm what we have found through the years when we reduce the tax burden, whether it is on businesses or on families or on individuals. When the tax bite is reduced and money is put to work in terms of saving and investment and spending for

those items that families need, something very interesting happens. Revenues to the Federal Government actually increase. So I come to this particular position in the well tonight symbolizing the fact that we appeal to our friends on the left, not as a Republican versus a Department issue, but as an American commonsense point of view, to permanently rescind this penalty, to make good on the efforts my friend from Illinois has championed for so long, to recognize the commonsense value that there is no need to attach an economic stigma to the institution of marriage. And now as my friend, the gentleman from Nebraska (Mr. TERRY) points out, if we in fact have people tomorrow vote against making this permanent, in essence what they are doing is calling for a tax increase on every married couple. They are calling to add back taxes to their family budget.

I understand in Washington, Mr. Speaker, that $1,400 on average, that is not even in Uncle Sam's change scoop on his dresser drawer. I mean we deal in millions and billions of dollars, but I would submit, as my colleague, the gentleman from Illinois (Mr. WELLER), has made clear so many times, $1,400 is real money to a family, in terms of a college fund, in terms of making educational opportunities available, in terms of saving for the future, in terms of buying clothes for the family, in terms of orthodontia for children, in terms of real life, real budgetary decisions made around the kitchen table. The common sense of making this tax relief permanent cannot be denied and, yes, we can have those denizens of class warfare come out and play this warped game where they define fairness in a deranged way that my friend, the gentleman from Georgia (Mr. KINGSTON), pointed out, the theater of the absurd so clearly to us in this body mere moments ago, but the fact is there is no reason to deprive families of money that they can save, spend, and invest for their own futures and in so doing help our country, because the economic activity in the long run will actually increase revenues to the government because people are willing to put their money to work in effective spending for their family or savings or investment for the future, and we are not talking about something that is a drop in the bucket. We are talking about millions of American families here.

Mr. TERRY. Mr. Speaker, is the gentleman from Arizona (Mr. HAYWORTH) telling me that it is not a cost that we are going to hear about, how it is costing the government to give these families this relief?

Mr. HAYWORTH. Mr. Speaker, let me let the gentleman in on a little secret. The gentleman from Nebraska (Mr. TERRY) asks a very pertinent question, and given the curious mathematics of Washington, let us point out at the outset that we could take every economist in the world, lay them end to end, and still never reach a conclusion. But part of the peculiarities of the way in which we practice accounting in Washington, D.C. is with a bias towards spending. We call it static scoring. That is to say, we fail to take into account the history that we have seen for the better part of close to 50 years in the United States.

For example, and again I am glad to stand here in this portion of the well, because we can point to a Democratic chief executive, John F. Kennedy, who in the 1960s cut taxes across the board.

□ 2200

This is an approach that was reaffirmed by Ronald Reagan in the 1980s and by our own current President, George W. Bush, just 1 year ago. The premise, as it has turned out, and check the numbers, as we say in baseball, you could look it up, revenues to the government actually increase when you cut taxes across the board. If we cut taxes on these millions of American families, I have every confidence that, in the long term, revenues to the government will increase, because money is being put to work on behalf of these families.

Again, it comes down to this realization, Mr. Speaker: This money is not money that belongs to the Federal Government; it is money that belongs to the American people. When that money is put to work, through prudent spending, wise investment and making the money work for the families of America, it returns to the Federal Government in terms of tax revenue. Yet you would not know it from the culture of the forecasts and the evaluations of the static scorers who fail to let reality be taken into account in terms of their ledger sheets. That is the reality with which we deal.

But in Washingtonese, what we will hear tomorrow is a parade of speakers stating flat out that the American people are not entitled to their money, stating somehow in bizarre fashion that the marriage penalty is a quirk, a curiosity, and, I dare say, coming to the floor, speaker after speaker, as prisoners of process, rather than champions of policy.

So, again, my appeal, and I realize it is a challenge with 100-plus days to a midterm election, and I realize it is difficult for many to separate politics from policy, but I believe tomorrow, Mr. Speaker, there will be those on the Democratic side of the aisle who will join us in saying let us end the marriage penalty permanently, because it is not a Republican issue, it is not a Democratic issue, it is an issue of concern to all Americans and all American families who need to have the chance to prosper and succeed and make the most of their opportunities, for themselves and for their children.

Mr. TERRY. Mr. Speaker, reclaiming my time, I thank the gentleman for that great oratory. We talk about this quirky Senate rule. We are going to hear a lot about it. Because when we had the death tax repeal discussion last week, we kept hearing from some of the leadership on the other side about how it was the Republican bill, that we were somehow deceiving the public, and now we are trying to come back. I heard a lot of strange and weird stories last week. I am sure we are going to hear those same stories again.

The reality is we did the right thing for the American public by taking one step forward. But it was not the giant step that was absolutely necessary, and we are trying to correct it tomorrow.

The Senate rule requires, if I kind of understand it right, is that in the Senate you cannot reduce revenues outside of the scope of the budget, which is a 10-year budget in essence. So that is why it is a 10-year plan.

I think it is ironic that just today on the House floor we had a vote to require that this body, both Houses, a constitutional amendment that would require a two-thirds vote to raise taxes. I just think it is ironic that the practical effect of the Senate rule is it takes a supermajority to lower taxes, but a simple majority to raise taxes.

Mr. WELLER. If the gentleman would yield, I think the gentleman from Nebraska is bringing up a good point. That is what is frustrating, and one of the reasons I know I came to Congress in 1994 and one of the causes we in the House Republican majority have been working towards, is finding ways to help working families have some extra spending money to meet the needs of every American family, to be able to afford to go to college, or buy a new bicycle for the little girl when she is getting old enough to ride a bicycle.

Mr. TERRY. We are going through the same thing with our 7-year-old.

Mr. WELLER. Or make improvements to the house. Families struggle. The gentleman from Arizona, the point he made about how when you figure out what the amount the marriage tax penalty comes out to, it is real money for real people. You take Jose and Magdalena Castillo of Joliet, Illinois. For the Castillo family, prior to a year ago when the Bush tax cut was signed into law, the Castillo family faced about a $1,150 marriage tax penalty.

Thankfully, because of the Marriage Tax Elimination Act, which was combined as part of the Bush tax cut, signed into law, they no longer pay this marriage tax penalty. If we fail to make permanent the marriage tax penalty relief signed into law last year, they once again will have their taxes higher, raised. They will lose that $1,150 back to Uncle Sam. For the Castillo family, in a town like Joliet, in the south suburbs of Chicago, for Jose and Magdalena, $1,150 is several months of car payments, that is 2 to 3 months of child care for little Carolina, that is a significant portion of tuition at Joliet Junior College. The marriage tax penalty is real money for real people like the Castillo family. That is what this is really all about.

The marriage tax relief signed into law last year, which currently is temporary, and my hope is this House will

vote to make permanent tomorrow, is meaningful to 45 million married working couples, just like Jose and Magdalena Castillo of Joliet, Illinois. When you think about it, for 45 million married working couples, if this marriage tax penalty relief is not made permanent, these couples, 45 million couples, will see a $42 billion tax increase just on marriage, if we fail to make permanent the marriage tax relief.

Mr. KINGSTON. If the gentleman will yield, I want to talk about that number a little bit. Did the gentleman not tell me earlier that in the First District of Georgia, over 65,000 people would benefit?

Mr. TERRY. I can find that again here. In the First District of Georgia, and this is 2000 census data, 62,397 couples in the gentleman's district.

Mr. KINGSTON. Okay. So then that is $1,400 a couple.

Mr. TERRY. On average that they pay.

Mr. KINGSTON. That is about $85 million. Now, if I as a member of the Committee on Appropriations was asked by the chairman, the gentleman from Florida (Mr. YOUNG), ''Kingston, you got $85 million you can spend in your district,'' how would you do it? Would you go out and buy a bridge, would you build something for the government, a new monument? Heck, no. What you would do is spread it out as much as possible to the middle class working families in your district, and that would be one of the greatest appropriations I could bring home to the First District.

So this vote tomorrow I will have the opportunity to return to my district $85 million for the local economy, for the local jobs, for the taxpayers. As the gentleman from Illinois (Mr. WELLER) has pointed out, tuition, new tires, home mortgages. That is a lot of money. I can only think of what $85 million will mean to coastal Georgia. Also, I will feel a lot better that they are spending that money, rather than the United States Congress spending it.

Mr. TERRY. That is the point. The gentleman is correct. That is the point of this, is that we are trusting people with their own money, to make their own decisions about what is best for them and their family.

Now, we in Congress, I hear this all the time, ''what have you brought back for the district?'' This is something we get as representatives asked by some of our business leaders or constituents, and sometimes you brag about a bridge or helping with the bridge.

But there is no better appropriation, there is no better gift that we can give our constituents, than their own money, letting them keep their own hard-earned dollars.

Let us go back to one of the things we talked about at the beginning here. This marriage penalty hits hardest the lower and middle income families, those that earn on an average, a single income, combined, $20,000 to $70,000. That is who is paying the burden and brunt of the marriage penalty. These are hard-working Americans that we are talking about. You are taking a vote so they can keep $82 million of their own money. I just cannot imagine what that would do for your economy.

I just jotted down a few notes of what it would do for an average Nebraska family. Remember, these are couples who are both working. Sometimes when we talk in an esoteric or academic way about the marriage tax penalty, we leave out that both parents are working. Both parents are working.

So, how about some good quality time? With both parents working, maybe both parents should take a vacation and take those two lovely children to Disneyland. That $1,400, they can have a 4-day vacation at Disneyland or Disneyworld. They can buy for their school children a new computer with a scanner, printer, software. They can get a pretty good piece of equipment for $1,400.

Talking about just keeping your family budget intact, in Nebraska that is probably 6 to 8 months of utility bills for the family. That is anywhere from 4 to 6 months, depending on the type of insurance contract they would have, to pay their health insurance costs. Or, as all of us have said, just maybe invest or save in your children's future. Or use another provision of the tax bill that we passed last year that we need to make permanent, and that is educational savings accounts. They can invest that money in their children's future. These are all things that we trust their families to make their own decisions on.

By the way, the money that these families save by us not taking their money, married families will return to paying in 10 years, paying the Federal Government more than $100 a month just to be married. That is $3.88 every day just because you said ''I do.'' Every hour you will owe 16 cents just because you have a spouse. If your marriage lasts 50 years, and, by the way, I just wrote a letter to a nice couple on their 50th anniversary, the love of your life will have cost you $70,000 in extra taxes. $70,000 extra.

So tomorrow we have the opportunity to make this permanent.

Mr. WELLER. If the gentleman will yield, my hope is that everyone will join with my colleagues from Georgia and Arizona and Nebraska in voting to make permanent the marriage tax relief. I think as this discussion we have had here in this House Chamber shows, regarding the marriage tax penalty, what it means in real terms for real people, about how you have a husband and wife, both in the workforce, struggling to make ends meet, who, prior to a year ago, paid higher taxes just because they were married.

In the case of Jose and Magdalena Castillo, they paid $1,150 more in higher taxes. As the gentleman from Nebraska pointed out, if they could save that, in a period of 20 years, when little Carolina may be in college, a sizeable portion of her college tuition could be paid for during the 4 years she may go to the University of Illinois, my alma mater, could be paid for by setting aside the $1,150.

Mr. TERRY. She could be a Rebel and go to the University of Nebraska.

Mr. WELLER. Or a Bulldog and go to the University of Georgia. But the bottom line is the marriage tax penalty is a real issue for ordinary people back in Illinois, Georgia and Nebraska and throughout this country.

In the last few days I have heard some suggestions, particularly from some of my friends in the left wing of the Democratic Party, who have said we do not need to do this now. We have got things here in Washington that we need to spend that money on; that maybe we should take that $1,150 out of Jose and Magdalena's pocket and spend it on something here in Washington.

Maybe in Washington $1,150 for the Castillo family is no big deal, in Washington, where you think in terms of millions and billions of dollars. But for regular people, like Jose and Magdalena Castillo, $1,150, elimination of the marriage tax penalty for the Castillo family represents a 12 percent reduction in their taxes. So if we fail to make permanent the marriage tax penalty relief in what we nicknamed the Bush tax cut, they will see a 12 percent increase in their taxes so that Washington can better spend it, as some on the left side of the aisle view.

My hope is that we will see an overwhelming bipartisan vote tomorrow to eliminate the marriage tax penalty permanently. I was proud to say that almost 280 members of this body voted to move a stand-alone bill which would permanently eliminate the marriage tax penalty almost 2 years ago. Unfortunately, that bill was vetoed by President Clinton at that time, and we came back later with what was in the Bush tax cut, signed into law, a temporary measure to eliminate the marriage tax penalty.

My hope is all 62 of those Democrats will once again vote with us, and that more Democrats will join with every House Republican in voting to permanently eliminate the marriage tax penalty. Because of that overwhelming vote, I hope that our friends in the Senate, many of whom have resisted permanent elimination of the marriage tax penalty, will follow suit, and we can put on the President's desk by this fall legislation which permanently eliminates the marriage tax penalty.

□ 2215

Think what that will mean to 45 million married working couples; good people, good, hard-working people like Jose and Magdelene Castillo and little Eduardo and Carolina, who would have a little extra spending money to meet their needs rather than sending it to Washington. It is an issue of fairness. Our Tax Code should be neutral regarding marriage. We believe that the Tax

Code should not punish society's most basic institution; and of course, marriage is our society's most basic institution.

Let us eliminate the marriage tax penalty and let us eliminate the marriage tax penalty permanently so it is one of those things that we talk about that once used to exist, but it is history. Let us make the marriage tax penalty history by permanently eliminating the marriage tax penalty.

I am happy to yield back to the gentleman from Nebraska, and I want to thank the gentleman from Nebraska for his leadership in organizing tonight's discussion of the importance of eliminating the marriage tax penalty and what it means to real people like the Castillo family of Joliet, Illinois.

Mr. TERRY. Well, it is because of the opportunity that we have here in the House of Representatives, why I wanted to be here was to help families like them and the 58,000 like them in the Second Congressional District in Nebraska. Just think of the opportunities that those two children would have if they put the nearly $600 for each child in an educational savings account for college, what a wonderful opportunity that this body will give those families.

Mr. Speaker, I would like to give the gentleman from Georgia (Mr. KINGSTON) the last word, if he would close the discussion tonight.

Mr. KINGSTON. Mr. Speaker, let me thank the gentleman from Nebraska and the gentleman from Illinois and the gentleman from Arizona and the gentleman from Minnesota earlier tonight for their leadership on it. Because right now we could be home and in bed and watching the baseball game. Somewhere I am sure the Braves are out beating somebody. But the reality is, we are doing this because we care. I am a little bit senior to both of these gentlemen, and I have served in the minority; and I can tell my colleagues that it was no fun. Because when the Republicans were in the minority, we were always fighting more spending that the Democrat majority kept pushing on us. Here is an opportunity for all Members of Congress tomorrow to go in and vote for lower taxes, less spending, and more fairness for American couples.

So I certainly appreciate my colleagues for doing what they are doing and standing tall for America's families. I look forward to casting yet another vote with the gentleman from Illinois (Mr. WELLER). And I thank the gentleman from Nebraska (Mr. TERRY) for his leadership in organizing this tonight.

Mr. TERRY. Mr. Speaker, I thank the gentleman for participating and using his time when he could be watching the Braves. Tune in to the college world series this weekend, though.

DEMOCRAT MEDICARE PRESCRIPTION DRUG PROPOSAL

The SPEAKER pro tempore (Mr. KELLER). Under the Speaker's announced policy of January 3, 2001, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I want to take this opportunity this evening, which I have done many times over the last couple of months, actually, to discuss the need for a Medicare prescription drug benefit. I am particularly happy to be here tonight because I know that tomorrow the Democrats in the House will be announcing our Medicare prescription drug proposal at a press conference at, I think, approximately 11 a.m. on the steps of the Capitol.

I know that for a number of weeks now I have been highly critical of the Republican leadership in the House, because even though they are the majority party, they have failed to address the concern, I think the number one concern of the American people, which is for a prescription drug plan under Medicare.

When I go home and I have a town meeting or I talk to my constituents, the issue that most frequently comes up is the fact that it is very difficult for all Americans, but particularly for seniors, to afford prescription drugs, to afford their prescription medicine. Prices have gone up by double-digit inflation over the last 6 years; and increasingly, most Americans, particularly seniors, find that they are not able to afford the drugs, the prescription drugs or medicine that their doctors prescribe that the doctors think are necessary for them to continue to live a quality life.

The House Republican leadership, I guess about 2 months ago, announced with much fanfare that they intended to bring up and write a bill that would provide for prescription drug coverage for seniors, and then they said that the bill would be available and would go to committee sometime before the Memorial Day recess and then be passed in the final week before the Memorial Day recess. Now, we know that did not happen. They came back from Memorial Day recess, about 2 weeks ago now, and again with much fanfare said that they were going to bring up the bill the first week, which would have been last week, and then we heard this week they were going to bring it up this week; and now we hear that they may bring it up next week and that they are definitely going to bring it up before the July recess.

Well, I have my doubts because I have been hearing this so many times. But more than the question of when they are going to bring it up is what they are going to bring up. Everything that we hear about the House Republican proposal is that it is not a proposal that will actually provide coverage for most seniors under Medicare.

I think that most of my colleagues know that Medicare has been in existence now for over 30 years; and Medicare, which is a government program, run by the Federal Government and financed by the Federal Government, is a very successful program that provides seniors with their hospitalization and with their doctor bills. Under part B of Medicare, a senior has the option, and 99 percent of seniors exercise it, of paying a fairly low premium every month; and as a result of paying that premium, they get 80 percent of the cost of their doctor bills paid for by Medicare, by the Federal Government. They have a very low deductible, $100 a year; and basically, the program has been tremendously successful. Most seniors participate in it. Their doctor bills are paid 80 percent by the Federal Government, up to a certain amount; and we hear very few complaints. Most people seem to be satisfied with the Medicare program in terms of the coverage for hospitalization and for their doctor bills. However, Medicare does not have a benefit for prescription drugs.

What the Democrats have been saying is very simple: that we should have a guaranteed benefit under Medicare for all seniors, all those who are eligible for Medicare. It is not hard to comprehend. We set up a new part, maybe call it part D, we model it after the part B program that pays for doctor bills. We again have a very low premium, say $25 a month, a very low deductible, $100 a year; we have 80 percent of the cost paid for by the Federal Government, a 20 percent copay and, after a certain level, we suggest $2,000, after you have paid out of pocket or your bills have come to more than $2,000, the Federal Government would pay for everything at a sort of catastrophic level at which the Federal Government pays for everything under Medicare.

Well, the Democrats are saying that is what we should do. We will be talking about it in a lot more detail tomorrow at the press conference. Most important, we address the issue of price. We understand very strongly that we can expand Medicare to include prescription drugs and provide a guaranteed benefit for every senior and everyone eligible for Medicare, but that it would be difficult to do that if we do not control the costs in some way.

When I talk to seniors or any American, any of my constituents, they talk about how the price of prescription drugs is too costly. So we have to do something at the Federal level to bring the cost down. The easy way to do that, and this is what the Democrats will propose, is to say that the Secretary of Health and Human Services has the obligation, has the mandate to negotiate prices for prescription drugs that would be significantly less than what most seniors are paying now, perhaps a reduction of as much as 30 percent or more. I think that is very possible to do, since the Secretary will have 30 or 40 million seniors, Medicare beneficiaries, that he represents; and he has the ability to go out and basically force the drug companies to lower prices because of the bargaining power

that he would have with so many Americans, 30, 40 million American seniors.

This is all very simple. I have talked about it before. We will be unveiling it tomorrow, but there is really no magic to it. We have been talking about this proposal and how it is modeled after part B of Medicare which pays for your doctor bills. We have been talking about that for several months now here on the floor, myself and many of my colleagues. So there is no magic to what needs to be done. But we have absolutely no indication that the Republican leadership is willing to support anything like what I have just described.

First of all, it is abundantly clear that they do not want to provide a prescription drug benefit under Medicare. Oh, sure, they will say that it is a Medicare program because the people who will be eligible will be those same seniors who will be eligible for Medicare. But they are not putting the prescription drug program under Medicare in the sense that it is run by Medicare, part of the government program, and will guarantee a benefit.

What they are saying is that we will give some money, the Republican leadership is saying that we will give some money, almost like a voucher, to private insurance companies; and we will ask them to provide drug policies to cover seniors, and we will estimate by the amount of money that we are going to throw the private insurance companies what kind of coverage might be provided. But what the Republicans fail to point out, what the leadership in the House fails to point out is that there is no guarantee that a senior in a particular area or any area, for that matter, will be able to buy a drug-only policy that provides the kind of benefits that they would like it to provide.

The perfect example, the perfect example for this is what the Republicans did and how they continue to tout the Medicare+Choice, or the HMO program.

A few years ago, they decided that a great way to provide prescription drug coverage was to give some money to HMOs in the hope that they would agree to provide prescription drugs or to cover prescription drugs. But what we have found over the last few years in this HMO program is, first of all, that in many States, I think it is up to nine or 10 now, there is no HMO available. In another 15 or so States, there may be an HMO available, but they do not provide any drug coverage, and in those States that I mentioned, 10, 25, in those 25 States where you can find an HMO program that provides prescription drug coverage, you will not find that that HMO coverage is available in every part of the State; and you will find tremendous deficiencies, if I could say, in what kind of prescription drug program they cover, they provide.

Mr. Speaker, this is not something I am making up. There was a report that was put out by Families USA last month entitled ''Failing America'S Seniors: Private Health Plans Provide Inadequate Prescription Drug Coverage.'' Basically what this report says very dramatically is that if you simply rely on HMOs, or the private insurance market in this case, to provide insurance prescription drug coverage, you are going to have this very uneven situation. In a lot of States, there is not any HMO, and in other States they do not provide coverage for prescription drugs; and there is absolutely no question that we would get the same thing happening with the prescription drug program that the Republican leadership is talking about getting around to, if they ever get around to it over the next couple of weeks or the next couple of months.

□ 2230

In fact, the trade association for the health insurance companies has testified many times before committees in the House, the Committee on Commerce, the Committee on Ways and Means, that they do not want to provide this drug-only insurance, that they are not going to sell it.

So I am very fearful that what we have here is the Republican leadership basically propagating a scam. They know that the American people, particularly seniors, want a prescription drug program, and that they want a program similar to Medicare. They are very much aware of that. They are very much aware of the fact that prices are too high, and prices need to come down.

But rather than provide a prescription drug program under Medicare that guarantees benefits for every senior and every Medicare-eligible constituent that we have, they are going to opt for another effort to throw money towards private insurance companies that, just like the HMOs, will not work and will not guarantee a real benefit package to the average senior.

In addition to that, the Republican leadership refuses to address the cost issue, the pricing issue. They do not want to. In fact, there was something in Congress Daily today, which is a publication that is put out about what Congress does, that says that there is a push within the Republican leadership that when they bring up their prescription drug bill, that they will specifically say in language in the bill that there cannot be any price controls or any effort to control prices in any way as part of that prescription drug program.

So there is absolutely no doubt in my mind that they do not intend to address the price issue at all, and try to bring prices down. That is another thing that will doom their program, because if they do not address the pricing issue, they will never be able to provide enough money to pay for a real prescription drug benefit.

I see that a couple of my colleagues on the Democratic side have joined me this evening. They have been here before. I certainly would like to have them participate.

I am particularly pleased that my colleague, the gentleman from Arkansas (Mr. ROSS), is here tonight because he is a pharmacist, and he knows more about this issue than I do and probably any other Member of Congress.

Mr. Speaker, I yield to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Mr. Speaker, I thank the gentleman for yielding to me. I am not a pharmacist, a lot of people make that mistake, and I thank the gentleman for the compliment. But my wife is a pharmacist, and together we own a small town family pharmacy in my hometown of Prescott, Arkansas, my hometown of 3,400 people. That is why I am so passionate about the need for a truly modernized Medicare to include medicine for our seniors.

Both sides of this aisle, Democrats and Republicans alike, have talked a lot about the need to provide our seniors with a prescription drug benefit, and yet we continue to see no action. This should not be a bipartisan issue. It is time for this Congress to unite behind the need to truly modernize Medicare to include medicine for our seniors, just as we have united in a bipartisan fashion on this war against terrorism.

This is especially an important issue for me because, as a small town family pharmacy owner, I have seen seniors before coming to Congress. Day in and day out in that small town family pharmacy, I would see seniors who literally had to choose between buying their medicine, buying their groceries, paying their utilities, and paying their rent. This is America, and we are talking about the greatest generation. I believe we can do better than that by our seniors.

If we think about it, health insurance companies are in the business of making a profit. Yet, they cover the cost of prescription drugs. Why? Because they know it holds down the cost of needless doctor visits, the cost of needless hospital stays, the cost of needless surgeries. I do not believe anyone in this Congress has fairly or adequately put a pen to the paper and determined the true amount of savings that we will realize by providing our seniors with a prescription drug benefit.

As I travel my district, and I have driven some 83,000 miles in my district listening to the needs of my constituents over the last 17 months, as I do that I hear story after story about senior after senior who is trying to get by on a $500 a month Social Security check, and yet faces a drug bill sometimes as high as $300 a month, sometimes as high as $400 a month, sometimes as much as $600, and yet, even $1,200 a month.

I have had a senior tell me about how her son, who is in his 40s or 50s, has a drug benefit through his employer or health insurance to work, and they happen to take the same medicine, and he thinks he is healthier than his mom so he gets the medicine and gives it to her, which is going to cause him to have health problems.

There are estimates that as much as $170 billion is wasted every year in our health care delivery system because people simply cannot afford to take their medicine, or cannot afford to take it properly.

I was recently in a small town, Glenwood, Arkansas, in Pike County, and ran across a retired pharmacist, probably in her 80s. She just happened to have been a relief pharmacist at the pharmacy my parents used when I was a small child growing up in Prescott, Arkansas.

She told me something that really stuck with me. She said, you know, back as recent as the 1970s I would fill a prescription, and if it cost in excess of $5, I would go ahead and fill the next person's prescription while I tried to get enough confidence built up to walk out there and let the patient know that it was going to cost $5. Now to see prescriptions that cost $100 is not uncommon.

The bottom line is this: Today's Medicare was designed for yesterday's medical care. Today's Medicare was designed for yesterday's medical care.

There has been a lot of debate and a lot of talk about how we do this, how we provide a meaningful prescription drug benefit to our seniors. The Republicans first offered a plan that simply provided a discount card, like it was some kind of new concept. Prescription discount cards have been around forever. Watch any cable TV channel late at night and you will see them advertised for $7.95 a month. My dad got one in the mail a few months ago for free. Why is that? Because the prescription benefit managers, which play a huge role in the Republican plan, do what? They make huge profits off the rebates, profits that exceed those that are made by the hometown family pharmacy. That is why they give us these cards for free, because they get rebates on the preferred drugs that are included.

Where the discounts come from, they do not cost the big drug manufacturers a single dime. Studies show that the savings range from 50 cents to $3. If a senior who faces a $500 a month prescription drug bill is taking six medications a month, let us say they can save $3 per prescription, that is a total savings of $18 a month, $18 savings on a $500 drug bill. That does not help our seniors choose between buying their medicine, buying their groceries, paying their light bill, and paying their rent.

Thank God that when we created Medicare, we did not say, here is a discount card, go cut a deal for your surgery. Here is a discount card, go cut a deal at the doctor's office. We provided a meaningful benefit under Medicare. We provided meaningful health insurance for our seniors. It is time that we do the right thing by all seniors by providing a voluntary but a guaranteed prescription drug benefit that is just like going to the doctor or just like going to the hospital.

The big drug manufacturers, they are not going to like the Democratic prescription drug plan. Why? Because we have the courage to take on the big drug manufacturers.

Some studies show that $360 million was spent by the big drug manufacturers in the year 2000 on political donations, lobbying, and advertising. In fact, some drug manufacturers as recently as last year spent more money on TV ads marketing their products than they did on research and development.

The ads that come on TV and look real fancy, and they try to tell us which drug we need to tell our doctor we need, have Members ever thought about that? It is time that we held the big drug manufacturers accountable. It is time we stood up to them and said, enough is enough. If governments, small governments like Canada and Mexico, can stand up to the big drug manufacturers and demand lower prices, why cannot we?

It is time we developed a plan that takes on the big drug manufacturers. Why? Because 83 cents out of every dollar that we spend on a prescription drug is 83 cents that is a result of the cost of the big drug manufacturer. Seventeen cents out of every dollar that we pay for a prescription drug is the cost that it takes for the hometown family pharmacy to do business: to fill that prescription, to buy liability insurance, to pay their utilities, and yes, oftentimes to deliver that medicine to the front door, because the patient is a senior who can no longer get out, a senior who can no longer travel, a senior who lives in a town like Prescott, Arkansas, where I am from, where we do not have mass transit.

This is a very important issue. It is important to our seniors, and it ought to be important to every one of us, because some day all of us will be on Medicare, and we, too, will want to have a meaningful prescription drug benefit.

This is a very, very important issue to our seniors. I hope it is an important issue to all of us. I look forward to continuing to discuss the need to truly modernize Medicare to include medicine for our seniors as this debate continues.

If another day passes without our seniors getting a prescription drug benefit, that is one day too many.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Arkansas. I know he said he is not a pharmacist, but because he owns a pharmacy and because he deals with the public on a regular basis, he knows about the preventive nature of prescription drugs.

I always like to bring that up, and I am pleased that the gentleman did, because we always, or I tend to forget, and I think a lot of my colleagues tend to forget that because prescription drugs really are preventive in nature, they actually save a lot of money.

In all these calculations that we have to deal with in trying to figure out how much a prescription drug plan would cost, nobody ever calculates the fact that concerning some of the people the gentleman mentioned who cannot get prescription drugs now because they cannot afford it, we would prevent them from going to a hospital, we would prevent them from having to go to any kind of institution, and that saves the Federal Government a lot of money.

Obviously, if the Federal Government has to pay $100 or $200 for a drug, but if that means somebody does not incur a $10,000 or $20,000 hospital bill, that is a savings to the Federal Government because Medicare is paying for that hospitalization. Instead of that, they pay for a couple hundred dollars for a prescription drug.

I think it is important, because we, a lot of times, forget about how preventive measures, whether it is home health care or prescription drugs or whatever, nutrition, these things save the government money. That has to be factored in in terms of what we do.

Mr. ROSS. Mr. Speaker, if the gentleman will continue to yield, I would just tell the gentleman that I think this is a good example of why we need an overhaul in Medicare, why today's Medicare is designed for yesterday's medical care.

There are very few drugs, few drugs that Medicare pays for. One is when one has a kidney transplant. They will pay for drugs that keeps one from rejecting that kidney for up to 3 years. Here is what Medicare says today. They say, if you go to the doctor because you are ill, they will pay for it. If that doctor determines that you are ill because you need a new kidney, they will pay for the transplant and the hospital stay. Then they say they will pay for the medicine up to 36 months, 3 years, to keep you from rejecting that kidney.

In month 37, do Members know what Medicare says? Under today's rules and regulations, they say, I'm sorry if you cannot afford the medicine, which can cost more than $500 a month to keep one from rejecting that kidney, we are sorry but we cannot pay for that anymore. But here is what can be done: Let your body reject that kidney, and we will pay for you to go back to the doctor, we will pay for you to go back to the hospital, we will pay for you to have another surgery, we will pay for you to have another kidney transplant, and then we will cover the medicine for another 3 years, another 36 months.

Again, that is just one example of how Medicare today does not make sense. Again, today's Medicare is designed for yesterday's medical care.

Mr. PALLONE. The point is that we may find that when we do, and hopefully certainly if the Democrats have their choice in the matter, we will have prescription drugs under Medicare, and we probably will find that there is a tremendous savings to Medicare on the hospital side and on the doctor side, and to the Federal Government because of a prescription drug benefit. I have no doubt about it.

Mr. ROSS. If the gentleman will yield further, I will tell him that as a small town family pharmacy owner, I cannot tell him the countless stories, and I can put faces to these stories and names to these stories but patient confidentiality prevents me from doing that, thank goodness, but I can tell the gentleman, faces stick in my mind of seniors who cannot afford their medicine.

I live in a small town of 3,400 people. Before coming to Congress, when I was actively involved in the management of our small town family pharmacy, I would see seniors who could not afford their medicine. They would leave the pharmacy without it, and a week or 10 days later we would learn, because it is a small town, that they were 16 miles down the road in Hope, Arkansas in the hospital running up a $10,000 or $20,000 hospital Medicare bill that could have been avoidable, could have been avoided had they simply been able to afford their medicine or been able to afford to take it properly.

Diabetics, I have seen diabetics that lose legs needlessly simply because they could not afford their medicine. Do Members know what it costs to amputate a leg? Do Members know the drain that has on the Medicare system and on a senior who no longer has a leg simply because they could not afford their medicine, or kidney dialysis?

□ 2245

Medicare pays for kidney dialysis. If you cannot afford the medicine, Medicare says that is okay. We will pay for kidney dialysis. As much as a quarter of a million dollars Medicare will pay out. But no, they will not pay for the $40 or $50 or $60 prescription that the senior needed to avoid that horrible, horrible experience that in many cases eventually had a great role to play in their eventual death.

Mr. PALLONE. The other thing you have mentioned too, because we are now talking about the cost issue, is how the Republicans, the only thing that we are hearing from President Bush and the Republican leadership is the drug discount card, which obviously is already available and if there is a discount, you can take advantage of it now. There is certainly nothing that the Federal Government is going to do or promote that will make a difference.

I maintain that the way we save money is through prevention. If we do not bring costs down for medicine, it would make it a lot more difficult for a prescription drug program on the Federal level to work. And that is why the Democrats are saying not only do we want this prescription drug program to be part of Medicare, but we want the Secretary, in this case, of Health and Human Services to have the power and mandate to go out and negotiate lower drug prices.

I was just amazed to read, I mentioned before, I am actually going to read this from Congress Daily today, which as I say to my colleagues we all know what it is, but it is a publication that is put out about what Congress is doing. It says, In a briefing document prepared by staff members of the Republican Study Committee, which is a House Republican research group, suggests that Republican members would like provisions to prohibit drug price controls, cap general fund contributions to Medicare at 40 percent of the total, and require means testing for the drug benefit to be considered for inclusion in the drug bill.

Now, I do not want to get into all of those, but the point is the fact that they would actually try to build something into the legislation that says they cannot deal with price is incredible to me because, again, if we are going to have this be a meaningful benefit under Medicare, there has to be some effort to bring down the prices. I will say we will specifically say what the price is and control the price, but we want the Secretary to have the ability to negotiate a good price.

The gentleman knows how that works, being in the pharmacy business and how HMOs and the VA and other systems that have a lot of seniors that they negotiate for have the ability to bring down the costs. So it makes sense to do that and not suggest that we pass legislation that would prohibit it.

Mr. Speaker, I yield to the gentleman.

Mr. ROSS. Mr. Speaker, I wrote a bill. It is H.R. 3626. It is a bill that will truly modernize Medicare to include medicine for our seniors. In that bill we hold the big drug manufacturers accountable. In that bill we demand the same kind of rebates from the big drug manufacturers that State Medicaid programs, that the Veterans Administration and that big HMOs have been demanding for years. And we do that because it is time that we held the big drug manufacturers accountable, and we can do that in a way that State Medicaid programs do it, a way that most privately held health insurance companies do it, the way most big HMOs do it, by demanding the same kind of rebates that they receive to help offset the cost for a meaningful drug benefit for our seniors.

Let me say this. Those who know me know I am a Democrat, I am a conservative Democrat, and I probably cross party lines and vote with the Republicans just about as much as anybody on the Democratic side. And when they are right, I stand with them. But I can tell you, I am a small-town family pharmacy owner. I understand this issue, and they are dead wrong with this issue. First, they come up with this crazy idea of a prescription discount drug card. Again, they have been around forever. Seniors have paid for them. They have gone to their pharmacy. They have learned there is no meaningful savings to a so-called prescription drug card. And thank God when we created Medicare, we did not say, here is a discount card to go to the doctor and go to the hospital with.

Now apparently they will come with a program where they will cover this much of your drug bill if you make this much money. And they will cover this much of your drug bill if you make this much money. And it is so complicated that every senior is going to need to hire a CPA to figure out what their income is that month to figure out what benefit they qualify for.

This does not have to be complicated. A Medicare benefit that allows you to go to the doctor and that allows you to go to the hospital is not complicated. Everyone understands it. And it benefits those seniors who need it.

Mr. PALLONE. Mr. Speaker, the other thing the gentleman said which I thought was very significant is we know that the prescription drug manufacturers spend all this money on advertising trying to promote their brand-name drugs, and it is amazing to me what goes on and why it contributes to the escalating prices of drugs.

Obviously, they spend a lot of money on advertising. That causes prices to escalate. Then they try to make sure that people only buy the brand name which costs more and try to exclude or discourage the use of generics, which is one way to bring costs down. And then they come to Congress and use their lobbying power by financing campaigns and trying to get these patent extensions. The patent expires at the end of so many years and they get an extension for another 3 years or another 5 years, which makes it impossible to bring up the generic drug or use of a generic alternative.

They are constantly exercising their political clout, if you will, and advertising and then they get tax breaks for advertising as well. And all of this drives up the cost. And the worst of it that we have had in the last month or so is this drug industry-funded media campaign to promote the Republican prescription drug plan. If I could give you a little flavor of it here, because I am reading a press document that says that the drug industry is funding this front group called the United Seniors Association to launch a multi-million dollar advertising campaign to promote the Republican Party's prescription drug proposal.

The whole point of this thing is to try to confuse the public and try to act like what the Republicans are proposing is Medicare, it is a guaranteed benefit and it will bring down costs. They are spending something like 3, 4, $5 million to try to make that point when it is not true.

I do not know how much longer the public can take it, the constant advertising for name-brand drugs, the constant effort to try to prevent generics to come to market, and, now, the effort to promote and spend money to say how the Republican bill is a good alternative. We have to get up here every night and as much as we can expose all of this.

Mr. Speaker, I just want to thank my colleague, the gentleman from Arkansas (Mr. ROSS), for coming down and making the point. Because since he is in the business, or at least he was, or still is with his wife, he has an understanding of what we face. So I thank the gentleman again.

Mr. Speaker, my other colleague is here, the gentlewoman from Texas (Ms. JACKSON-LEE), who is also a part of our health care task force who has been here many times to point out the need for a prescription drug program and Medicare prescription drug program. I yield to the gentlewoman at this time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman.

Mr. Speaker, I was listening to my colleague and friend from Arkansas (Mr. ROSS) and my friend and leader on this issue from New Jersey (Mr. PALLONE). Let me say to my good friend from Arkansas (Mr. ROSS), I am from the fourth largest city in the Nation and when it comes to the crisis in prescription drug benefits, take a rural area with 3,400 people and no mass transit and take an urban center, and that is the nature of the crisis, and that is what it is all over this country.

What I would like to say to my friend as well, I am a supporter of family pharmacies and family pharmacists because we have a few in our community and I thank the gentleman very much. I had the opportunity to visit with a number of pharmacists who have come up to try and discuss various issues, and I say pharmacists who open these local family pharmacies, and they have been very sensitive to the plight of our seniors to the extent that I know. And I know that my good friend, the gentleman from Arkansas (Mr. ROSS), has probably yielded a little to some of the seniors who have come into his store and probably had their request or their prescription drugs on credit for a while so that they could manage to keep their health where they did not find themselves in hospitals. So my hat is off to the gentleman and off to the family pharmacies around the Nation.

I want people to know that this is not an issue of your family drug store or your neighborhood drug store where you go into the pharmacists who try to do the best they can with the prescription that the senior has. It is a national crisis that we have, and that is why I thought it was important that we again raise our voices and speak to this question of why we have not been able to make headway on this.

I wanted to refresh our memory and I am also reminded of the idea of changing Medicare for these times. Let me say that whenever Medicare is discussed, we do not make friends. I believe in 1965, whatever the time frame when Medicare first was established under President Johnson, there were a lot of people in the health care industry, good friends of ours, of course, that is senior to me, but in any event, individuals in the medical profession that thought that Medicare was not going to work; it was going to collapse the system. How in the world are you going to have a government system to pay physicians? There was a great fear and debate about Medicare.

Now we find out that Medicare has extended the lives of seniors. And when it works right for the purpose our physicians, it is a system that provides better health care and the opportunity for our physicians to treat the elderly in a way that gives them a longer life.

Now we talk about reforming Medicare in a way that is long overdue, and I want to refresh my colleagues' memory, if we could, and refer back to the State of the Union in 1999. Now we have been talking about this for a very long time, but usually when things get elevated to the level of the State of the Union, then the Congress takes its lead, begins to formulate policies in a bipartisan manner. And it was in January 1999 when President Clinton announced an initiative to create a Medicare prescription drug benefit in his State of the Union.

This was declaring to the Nation that this was not only a crisis, but it was utmost important. When he delivered his State of the Union address in 1999, he laid out that one of the key goals of the year was creating an affordable prescription drug benefit under the Medicare program.

Mr. Speaker, I would say to my friend, the gentleman from New Jersey (Mr. PALLONE), we had the opportunity. We had the President. We had two Houses of Congress that should have seen the crisis and the writing on the wall. The gentleman asks the question why? We had legislation, as I recall. I remember we had a partnership with some legislation that was bipartisan as I recall, and that the Democrats and Republicans, at least Members who were on this particular legislative initiative, were prepared to move forward in the Committee on Energy and Commerce. And all of the sudden because of what I shamefully have to admit, that the devil was in the details, we began seeing certain industries feel that their particular stake in this was going to be diminished.

What that did to me and if I may selfishly say is have me day after day go back to my district and day after day be asked by my seniors, I thought you were going to pass that Medicare prescription drug benefit. I had town hall meetings. I had national figures in my district. I was speaking to seniors. I was hearing their stories of sadness, plights of individuals, two couples. When I say two couples, a husband and wife, struggling to pay both his drug prescriptions that he needed and hers, two seniors living together, living longer because of Medicare.

So the frightening thing about this is we are now in 2002. I have said this before on the floor of the House, we are spending $1 billion a day in the war against terrorism which all of us have united behind the President on that. We had a $5.6 trillion surplus just a year ago and tragically we were hit on September 11. And because we did not have restraint in the administration and proceeded with an enormous tax cut, we have a crisis. But in that crisis, let me say, that I am willing not only to confront the crisis but to take a risk.

□ 2300

Let me show my colleague that the American public is prepared to take a risk.

A question was raised in a survey, Medicare does not currently pay for prescription drugs and do you think the Federal Government should expand Medicare to pay for part of the drug costs? The survey showed, as my colleague will see, 67 percent of those surveyed believe that we should do that. They are asking the Federal Government to act. Only 6 percent said Medicare should not pay for drugs and only 26 percent of our seniors believe it should be a private system.

When they asked would you support or oppose rolling back the tax cut, this is the debate we had here today about this two-thirds super majority on raising taxes, and I will tell anyone I have not announced any position on raising taxes.

What I have suggested and what we have suggested, what colleagues in the Democratic Caucus have suggested is a rollback or a moratorium but a recognition that we cannot pay these taxes that give this high percentage of tax cuts to just 1 percent of the American public, but we find here in a survey just recently, March 28 to May 1, 2002, when we asked the American public would you support or oppose rolling back the tax cut that Congress passed last year and using that money to provide a prescription drug benefit under Medicare for seniors, a whopping 64 percent of the American public that are in this survey have indicated that they are willing to do that.

Why are they willing to do that? Because they realize that we are coming to a point of no return. We have Medicare that extends the life or has extended the life of our senior population, but we are cutting it off at the door because to extend the life through access to health care, then the prescriptions that have been prescribed must be utilized. We are talking about seniors who have up to 18 drugs that they have to take on average and, therefore, are in need of these resources.

Let me just share with my good friend and colleague why I have a problem with what the Republicans are proposing, and I am very glad that the gentleman is yielding.

Mr. PALLONE. Mr. Speaker, if I could just interrupt, I wanted my colleague to reiterate that point again about how many different drugs the average senior takes in the course of the year. I think a lot of the people, particularly younger people, have no idea

how things have developed, as my colleague said, over the last 20 or 30 years since Medicare started out.

Probably when Medicare started out in the 1960s, it would probably be unusual for a senior to be taking any kind of prescription drug, but now the gentlewoman said the average is 18 different?

Ms. JACKSON-LEE of Texas. Mr. Speaker, 18 different kinds of drugs, and we have heard that through the research of some of our colleagues in the other body, and as well I am going to bring our attention to this legislation about Canada and the reason why that is even being proposed. But out of doing a survey in various communities, yes, that was determined that there are multiple prescription drugs for multiple ailments. The senior is functioning. That same senior is at the neighborhood community center on Monday through Friday, but they need that amount of drugs.

Mr. PALLONE. If I could just reclaim the time, I know that statistic is accurate. I have seen it many times, but I think a lot of times people do not realize, because of the fact that so much research has been done and all these miracle drugs have been created, and it is all great, it is true now that seniors are taking that many drugs, and that is why the costs are so high. Even 5 years ago, the costs were not as high as they are now, and that is why this is such a crisis.

I did not mean to interrupt, but I think that statistic is interesting because I am not sure a lot of younger people realize that.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think that is extremely important. The gentleman from New Jersey is right in emphasizing that point. My colleague made a point earlier that he may want to elaborate on, and my good friend from Arkansas. I am concerned. It is also reputation, or they attempt to stigmatize Democrats, and I am glad that the gentleman from Arkansas did indicate that we have had support across the aisle and, in fact, we are encouraging bipartisan support on a fair Medicare prescription drug benefit.

This door is not closed to anyone who agrees with our position, but I take issue with being stigmatized as being opposed to business. In fact, let me compliment some of the pharmaceutical companies who worked with us on this issue of HIV/AIDS in Africa and have done some enormous work on this question. Certainly there have been some challenges on costs of drugs even there, but I will give credit where credit is due.

I am aghast that anyone would say that there is a crisis in the profit margin of these pharmaceutical companies, and I welcome, I know the gentleman sits on the Committee on Energy and Commerce, any hearings that could be held to say that there is a crisis in profit, and therefore they cannot come to an agreement on a prescription drug benefit of which the Democrats are proposing a voluntary effort because, as I understand it, as I heard the gentleman speak before, a lot of the research is funded by the FDA initially and covers the research that the pharmaceutical companies are doing.

Mr. PALLONE. Mr. Speaker, I wanted to point out there is no crisis in terms of the profit the prescription drug industry is making. The gentlewoman knows my home State of New Jersey is the headquarters for many of these, of the major drug companies, and let me tell my colleague, they are doing very well. Their stocks have been doing well, even in the last couple of years where the stock market has not been generally doing that well.

I, for the life of me, cannot understand why they do not see a financial benefit in a Medicare prescription drug program because, if we think about it, we have all seniors, millions of seniors that are not covered, not buying prescription drugs. If we add the entire senior population, if the entire senior population, most of which does not have a meaningful drug insurance program now, it is now included under Medicare, we have to be talking about an additional maybe 20 million Americans who would now be eligible and have most of their drugs paid for by the Federal Government. How is it that these drug companies would not benefit from that?

I think it is the fear of the unknown. In other words, they are doing well now. Their stocks are doing well. Their CEOs are making a lot of money, and they just figure, well, things are pretty good, so let us not change it. But I think once this program is put into place the way the Democrats have proposed, I seriously doubt that there is any way that they are not going to make more money because they are going to be selling more prescription medicine. I think it is just the fear of the unknown and the realization that maybe things are going to change, we are not going to benefit in some way, but the notion that their profits are going to be diminished by expanding Medicare, to me, is nonsense.

I yield back to the gentlewoman.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am glad the gentleman clarified my confusion, and might I emphasize again, that is why I take issue with any suggestion that Democrats are against business and have not been supportive. That is my analysis, and I am quite surprised at the representations and the fear that has been put forward by our good friends in the pharmaceutical industry to the extent of this major advertising campaign.

First of all, do they understand that our Republican friends are putting forward a bill that has a huge hole? Because it fails to cover seniors that have costs between $2,000 and $5,600. Now, most of us would think that is a lot of money to spend on drugs during the year, that is, low income seniors, and if we leave that large gaping hole, how are my colleagues going to respond to the issue? Those seniors are still going to physicians. Those physicians are still prescribing drugs and they still need to pay for them.

Why not cover them? They are 100 percent on the hook under the Republican plan for drug costs in that window. That is a lot of our constituents. It could be large cities. It could be rural areas. It could be suburban areas. A lot of seniors are living on a fixed income. A lot of them have drug costs and cannot afford that amount.

Mr. PALLONE. Mr. Speaker, reclaiming my time, I think the gentlewoman is pointing out a very important point. I have not stressed it so much because I know that the Republican plan does not have any kind of guaranteed benefit.

In the other words, what the gentlewoman is basically referencing is when the Republicans put out their proposal, they suggest that I think for the first $1,000 they will pay 70 percent of the costs for the next thousand. Up to $2,000, they will pay 50 percent of the costs, and then from $2,000 to $4,500, they will pay none of the costs, but the reason I think that that proposal is absurd, as my colleague pointed out, is, and why they do not have any hesitancy of talking about it that way is because it really is not any benefit.

In other words, what they have done essentially, from the way I understand it, they have said we are going to throw a certain amount of money out for these drug-only insurance policies, and in order to fit that in for what we would like to see for a benefit, we will structure it this way, and they have structured it with that hole because there is not enough money to pay for a real benefit that would be meaningful.

The problem is that since this is just being thrown out to the private insurance sector, we do not even know what these drug-only policies will provide, and they are probably not even going to be available in large parts of the country. So I think the reason they do not have any problem suggesting what my colleague suggests is actually absurd is because they do not really have a guaranteed benefit at all. So they create this hole in order to fit it in with their budget, what they think they are going to throw out there in terms of the total amount.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think the gentleman has articulated it extremely well. That is why I wanted to make sure that my chart was clear, that the consensus of the American people would be, one, they recognize this would be expensive. I do not think that we should hide from that concept, but we need to frame what we are saying.

What we are suggesting is that the investment is well worth the honest cost and that is to ensure that the average senior, which is obvious the average senior could not pay $1,000 because we might say that that would be easy to almost come up with.

□ 2310

But they are usually in this ballpark. Certainly over 2,000 would be left with 100 percent of the bill. The question is whether we make the calculated, intelligent judgment to invest in this kind of plan that Democrats are offering that in fact puts a minimum of a $25-a-month premium, I know things are sort of meshing and forming, but has a deductible, has a co-insurance, but responds to those low-income seniors and others. That is what we are suggesting, voluntary and universal.

This way we are not precluding, we are not indicting anyone, or segmenting one economic group versus another. What we are suggesting is that gaping hole between $2,000 and $5,600, we would be doing nothing if we did not pass legislation that respond to that.

Mr. PALLONE. Mr. Speaker, reclaiming my time, the Democratic proposal, which is like part B, which is the part of Medicare that pays for the doctors' bills, there is a premium, low deductible, and 80 percent of your doctors' bills are paid for under part B, and almost everyone signs up for it because it is a good deal.

We are suggesting we do the same thing with prescription drugs. What I think is important, particularly for poorer people or people who do not have the money to pay for the premium, just like under part B for your doctors' bills, if you are below a certain income, we pay for that premium. If you are a little above that, we pay for part of the premium. We would be doing the same thing under the Democratic proposal for prescription drugs. That $25 premium that you would pay per month for the prescription drug benefit under Medicare, would be totally paid for by the Federal Government if you are below a certain income; and if you are just above that, it would be partially paid for by the Federal Government. So no one would not be able to get the Medicare benefit because they could not afford the premium.

Ms. JACKSON-LEE of Texas. Mr. Speaker, that is an excellent point. As well, I think it is important to note, and again this is not a time to speak to the condemnation of any HMOs or plans, but you will not have to be in an HMO, as I understand it, to receive this coverage. I think that is a key element as well.

As I close, let me also say to the gentleman, and I started out by saying this is a crisis, and I just wanted to note that some of our good friends are recognizing this, have proposed legislation to deal with the importation of drugs from Canada. This is not a commentary, but this suggests to the American public that this is serious, that we have been without any redress and without any ability to address this crisis. We have had to go to the point of seeking an opportunity for seniors to get drugs in Canada.

I just ask the question to the gentleman, can we not do better? I applaud this legislative initiative. I applaud it and support it because I need help for my seniors. But cannot America and this Congress turn its attention to what seniors are facing across the land? This is not a New Jersey problem or Minnesota or Michigan problem. It is across the land.

I have been saddened by having to meet with seniors time after time and have them raise their hand for a question asking about the prescription drug benefit, as if I am coming home without what I promised. I cannot imagine that we can go any further without doing this, and recognizing we have a valid plan and we have a crisis. We have the evidence that our country is willing to address this by sacrificing a tax cut and providing a prescription drug benefit.

Mr. PALLONE. Mr. Speaker, I thank the gentlewoman for her points. The gentlewoman's last point spoke about the fact that many seniors are forced, particularly if they are in the border States, to go to Canada where they can find the lower drug prices. That should not be the answer. I agree with the gentlewoman 100 percent, but it makes me point to one other thing which we have not really stressed that much tonight but needs to be stressed, and that is as Democrats we want a prescription drug plan.

We are going to lay that plan out tomorrow at a press conference at 11 on the steps of the Capitol, but the issue of prices for drugs is not just something that seniors face. All Americans face it. This prescription drug plan under Medicare will solve the problem for seniors, but the pricing issue is still a problem for everyone else.

We need to look at that as well. We need to, if the option is for some people because they are close to the border to be able to go to Canada and buy cheaper drugs, let them do it. We need to plug up these patent extensions. We should not allow companies with brand names to get patent extensions just because they have some money that they are throwing around this place because that prevents generics which are a low-cost competitor to these brand-name products from coming to market.

I think we should also plug up this advertising loophole where they get these tax breaks for the advertising that they do. I can understand a tax break for research, but why a tax break to advertise brand-name drugs? There are a lot of things that need to be done in a larger sense that do not just relate to seniors to try to bring drug prices down, because this is a crisis for every American, but particularly for seniors who are so dependent on some of the drugs and the cost for them is so prohibitive.

But it is a problem in general. The Republican leadership does not even want to address the price issue in the context of Medicare, let alone if we talk about it in the larger context of all Americans. We need to bring prices down for everyone.

Ms. JACKSON-LEE of Texas. Mr. Speaker, just quickly, one of the comments made in this evening's discussion is we need an overhaul of Medicare with the various health components that are part of the Medicare system brought to the table.

I actually believe points made by the gentleman from New Jersey (Mr. PALLONE) could be discussed and resolved in a meaningful, coming together in discussion, not in an adversarial, way. I would hope that the major entities, hospitals, pharmaceutical companies, the medical profession, we need some reform with nursing. Why do we not bill nursing services? We have a nursing shortage, hospitals cannot pay nurses, nurses are not getting compensated, and that is a suggestion that we bill nurses as we bill physicians. And my point is, if we do not do this in anger or anguish, pricing questions need to be resolved. We might be better for it if we begin to look at ways that we can even out the cost. If we get to the point that the cost is so insurmountable that hospitals close, nurses are not available, pharmaceutical companies are not making money because the enterprises are not in business any more, I think that is common sense.

Mr. PALLONE. Mr. Speaker, I will just say one more time as Democrats, we are determined first to address the issue of drug prices; and, secondly, to provide a Medicare benefit, a guaranteed Medicare benefit for all seniors. We are going to be unveiling our Medicare prescription drug proposal tomorrow. I know it is a good one. I hope that the Republicans will seriously take a look at it and not go down this privatization plan that they have been talking about.

INTEGRITY AND HONESTY IN THE CORPORATE WORLD

The SPEAKER pro tempore (Mr. KELLER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for half the time remaining until midnight, or approximately 20 minutes.

Mr. HOEKSTRA. Mr. Speaker, last night I came to the floor, and I talked about an issue that I have a passion for. It is about integrity and honesty in the corporate and business world.

□ 2320

I talked a little bit about some of the revelations that have gone on in the last few months, really beginning with the scandal at Enron, Arthur Andersen and those types of things. And I want to talk a little bit more about that tonight because the stories in the papers today just keep building on this issue.

Today, USA Today: ''Stock Markets Sink to New Lows for 02.'' The bottom line is that this lack of integrity and this breaking of the public trust by corporate business and business leaders has had a real and a dramatic impact

in our economy. The public is losing faith and trust in our corporations because of these many examples.

Why is this? Let us go back and take a look at what our system is based on. I have quoted a former boss of mine at Herman Miller Corporation who has written a number of books talking about leadership. One of his latest books, ''Leading Without Power,'' Max De Pree, a Fortune 500 CEO, wrote about the importance of people having trust and confidence in the American economic system in order for it to work. He states: ''When you stop to think about it, it is astounding that anything as complex as the trading of stocks, bonds, commodities and futures ultimately depends on trust, a value, not a statute, not an SEC regulation, not even a government mandate. The system works on trust.''

Where are we today? Again, USA Today, front page of their money section, the top headline is'' ''Wait for Verdict Raises Fear of Hung Jury,'' but here is a story that really just builds on exactly what I was talking about last night, and actually they say it much better than I do. Their cover story on their money section is ''How did Business get so Darn Dirty? Experts blame greed. Reforms come slowly.''

Double dealing Wall Street analysts. Sleazy accounting. Cooking the books to goose corporate profits. Bogus stock trades. Greed and corruption have always lingered at the edges of corporate America, from Civil War profiteers to inside-trading scandals of the '80's. Yet the new millennium has ushered in a wave of fraud, corporate malfeasance, investment scams, ethical lapses and conflicts of interest unprecedented in scope.''

The end result: a lack of public trust, shareholders, customers and employees feeling devastating financial consequences, and stock markets sink to new lows for 2002.

The fallout is a prime reason stocks continue to flounder. And despite calls among politicians, regulators, and Wall Street for sweeping reforms, little is being done to change rules for corporate conduct.

That has to change.

What are some of the examples out there as to why the American public is losing their confidence in the corporate business world? Here are some examples: Baltimore currency trader John Rusnak indicted for bank fraud for allegedly hiding nearly $700 million in losses. Alan Bond, former regular on ''Wall Street Week'' with Louis Rukeyser, convicted Monday of defrauding clients of $56 million.

There is a nuttiness that we're seeing. Boost performance by any means. The temptation to cash in grabbed lots of people.

Here is an interesting one: Dennis Kozlowski, think about it. Here is a guy that over 3 years made over $300 million as compensation as Tyco CEO, forced out over an indictment for tax evasion. $300 million, over $100 million a year, and the guy appears to be unwilling to pay sales tax. Let the rest of the American people pay sales taxes, because $300 million, $100 million a year, I just cannot afford to pay sales taxes.

The question to this individual, Mr. Kozlowski, if this is an accurate portrayal, when is enough enough or when does it simply become greed?

You just go on. Software provider MicroStrategy, trading at $333 per share. Today, it is trading at $1.15. The CEO, Michael Saylor, and other executives later paid $350,000 in fines to settle SEC allegations of accounting fraud and paid $10 million to settle shareholder lawsuits.

I am not sure exactly what the CEO walked away with, but I would guess that he walked away with a lot more than the $350,000 that he paid in fines.

Enron executives sold millions. The real tragedy and the real shame here in America is that as these executives lead their companies down a road of shady dealings, activities to deceive and hide the true viability of their business from their customers, their shareholders and their employees, it seems that for some of these as their employees and shareholders face financial ruin, for these few executives it has come to mean a golden parachute. In this kind of world, lower standards prevail. Honor and trust continue to falter elsewhere, but they are really faltering in the business community.

I want to just highlight one other example. This is from our State of Michigan. This impacts and shows how again individuals, shareholders and employees get hurt when leadership breaks the public trust.

CMS Energy shares drop. Suspect trades help drag Detroit-based firm's stock down more than 35 percent since January.

CMS Energy Corporation's stock fell 10 percent Tuesday after its former accounting firm said its opinions on the energy company's financial results for the last 2 years can't be relied on.

Excuse me? It can't be relied on.

Here is something that I find really ironic: ''Last month CMS fired Andersen because of the accounting firm's link to the Enron Corporation scandal.'' What is the problem with CMS? CMS simultaneously sold power to and bought electricity from other energy companies to artificially boost the volume of its deals. CMS, this is like the pot calling the kettle black. They are doing bogus sales to boost the volume, deceive their employees, their shareholders and their customers; and at the same time they are firing Arthur Andersen because of the accounting firm's link to the Enron Corporation scandal.

And here is now a response from an analyst. They have engaged in bogus trades, their auditing company says we cannot really support the opinions for the last 2 years on our audits, and here is one analyst's response: ''The market is overreacting to Andersen's statement. People are really fidgety these days.''

No kidding. What would you think they would be? Let us see, they have invested a ton of money, the stock is down 35 percent, the auditors are saying, the last 2 years of financial statements, we can't vouch for those anymore. And, by the way, the company has admitted that it has engaged in a bunch of bogus trades to inflate the health and the vitality of its business. And people are fidgety.

They have a right to be fidgety. The leaders of this company broke the public trust. The auditors did not do their job and people are fidgety. I would guess so. Because their stock has dropped by 35 percent, and my guess is that the executives of this company are going to walk away with a bundle of money.

Just a few more examples. This is what happens when the companies go down, employees and shareholders and customers are hurt. What happens to the executives? Enron, Ken Lay. Ken Lay is doing all right. He sold $1.8 million shares for $101 million. Jeff Skilling, he sold 1.1 million shares for $66.9 million. They sold those shares for around $50 to $60 a share. Rebecca Mark. She only walked away with about $80 million. She sold her shares at about $60 a share. Robert Belfer, he is a director. He only made $51 million.

□ 2330

He sold 1 million shares for $51 million, $51 a share. If any of you want to buy Enron, I bought some a while back. I just wanted to see how these people explained their behavior to their shareholders. I think I bought 50 shares. I did not pay $51. I did not pay $60. I did not pay $70. I paid exactly what you can do if you call your broker, unless maybe the stock has doubled. I bought it for about 20 cents a share. If I made a good investment, you may have to pay 40 cents a share. I am not sure what happened to the stock price. But these guys walked away with a bundle of money.

Mr. Kozlowski, the individual from Tyco, $100 million a year was not enough. He did not want to pay sales tax. Under Mr. Kozlowski's leadership, quote, unquote, Tyco lost $86 billion in market value. According to Reuters, ''A pattern of lucrative payouts to board members and top executives at the troubled manufacturer raises questions about whether they had incentives to keep tabs on the spending of disgraced former chairman Dennis Kozlowski. The question is now whether he will receive less than $135 million in a severance package than if he had been fired.''

Mr. Kozlowski has been indicted and the question is whether it will trigger a wider probe into Tyco.

CEO, Lucent Technologies. Mr. McGinn, former CEO, will receive $5.5 million in cash. They are going to pay off a personal loan of $4.3 million. His performance at Lucent, the Securities and Exchange Commission is investigating possible fraudulent accounting practices while Lucent employees are suing the company for a breach of fiduciary responsibility by inappropriately allowing employees to add company stock to their retirement plans.

WorldCom. Mr. Ebbers will receive $1.5 million a year for life. His performance, WorldCom is being investigated by the SEC for possible fraudulent accounting practices. Its credit rating has been reduced to junk status and has been removed from the Standard & Poors 500 index. Good job. Congratulations under your $1.5 million per year.

It is a disgrace. I hope that the business community steps up, because the bottom line is that millions of American businesses who practice honesty and really do lead with integrity and maintain the public trust and recognize that it is a public trust, will most likely pay the penalty for the failed leadership of these executives. These people walked away with golden parachutes, and many of them left their companies in shambles and left their employees' and shareholders' financial conditions in shambles. They walked away with a golden parachute. Their legacy to American business is this Congress and the business community is now going to have to face a mandate and a multitude of new business regulation.

The problem is, let us not forget that in the end, this is about integrity, it is about trust, it is about common sense, and it is about decency, all leadership qualities that cannot be legislated, and in many cases leadership qualities that were expected of these individuals, because they hold the public trust and they walked away from it.

I yield to my colleague from Colorado.

Mr. SCHAFFER. I appreciate the gentleman yielding.

Mr. Speaker, I have heard my colleague from Michigan now speak two nights in a row on this very topic, and I want to commend him, because it is late here tonight. I was in my office and I heard the gentleman begin on the subject, and I ran over here to join him and to encourage him on this topic.

I do not care how late it is, and I do not care how many times we have to hear it, but this is something that we need to speak about more often. Let me be a little critical of our own party, if I can. We are Republicans, we are conservatives. We share a passion for free market capitalism together. You know, this is a subject on which Republicans ought to be vocal, as the gentleman has been, and we ought to see more of us from our side of the aisle here.

I will tell you why, because these individuals in corporate society in America who are betraying their investors, betraying the employees of these companies and trying to get away with outright theft, are threatening our very existence as Americans. They are threatening our way of life and traditions of free market economics, driving what historically and traditionally has been the most powerful economic force on the planet, and that is the United States of America.

Mr. HOEKSTRA. The gentleman and I have talked about this. I appreciate my colleague's support. What we have said is in some ways these people are accomplishing, these business leaders, because of their failure to exercise true leadership, are accomplishing what the terrorists could not.

We bounced back after September 11, believing that we could rebuild America, and we are. They put the final piece back on the front of the Pentagon, I think, this week. We are strong and we are going to overcome that and are going to know we can move forward in the face of this terrorist attack. But people are questioning the strength of our system, and stocks are down, not because of the terrorist attack on September 11, but because of the scandals in the business community.

Mr. SCHAFFER. I do not think that the magnitude of this tragedy can be overestimated. It is quite serious. The gentleman is right, there are many people in this Congress and in this country who have rebelled against capitalism for years and years, who think our capitalist way of life in America ought to be thrown out; that we ought to, I guess, go the way of some of the socialist nations of Europe and perhaps even the communist nations in experiments that have been tried and failed around the country.

We, as conservatives, free-market-oriented legislators, we vigorously defend and put our political capital on the line in the notion of free markets. It has served this country well. It has led us to a point of prosperity in this Nation that was beyond imagination for our forefathers and those who have been the pioneers before us here in America and those who have served prior to us here in Congress fighting to preserve free market capitalism in the country.

These individuals who are cheating and lying and resorting to deception and betrayal, I will tell you what, they are the scumbags of American industry. I am fed up with it. I think Republicans ought to be leading the charge to try to suggest that American industry ought to really rise up to try to police itself, because it is these few bad actors who are trying to get away with stealing millions, sometimes billions of dollars, that give the entire business community just a black eye that is very damaging. It threatens investor confidence.

I think this is a point at which investors and consumers ought to really rally the cause, not to look to government for solutions, though I think there are some places where we have a legitimate role to play, but this needs to be policed where it matters the most, and that is with Americans themselves, free Americans who understand the importance and power of a free market system and the importance of capitalism and believe very firmly in it.

Failure to address it at the serious level it warrants really empowers those who want to destroy capitalism from a bureaucratic perspective. We fought too hard to come here to Congress to allow that to happen.

So I want to commend the gentleman for raising this issue. These organizations, Tyco, CMS Energy, Enron, Lucent and others you mentioned, there are board members elected by stockholders. Their job is to make sure the stockholders' interests are protected, not those few privileged that end up running away selling what is the moral equivalent, I suppose, of sweets on the Titanic. It is their job to make sure that American industry is preserved at a level of integrity that Americans deserve and Americans have come to expect.

I would suggest maybe one other thing. What business schools are producing these individuals, these scoundrels trying to get away with these kinds of crimes? Where do they come from? Those business schools and colleges ought to be held accountable as well, not only for producing these scumbags, but also for perhaps suggesting, maybe telling Congress as to what kinds of changes in the curriculum they are making to improve the quality of business ethics within their colleges and universities.

□ 2340

Maybe we ought to hold them accountable, bring them here in front of hearings, in front of Congress and ask them to provide some solutions so that the captains of industry of the future perhaps have a little higher integrity than these few bad actors are demonstrating.

The SPEAKER pro tempore (Mr. KELLER). The gentleman from Michigan (Mr. HOEKSTRA) is recognized for the balance of the time until midnight.

Mr. HOEKSTRA. Mr. Speaker, I thank the Chair, and I thank my colleague for joining me.

I just want to close on this issue, because I know we want to talk about another issue that the gentleman and I both have a passion for but, like I said, I really thank the gentleman for being down here. This is an issue that Republicans need to take head on. We recognize how important this private sector is; we also recognize how fragile it is. Our system is based on trust. And when these folks break the trust and they walk away with millions or billions and are not held accountable, they weaken the entire system, and we are going to need to put in place, and I hope it happens in the private sector because we really cannot do it very effectively through Congress; but the boards of directors need to stand up and recognize their accountability to the shareholders, to their customers, to their employees; not to their colleagues on the board and not to senior management. They have to get a renewed appreciation for their role, and I think it is our job to point out what is going on here.

Mr. SCHAFFER. Mr. Speaker, if I could amplify that, I want to be frank

and open and honest with respect to the political realities of this. Republicans and conservatives around the country cannot afford to stand by and abandon the field to our friends on the left on this topic. We cannot stand silent and allow those who are the advocates, the Democrats in America, the liberals in America, the advocates of greater government control, greater bureaucracy, a government-managed economy; we cannot allow those advocates to somehow gain the upper hand in controlling America's economy predicated upon the crimes of just a few. These are very, very serious incidents that have occurred throughout the country, and we need to take the moral high ground as the Republican Party.

I would really urge all of our colleagues to come duplicate this Special Order and hold their own, to hold more hearings here in Congress. I think we desperately need that. I would encourage our friends throughout the country who care about these issues and who believe a conservative viewpoint in America is essential and is superior of that of the left, to write letters, to get on radio talk shows, to be as forceful and vocal as they possibly can within the political context of America.

This is an issue that conservatives ought to resolve. We owe this as our legacy to the country and our philosophy and our belief to take the moral high ground and to manage this situation in a way that corrects these atrocities and brings us back to what is expected and customary in American society in business. Because our failure to be forceful and vocal will abandon the floor to the wrong people who, in the end, have a much more dangerous and pernicious agenda for America's economy and America's industry, and that is, quite frankly, government control.

Mr. HOEKSTRA. Mr. Speaker, that is exactly right. If corporate America does not step up and deal with these abuses, or if we do not stand up here on the floor of the House and highlight these abuses and push the business community to come up with solutions through the private sector, the end result will be massive new government regulations, which will not have much of an impact, except putting many more costs on our businesses, driving away jobs, driving away creativity and productivity. This is about honesty, decency, and it is about the survival of the free market system, the capitalistic system, based on trust and us standing up and acknowledging that this is based on trust, it is not based on government regulation, and we need to move forward and we need to put pressure on the business sector to step up and deal with this.

I have been absolutely amazed. I came out of the business community. I worked for a Fortune 500 company. But I have been amazed by the deafening silence of the business community speaking out on these kinds of issues. I mean think about it. Companies that are involved in bogus trades, auditing companies that do not audit, sales that are not there, profits that are not there, excessive salaries, and the rest of the business community has basically been quiet. As this one analyst said, well, people are fidgety. Yes, because for many of our constituents, for many of my constituents who work at CMS probably have some kind of a profit-sharing plan or have some of the retirement put into CMS stock. Since January 1, the stock is down 35 percent.

Yes, those people are fidgety, because their company had bogus sales, the company deceived their employees, got them to invest in that stock on a false premise, and they have now lost 35 percent. Yes, I would be fidgety too, because these are people who are near retirement, some of them maybe are on retirement, and they have looked at their nest egg just kind of shrink and evaporate, and now people are saying, well, they are just fidgety, they are overreacting. No, they are reacting exactly the way we would expect them to act, when the leadership of their company has failed them and lied to them and when the leadership of their company walks away with millions and they have lost 35 percent. That is not right.

Mr. SCHAFFER. Mr. Speaker, when it is predicated on fraud, when it is predicated on deliberate acts of deceit, those people who committed those crimes ought to be in jail and they ought to serve a long, long time before they ever see the light of day again. I firmly believe that.

Not only that, I just want to reiterate what I said before. Who is producing these clowns? What business schools are they coming from? Let us find out what business schools, what college professors train people to believe that they can lie and cheat and steal here in America and somehow live in lavish houses and get away with it.

The message needs to be sent that anybody who trains these kinds of clowns needs to be exposed right along with the perpetrators. The perpetrators need to go to jail. My goodness, we ought to have a review of the curriculum in business schools to find out what kinds of ethics classes that they are exposing American students to, because it is not good enough, and we just have to bring this to an end as quickly as possible. It will destroy American society as we know it. This is a huge threat. The magnitude of this just cannot be overestimated and overstated.

Mr. HOEKSTRA. Mr. Speaker, it is kind of interesting, when I come back and we do our next Special Order on this topic, I will bring along a copy of an op-ed piece written by Jack Colson, because that is exactly the question that he asked, which is who is training these clowns? Because the message that clearly is being taught in many of our business schools, it is okay, as long as you do not get caught. No harm, no foul. I sell you $1 billion worth of energy, you sell me $1 billion back, immediately after that, we are now both a $1 billion company. If we do it twice, we are each a $2 billion company. If we do it 4 times, we are a big company now. We have not created any profit, we have not created anything, and no harm, no foul, but we have now just presented to the American public that we are both a $4 billion company.

That is what these folks did, and for one of these companies, it was 80 percent of one of their division's volume, bogus trades, just trading it back and forth and 2 companies saying, wow, look how big we are.

Somewhere in the business schools, they said, well, as long as you are not breaking any laws, it is okay. Game the system, and do not worry whether it is really not right, but game the system and you are okay as long as you do not get caught. And the bottom line is, for many of these people, it has gotten to be an issue of greed.

This head of the TYCO, and I have a passion about this TYCO company. They came into my district a few years ago and they bought a nice little small company, 400, 500 employees, and they said, we are going to keep it the same, we are going to keep it the same, we are going to keep it the same. They finished the sale and the next day, they locked the doors. Now we know what kind of man was running that company. He did not care about the employees, because he let them go the day after. He did not care about the business. He walked away with $334 million, and the biggest insult of all was when it came to paying sales tax, he said, I am not going to pay sales tax, because you know what I can do? I can buy something through the company, I can buy it in New York City, but if I ship it to Connecticut or somewhere else and then they can ship it back to me in New York because I shipped it to Connecticut, I do not have to pay any sales tax.

□ 2350

And it is kind of like, when is enough enough? It was $334 million. If he worked 7 days a week, 24 hours a day, he made about $10,000 an hour every waking hour. By January 1, at 6 o'clock in the morning, he had made $60,000 already, much more than most Americans will make in a year, and probably within the first 2 weeks of a year would have made more money than most Americans would make in a lifetime, and it appears that he was unwilling to pay a sales tax. It is kind of like, whoa. And that is the leadership of our, at least in this case, of one of our major corporations. He is leaving the company in ruins. The market lost $86 billion.

We ought to talk about the other issue that the gentleman and I both have a passion for, which is education. The gentleman and I both serve on the

Committee on Education and the Workforce. We have spent a lot of time going around America taking a look at what works.

We have analyzed the bureaucracy here in Washington, recognizing that in many cases the Department of Education could not give us a clean set of books. That has now improved with the Bush administration. They are on track to give us a clean audit, we hope, this year.

But we have a system that funds about $40 billion through the Washington bureaucracy, and what the gentleman and I are advocating for is a system that allows people to directly invest in their schools at home through an education tax credit based on what many of the States have done. It is really a unique and an exciting way to get more money into all of our schools for all of our kids, where the decisions to contribute and where the decisions as to how that money will be spent are made by people at the local level.

Maybe the gentleman just wants to expand a little on that.

Mr. SCHAFFER. Mr. Speaker, I thank the gentleman for yielding. The education tax credit proposal, in my mind, is one of the most exciting reforms we have seen here in Congress here in a long, long time. Its appeal is that it fosters school choice and more flexibility, really a market approach to American education, and it does so in a way that appeals more broadly across the political spectrum here in Washington and among the traditional education organizations than anything we have seen before.

It is better than vouchers because it is not a voucher at all. It does not represent the kind of strategy vouchers represent, but at the same time, it does promote school choice by focusing on students rather than institutions, and it is nondiscriminatory in its treatment of American school children. It is more fair than what we do today with conventional public education. It is far more fair than what would be proposed with something like vouchers, for example.

Here is how it works. It starts with the premise and the reality that every American is going to send a certain amount of cash, assuming they are taxpayers, to Washington, D.C.

Mr. HOEKSTRA. And assuming they are not trying to evade their taxes.

Mr. SCHAFFER. That is right. And the benefit in our bill, let me just start with the dollar amounts and some of the specifics, it is a $250 benefit to every individual taxpayer in the country.

Well, $250 is a certain dollar amount that every American is going to send to Washington under the current law. What we want to do is take $250 of people's current tax obligation and give them a choice on how to spend it. They can continue to send it to Washington, as they do today, or if the bill passes, they would have a choice to continue to do that or to send $250 to a local school of their choice, a public school in the neighborhood, or maybe a scholarship organization that provides scholarship funds to low-income students so they can attend the school of their choice.

In order to actually increase the amount of money invested in education in America, this tax credit is a 50 percent credit. We will give $250 back from the government if they will send that plus another $250, $500 total, to a school. That is the proposal.

It works very simply. If you make a $500 investment, total, to a public school or a private school, or a scholarship fund so kids can go to private schools, we will change the Tax Code so you will get $250 of it back out of the tax bill. It is a beautiful proposal. Six States are using it today. It has made a remarkable difference in the education opportunity for poor children in those States, and we want to do it for the country.

Mr. HOEKSTRA. Mr. Speaker, as the gentleman indicated, there are six States that are using some type of variation of this, whether it is Arizona, Minnesota, Pennsylvania, I think Florida, and they are all working on some type of plan like this.

But the exciting thing here, this is kind of like a voluntary decision by people at the local level that says I want to put more money into my local school, and they have the option of doing it. It builds that trust between a local parent, a local constituent, and their local school system.

If the school system can come up with a compelling need that says, hey, in Michigan we get money on a formula basis, and some of my school districts have some special needs, and they are saying, the money we are getting from Lansing just is not enough, and they have no alternative way to get some additional dollars, under this plan, they could go to the constituents in Holland and say, you know, we really want to keep this school open. This is in one of our target neighborhoods. We really think it is important. We know that this is not the most efficient way to run the school, but this is not necessarily always about efficiency. We want the best results. We think the best result is by leaving this school open. Are you willing to contribute a little bit to our school system to make that happen?

Under this system, there is an incentive for people to contribute and help build their school system to be one of the best school systems in the State, if not the country.

Mr. SCHAFFER. The current education funding formula at the Federal level is a very rigid, bureaucratic structure.

Mr. HOEKSTRA. It is very much that way at the State level.

Mr. SCHAFFER. This chart to my right explains how Federal education funds get from a taxpayer to a student here at the bottom. It is funneled through all of these different agencies: The U.S. Treasury Department, the Congress, the U.S. Department of Education. Those dollars are distributed through the States, through State legislators, the politicians, the State board of education, the school district, the politicians and to the school. By the time the dollar makes it through this rigid process, there is scarcely 60 cents left of every dollar. What we are proposing is bypassing this nonsense and getting the money directly to children through a choice mechanism and more of a free market approach to schools.

Mr. HOEKSTRA. Mr. Speaker, I want to really reinforce the point my colleague made, which is that this system shrinks the taxpayers' dollar; that when we put a dollar at the top of that funnel, by the time it gets down to the student, that dollar has shrunk from $1 to something like 65 cents.

In the education tax credit model, with the tax credit model, we actually grow the dollar. The person puts in $2, but it only costs, or the reduction in Federal income taxes is only $1, so we actually grow it. So if we invest $1 there, we end up with 60 cents in the classroom. If we invest $1 here, we end up with $2 directly going to the student in local communities with, in this case, the local school board deciding how this money is going to be spent. In that case——

Mr. SCHAFFER. There are about 10 different steps.

Mr. HOEKSTRA. There are about 10 different steps, and a Washington bureaucrat telling us how to spend the money. Quite often when we go through that process they tell us what to do and it is going to cost $2 million, $3 million, but they do not give all the money to do it. This is a much more efficient and a much more effective system.

As the gentleman and I point out consistently, we are not talking about doing away with that system. We would love to reform it, to make it more efficient, but we recognize that there is a lot of built-in support for that system. It is going to stay. We are going to keep increasing funding.

What we are trying to do is to develop a complementary, a companion system that allows for more local control and local flexibility in terms of raising and spending money.

Mr. SCHAFFER. And we are going to start out small with the proposal just to prove that it works first, before we move further.

As we draw to a close here in the next couple of minutes, I just want to commend our President. President George W. Bush laid out a very bold and ambitious plan for American schools. He campaigned on it, and once he got elected it was the first order of business of his administration. His goal was to and is to improve American education and reduce the achievement gap that exists between underserved children, poor children, minority children, and those who are of more robust financial means.

He proposed accomplishing this through accountability, through more school choice, and through flexibility, and I regret to say that the Congress really denied the President two of those three objectives in the education bill that the President proposed. All we passed was the accountability, or the national testing provisions. The President is committed to continue fighting and moving forward on the school choice components of his education vision.

This tax credit proposal is really the next step in accomplishing that for the President, so I am grateful for his passion and commitment to these children in America. I am grateful for his commitment to the education tax credit proposal that we have developed. I am grateful for our Speaker and our majority leader, and our leadership here in the House, and the chairman of the Committee on Ways and Means and the chairman of the Committee on Education and the Workforce for all of their help and support in making this tax credit proposal a reality, because it will allow us to bypass this bureaucracy with just a small amount of money to begin to show in America how making the connection between taxpayer and school child will improve education dramatically throughout the country and begin to treat children like they matter, and also begin to expose American education to more of a free market approach.

Mr. HOEKSTRA. Mr. Speaker, the end result is the shared vision that we have with the President, that we have with our Speaker, and with the chairman of the Committee on Education and the Workforce to make sure we leave no child behind; that every child in America gets a first class education, and that they can compete on a worldwide basis.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. JONES of Ohio (at the request of Mr. GEPHARDT) for today after 5:30 p.m. and the balance of the week on account of her son's graduation.

Mr. LYNCH (at the request of Mr. GEPHARDT) for today on account of family matters.

Mr. MENENDEZ (at the request of Mr. GEPHARDT) for today after 1:30 p.m. on account of being Democratic County Chair, State statute obligates him to conduct reorganizational meeting in which a new Chair is chosen.

Mr. OWENS (at the request of Mr. GEPHARDT) for today and June 13 on account of a family emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. FILNER, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Mr. ISRAEL, for 5 minutes, today.

Mr. LANTOS, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

(The following Members (at the request of Mr. TIAHRT) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. TIAHRT, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

ADJOURNMENT

Mr. HOEKSTRA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock midnight), the House adjourned until tomorrow, Thursday, June 13, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7339. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Silica, Amorphous, Fumed (Crystalline Free); Exemption from the Requirement of a Tolerance [OPP–2002–0031; FRL–6835–5](RIN: 2070–AB78) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7340. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pesticides; Removal of Duplicative or Expired Time-limited Tolerances for Emergency Exemptions [OPP–2002–0037; FRL–6835–7] (RIN: 2070–AB78) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7341. A letter from the Under Secretary, Department of Defense, transmitting the Department's report on the Defense Environmental Technology Program; to the Committee on Armed Services.

7342. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, San Joaquin Valley Air Pollution Control District [CA 261–0337a; FRL–7171–3] received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7343. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [FRL–7173–6] received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7344. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule— Interim Final Determination that State has Corrected a Deficiency in the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District [CA 261–0337c; FRL–7171–5] received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7345. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule— Approval and Promulgation of Implementation Plans South Carolina: Approval of Miscellaneous Revisions to the South Carolina State Implementation Plan [SC 42–200220(b); FRL–7207–2] received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7346. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule— Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Nitrogen Oxides Budget Program [WV 060–6019a; FRL–7288–4] received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7347. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule— Approval and Promulgation of Implementation Plans; Minnesota [MN63–01–7288a; FRL–7165–7] received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7348. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule— Revisions to the California State Implementation Plan, Tehama County Air Pollution Control District [CA 260–0339a; FRL–7174–5] received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7349. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule— Approval and Promulgation of Implementation Plans; Illinois Emission Reporting [IL214–1a; FRL–7164–4] received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7350. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 08–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7351. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 09–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7352. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 50–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7353. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 02–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7354. A letter from the Chair, Railroad Retirement Board, transmitting the semiannual report on activities of the Office of Inspector General for the period October 1, 2001, through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7355. A letter from the Secretary, Department of the Treasury, transmitting two Semiannual Reports which were prepared separately by Treasury's Office of Inspector General (OIG) and the Treasury Inspector General for Tax Administration (TIGTA) for the period ended March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7356. A letter from the Assistant Secretary of the Army, Department of Defense, transmitting a report on the Army's Annual Financial Statement for FY 2001; to the Committee on Government Reform.

7357. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7358. A letter from the Attorney General, Department of Justice, transmitting the Semiannual Management Report to Congress: October 1, 2001 to March 31, 2002, and the Inspector General's Semiannual Report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7359. A letter from the Acting Chairman, National Endowment For The Arts, transmitting the FY 2003 Performance Plan and the FY 1999, FY 2000, and FY 2001 Performance Reports; to the Committee on Government Reform.

7360. A letter from the Secretary, Department of State, transmitting a letter to certify that the Department has developed and implemented a worldwide watchlist of known or suspected money launderers, for the purposes of enforcing the new money laundering inadmissibility, pursuant to Section 1006(b) of the USA Patriot Act; to the Committee on the Judiciary.

7361. A letter from the Director, Federal Emergency Management Agency, transmitting notification that funding under title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, will exceed $5 million for the response to the emergency declared on December 31, 2001, for the State of New York as a result of the record/near record snow, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

7362. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, and DC–10–30F (KC10A and KDC–10) Airplanes [Docket No. 2002–NM–110–AD; Amendment 39–12729; AD 2002–08–17] (RIN: 2120–AA64) received May 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7363. A letter from the Administrator, FAA, Department of Transportation, transmitting the Federal Aviation Administration's report required by Section 757 of Public Law 106–181, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century; to the Committee on Transportation and Infrastructure.

7364. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Ocean Dumping; Site Modification [FRL–7207–5] received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7365. A letter from the Chairman, International Trade Commission, transmitting the Commission's report on investigation No. TA–204–6, entitled, ''Certain Steel Wire Rod''; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHLERT: Committee on Science. H.R. 3130. A bill to provide for increasing the technically trained workforce in the United States; with an amendment (Rept. 107–505 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3936. A bill to designate and provide for the management of the Shoshone National Recreation Trail, and for other purposes; with amendments (Rept. 107–506). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Education and the Workforce discharged from further consideration. H.R. 3130 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 3130. Referral to the Committee on Education and the Workforce extended for a period ending not later than June 12, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HORN (for himself, Mr. LEWIS of California, Mr. MURTHA, and Mr. WELDON of Pennsylvania):

H.R. 4914. A bill to authorize the Secretary of Transportation and the Secretary of Defense to carry out a cooperative research and development program of dual use transportation technologies for certain commercial and military applications, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACEVEDO-VILA:

H.R. 4915. A bill to eliminate the waitout period for Hispanic-serving institutions under section 504 of the Higher Education Act of 1965; to the Committee on Education and the Workforce.

By Mrs. CAPPS (for herself, Mr. LATOURETTE, Mr. ENGLISH, Mr. WAXMAN, Ms. NORTON, Mr. MCGOVERN, Ms. SLAUGHTER, Mr. FROST, Ms. MILLENDER-MCDONALD, Mr. MCNULTY, Mr. WEXLER, Ms. SANCHEZ, Mr. BLAGOJEVICH, Ms. SCHAKOWSKY, Ms. BROWN of Florida, Mr. BLUMENAUER, Mr. OWENS, Ms. CARSON of Indiana, Mrs. CLAYTON, Mrs. NAPOLITANO, Mr. BACA, Ms. WOOLSEY, and Mrs. CHRISTENSEN):

H.R. 4916. A bill to amend the Public Health Service Act to provide services for the prevention of family violence; to the Committee on Energy and Commerce.

By Mr. GALLEGLY:

H.R. 4917. A bill to provide for an exchange of lands with the United Water Conservation District of California to eliminate private inholdings in the Los Padres National Forest, and for other purposes; to the Committee on Resources.

By Mr. GUTIERREZ (for himself, Mr. FARR of California, Mr. FILNER, Ms. SCHAKOWSKY, Mr. PASTOR, Mrs. NAPOLITANO, Ms. SOLIS, Mr. BACA, Ms. ROYBAL-ALLARD, Mr. SERRANO, Mr. MCGOVERN, Mr. RODRIGUEZ, Mr. FRANK, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. GONZALEZ, Mr. ORTIZ, Ms. VELAZQUEZ, Mr. ACEVEDO-VILA, Mr. REYES, Mr. LIPINSKI, Mr. BECERRA, Ms. MCKINNEY, Mr. DAVIS of Illinois, and Mr. BERMAN):

H.R. 4918. A bill to waive certain defenses to legal claims brought by workers participating in the bracero program between 1942 and 1969; to the Committee on the Judiciary.

By Mr. HAYWORTH (for himself and Mr. STUMP):

H.R. 4919. A bill to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes; to the Committee on Resources.

By Ms. LEE (for herself, Mr. KUCINICH, and Ms. WOOLSEY):

H.R. 4920. A bill to provide for the continued applicability of the requirements of the ABM Treaty to the United States; to the Committee on International Relations.

By Mr. JEFF MILLER of Florida:

H.R. 4921. A bill to amend title 10, United States Code, to authorize transportation on military aircraft on a space-available basis for veterans with a service-connected disability rated 100 percent; to the Committee on Armed Services.

By Mr. PAUL:

H.R. 4922. A bill to restore first amendment protections of religion and speech; to the Committee on the Judiciary.

By Mr. PICKERING:

H.R. 4923. A bill to amend the 2005 base closure round authorized by the Defense Base Closure and Realignment Act of 1990 to prohibit the closure or adverse realignment of any military installation used for undergraduate pilot training; to the Committee on Armed Services.

By Mr. SIMMONS:

H.R. 4924. A bill to amend title 37, United States Code, to remove the prohibition on the ability of qualified dental officers in the uniformed services to receive additional special pay while undergoing dental internship or residency training; to the Committee on Armed Services.

By Mr. SIMMONS (for himself, Mrs. JOHNSON of Connecticut, and Mr. SHAYS):

H.R. 4925. A bill to amend title 23, United States Code, to provide an exemption from Interstate System weight limitations for milk hauling vehicles in the State of Connecticut; to the Committee on Transportation and Infrastructure.

By Mr. THOMPSON of California (for himself, Ms. WOOLSEY, Mr. GEORGE MILLER of California, Ms. PELOSI, Mrs. TAUSCHER, Mr. FARR of California, Ms. LOFGREN, Mr. LANTOS, Ms. LEE, Ms. ESHOO, and Mr. STARK):

H.R. 4926. A bill to authorize the Secretary of the Army to participate in ecosystem restoration of the San Francisco Bay estuary, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. UPTON:

H.R. 4927. A bill to amend title XVIII of the Social Security Act to make a technical correction in the definition of outpatient speech-language pathology services; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and

Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELAZQUEZ:

H.R. 4928. A bill to amend the Higher Education Act of 1965 to expand and extend the eligibility of Hispanic-serving institutions for assistance under title V of that Act; to the Committee on Education and the Workforce.

By Mr. ENGEL (for himself, Mr. LANTOS, Mr. CANTOR, Mr. GILMAN, Mr. WEINER, Mr. SAXTON, Mr. CROWLEY, Mr. BERMAN, and Mrs. MALONEY of New York):

H. Con. Res. 417. Concurrent resolution commemorating the 20th anniversary of the capture of Zachary Baumel, a United States citizen serving in the Israeli Defense Forces, and calling on the Governments of Syria and Lebanon to provide an accounting for, and to secure the release of, Zachary Baumel and all other Israeli hostages held under Lebanese or Syrian control; to the Committee on International Relations.

By Mr. SULLIVAN (for himself and Ms. CARSON of Indiana):

H. Res. 442. A resolution supporting responsible fatherhood and encouraging greater involvement of fathers in the lives of their children, especially on Father's Day; to the Committee on Education and the Workforce. considered and agreed to.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Ms. SCHAKOWSKY.
H.R. 116: Mr. SMITH of Washington.
H.R. 198: Mr. PAUL.
H.R. 257: Mr. FOSSELLA.
H.R. 267: Mr. WILSON of South Carolina.
H.R. 292: Mr. MCDERMOTT.
H.R. 491: Mr. PASCRELL and Mr. KILDEE.
H.R. 536: Mr. PASTOR.
H.R. 599: Mr. BERMAN.
H.R. 633: Mr. WAXMAN, Mr. ACEVEDO-VILA, Mr. HINCHEY, Mr. HORN, and Mr. SCHIFF.
H.R. 786: Mr. KUCINICH.
H.R. 822: Mr. LUCAS of Kentucky and Mr. WOLF.
H.R. 922: Mr. SERRANO.
H.R. 975: Mr. BACA and Mr. SCHIFF.
H.R. 1021: Mr. HOEKSTRA and Mr. ROYCE.
H.R. 1177: Mr. LEVIN.
H.R. 1452: Ms. MCKINNEY.
H.R. 1489: Mr. WYNN.
H.R. 1532: Mr. PAUL.
H.R. 1609: Mr. WOLF.
H.R. 1623: Mr. CARSON of Oklahoma.
H.R. 1624: Mr. HOLT, Mr. SHIMKUS, Mr. SIMPSON, and Ms. BROWN of Florida.
H.R. 1756: Mr. SESSIONS.
H.R. 1908: Mr. WAMP.
H.R. 1943: Mr. FORD, Mr. ABERCROMBIE, and Mr. PRICE of North Carolina.
H.R. 1950: Mr. BRADY of Texas and Mr. BARTLETT of Maryland.
H.R. 1956: Mr. GREENWOOD and Mr. POMBO.
H.R. 1983: Mr. ISTOOK.
H.R. 2055: Mr. SMITH of Texas and Mr. HOSTETTLER.
H.R. 2117: Mr. ENGLISH.
H.R. 2349: Mr. HILL.
H.R. 2466: Mr. UPTON.
H.R. 2483: Mr. WU and Mr. MCDERMOTT.
H.R. 2527: Mr. PRICE of North Carolina, Mr. MARKEY, Mrs. CLAYTON, Mr. FATTAH, Mr. BROWN of Ohio, and Mr. LEWIS of Georgia.
H.R. 2641: Ms. NORTON.
H.R. 2712: Mr. DEAL of Georgia.
H.R. 2874: Mr. MASCARA, Mrs. CLAYTON, Mr. TIERNEY, Mr. SHIMKUS, Mr. ABERCROMBIE, Mr. BLUMENAUER, and Ms. NORTON.
H.R. 2953: Mr. BERMAN, Mr. GARY G. MILLER of California, and Mr. ISSA.
H.R. 3130: Mr. LAMPSON.
H.R. 3132: Mrs. JONES of Ohio, Mr. DIAZ-BALART, and Ms. LEE.
H.R. 3139: Mr. WILSON of South Carolina and Mr. HAYWORTH.
H.R. 3238: Mr. LARSEN of Washington.
H.R. 3287: Mr. BARTLETT of Maryland, Mr. CUMMINGS, Mr. CARDIN, Mr. GILCHREST, and Mr. EHRLICH.
H.R. 3352: Mr. LEVIN.
H.R. 3382: Mr. LANGEVIN and Mr. CROWLEY.
H.R. 3439: Mr. HAYWORTH.
H.R. 3450: Mr. LUCAS of Kentucky and Mr. SABO.
H.R. 3464: Mr. ISRAEL, Mr. HALL of Ohio, and Mr. WU.
H.R. 3491: Mr. BRYANT and Mr. BARTLETT of Maryland.
H.R. 3561: Mr. HASTINGS of Florida, Mr. SANDERS, and Mr. DUNCAN.
H.R. 3580: Mr. HALL of Texas.
H.R. 3594: Ms. NORTON.
H.R. 3624: Mr. SMITH of New Jersey.
H.R. 3661: Mr. MANZULLO.
H.R. 3804: Ms. LOFGREN, Mr. WYNN, Mr. MARKEY, Mr. COYNE, and Mr. GILMAN.
H.R. 3805: Mr. SAM JOHNSON of Texas.
H.R. 3808: Mr. BROWN of South Carolina.
H.R. 3834: Mr. INSLEE.
H.R. 3842: Mr. BROWN of South Carolina.
H.R. 3849: Mr. RILEY, Mr. CRAMER, Mr. EVERETT, Mr. BACHUS, Mr. CALLAHAN, Mr. ADERHOLT, Mr. TOWNS, Ms. LEE, Mrs. CLAYTON, Ms. MCKINNEY, Mr. FRANK, Mr. MCNULTY, Ms. ROYBAL-ALLARD, Mr. FROST, Ms. CARSON of Indiana, Mr. MCGOVERN, Mr. CUMMINGS, Mr. BISHOP, Mr. THOMPSON of Mississippi, Mr. CLAY, Mr. SCOTT, Mrs. MEEK of Florida, Mr. RANGEL, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. CHRISTENSEN, Mr. OWENS, Mr. RUSH, Mr. WYNN, Ms. WATSON, Mr. MEEKS of New York, Mr. DAVIS of Illinois, Mr. WATT of North Carolina, and Mr. PAYNE.
H.R. 3850: Mr. RILEY, Mr. CRAMER, Mr. EVERETT, Mr. BACHUS, Mr. CALLAHAN, Mr. ADERHOLT, Mr. TOWNS, Ms. LEE, Mrs. CLAYTON, Ms. MCKINNEY, Mr. FRANK, Mr. MCNULTY, Ms. ROYBAL-ALLARD, Mr. FROST, Ms. CARSON of Indiana, Mr. MCGOVERN, Mr. CUMMINGS, Mr. BISHOP, Mr. THOMPSON of Mississippi, Mr. CLAY, Mr. SCOTT, Mrs. MEEK of Florida, Mr. RANGEL, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. CHRISTENSEN, Mr. OWENS, Mr. RUSH, Mr. WYNN, Ms. WATSON, Mr. MEEKS of New York, Mr. DAVIS of Illinois, Mr. WATT of North Carolina, Mr. PAYNE, Mr. JACKSON of Illinois, and Mr. SANDERS.
H.R. 3884: Ms. WATSON.
H.R. 3911: Mr. CAMP.
H.R. 3912: Ms. NORTON.
H.R. 3961: Ms. WATERS.
H.R. 3973: Mr. DUNCAN.
H.R. 3974: Mrs. CLAYTON, Mr. CAPUANO, and Mr. DINGELL.
H.R. 3992: Mr. SHIMKUS.
H.R. 4013: Mr. PRICE of North Carolina and Mr. WOLF.
H.R. 4027: Mr. LUCAS of Kentucky and Mr. GALLEGLY.
H.R. 4032: Mr. RANGEL, Mr. BERMAN, and Mr. WU.
H.R. 4043: Mr. PENCE, Mr. JONES of North Carolina, and Mrs. THURMAN.
H.R. 4545: Mr. CROWLEY.
H.R. 4551: Ms. MCKINNEY.
H.R. 4600: Ms. HART, Mr. TOM DAVIS of Virginia, Mr. FORBES, and Mr. DAN MILLER of Florida.
H.R. 4614: Ms. MCKINNEY, Mr. POMEROY, and Mr. LAFALCE.
H.R. 4635: Mr. AKIN.
H.R. 4646: Mr. ACKERMAN, Mr. BOEHLERT, Mr. THOMPSON of Mississippi, and Mr. MEEKS of New York.
H.R. 4654: Mr. OTTER.
H.R. 4665: Mr. UNDERWOOD and Mr. JONES of North Carolina.
H.R. 4668: Mr. CUNNINGHAM, Mr. MCDERMOTT, Mr. HINCHEY, and Ms. MCCOLLUM.
H.R. 4669: Ms. JACKSON-LEE of Texas.
H.R. 4680: Mr. CRAMER, Mr. ETHERIDGE, Ms. MILLENDER-MCDONALD, Ms. DELAURO, Ms. KILPATRICK, Ms. EDDIE BERNICE JOHNSON of Texas, and Mrs. CHRISTENSEN.
H.R. 4699: Mr. BARRETT.
H.R. 4703: Ms. KILPATRICK, Ms. RIVERS, Mr. KILDEE, Mr. ROGERS of Michigan, and Mr. STUPAK.
H.R. 4715: Mr. BERMAN.
H.R. 4723: Mr. MCNULTY.
H.R. 4728: Mr. FROST, Mr. GORDON, Mr. HORN, Mr. BALDACCI, and Mr. MCDERMOTT.
H.R. 4754: Mr. SIMPSON, Mr. HOLT, Mr. CONYERS, Mr. OTTER, and Mr. STUMP.
H.R. 4777: Mrs. ROUKEMA and Mr. WEXLER.
H.R. 4778: Mr. KUCINICH.
H.R. 4785: Mrs. MORELLA, Mr. WELDON of Pennsylvania, Mr. HAYWORTH, and Mr. GRAVES.
H.R. 4789: Mr. DUNCAN.
H.R. 4790: Mr. DUNCAN.
H.R. 4792: Mr. CUNNINGHAM.
H.R. 4795: Mr. PETERSON of Pennsylvania.
H.R. 4799: Ms. MCKINNEY, Mr. RAHALL, Mr. TIERNEY, Mr. OBEY, and Mr. BRADY of Pennsylvania.
H.R. 4810: Mr. COYNE.
H.R. 4843: Mrs. JO ANN DAVIS of Virginia, Ms. KAPTUR, Mr. JOHNSON of Illinois, Mr. AKIN, and Mr. THUNE.
H.R. 4844: Ms. DUNN.
H.R. 4881: Mr. TIBERI.
H.R. 4888: Mrs. ROUKEMA, Mr. NADLER, Mr. OWENS, Mr. UPTON, Mr. CASTLE, Mrs. MINK of Hawaii, and Ms. RIVERS.
H.R. 4894: Mr. HOLDEN, Ms. KAPTUR, Mr. FERGUSON, Mr. BLAGOJEVICH, Mr. KENNEDY of Rhode Island, Mr. ENGLISH, Mr. FRANK, Mr. FROST, Mr. GREEN of Texas, Mrs. JONES of Ohio, Mr. COYNE, and Mr. ABERCROMBIE.
H.R. 4907: Mr. HILLEARY.
H.R. 4912: Mr. UDALL of Colorado and Mr. HEFLEY.
H.J. Res. 96: Mr. NUSSLE and Mr. COLLINS.
H.J. Res. 97: Mrs. MALONEY of New York and Mr. HOEFFEL.
H. Con. Res. 287: Mr. PAYNE and Ms. WOOLSEY.
H. Con. Res. 349: Ms. JACKSON-LEE of Texas, Ms. NORTON, Mr. BLAGOJEVICH, and Mr. KUCINICH.
H. Con. Res. 351: Mr. TIERNEY, Mr. GREEN of Wisconsin, and Mr. KUCINICH.
H. Con. Res. 359: Ms. MCKINNEY.
H. Con. Res. 362: Mr. BOYD, Mr. DICKS, and Mr. LANGEVIN.
H. Con. Res. 364: Mr. GOODLATTE, Mr. HOSTETTLER, Mr. BUYER, Mr. ROYCE, Ms. JACKSON-LEE of Texas, Mr. MCGOVERN, Mr. STEARNS, Mr. HAYES, and Mr. BRYANT.
H. Con. Res. 382: Mr. SAWYER, Mr. HINCHEY, and Mr. MCDERMOTT.
H. Con. Res. 403: Mr. MCHUGH.
H. Con. Res. 408: Mr. DAVIS of Florida and Mr. ANDREWS.
H. Con. Res. 416: Mr. ORTIZ, Mr. SCOTT, and Mr. TOM DAVIS of Virginia.
H. Res. 253: Mr. MCNULTY and Mr. SCHIFF.
H. Res. 355: Mr. FROST.
H. Res. 393: Mrs. KELLY and Mr. LOBIONDO.
H. Res. 416: Mr. HOSTETTLER.
H. Res. 436: Mr. LAFALCE, Mr. FRANK, and Mr. SABO.
H. Res. 437: Ms. NORTON, Mr. MCHUGH, Ms. ESHOO, and Mr. KUCINICH.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, WEDNESDAY, JUNE 12, 2002 No. 77

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable ZELL MILLER, a Senator from the State of Georgia.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You have revealed that commitment is the key to opening the floodgate for the inflow of Your Spirit. Repeatedly, You have responded to our unreserved commitment to You when faced with challenges and problems. You have provided us with clarity of thought and ingenious solutions. Unexpected blessings happen; serendipitous events occur; people respond; and the tangled mess of details is untangled. Amazed, we look back and realize that it was the moment when we gave up, You took over; when we let go, You took hold; when we rested in You, our strength was replenished.

Today, we prayerfully personalize the assurance of the psalmist: ''We commit our way to You, Lord. We also trust in You, and You will bring Your plans to pass. We rest in You, and wait patiently for You.''—Psalm 37:5,7.

Lord, help us to commit our lives, our work, this Senate, and our hopes and dreams for our beloved Nation to You. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ZELL MILLER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 12, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ZELL MILLER, a Senator from the State of Georgia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, the Chair will announce very shortly that we will begin a period of morning business. That time will extend until 10:40 a.m., with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee.

At 10:40, the Senators will proceed to the House Chamber for the joint meeting with the Australian Prime Minister. The Senate will stand in recess at 10:40 until 12:30.

At 12:30, the Senate will resume consideration of the estate tax bill. We expect an amendment to be laid down at that time by Senator DORGAN. That will take approximately 2 hours, after which time we will vote on that amendment and the underlying Conrad amendment.

At approximately 3 or 3:15, Senator GRAMM is going to lay down his amendment, which is a duplicate of the House measure, to repeal the estate tax. That will be debated for 2 hours.

We hope to complete debate around 5:30 this evening and go to some other legislative matter. Therefore, we expect to complete action on the estate tax legislation today.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:40 a.m. with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the majority leader or his designee.

The Senator from North Carolina is recognized.

REINVENTING PROBATION AND PAROLE

Mr. EDWARDS. Mr. President, I yield myself 17 minutes.

Today I would like to speak for a few minutes about the fight against crime in America. We have made tremendous progress over the last 10 years, largely by putting more police officers on the street. But there are some troubling signs that the tide is turning against us. In 2000, the drop in the national crime rate was the smallest since 1991. And just yesterday, we learned that crime in North Carolina actually went up last year, for the first time since 1995.

So now is not the time to rest on the laurels of our victories against crime. It is time to bring the fight to the stubbornest pockets of criminality and the toughest problems in the justice system.

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

Printed on recycled paper.

In my view, the number one problem in our criminal justice system today is the early release system—sometimes called probation, sometimes parole, sometimes intensive supervision. But whatever you call it, it doesn't work. It is overburdened, understaffed, inconsistent, and almost completely unsuccessful.

There are about 4½ million people on probation and parole today, and most of them will break the law again and end up back in prison. According to a Justice Department study reported in the New York Times last week, two out of three inmates released from prison in 1994 were arrested again within 3 years. And that just counts the people who got caught. People on parole make up less than 1 percent of the American population, but they account for over 35 percent of the people entering prison each year.

When criminals commit crime after crime after crime, we all suffer, and the poorest among us suffer the most. People leaving prison usually go back to the same tough neighborhoods they came from. In Winston-Salem, NC, 80 percent of the prisoners go back to 40 percent of the city. And when they return home to return to crime, it's the very last thing their struggling neighborhood needs.

We need to put an end to this. And we can put an end to it—if we follow the example of successful efforts in states and communities across the country, including a new effort in Winston-Salem. I want to name three principles culled from these successful efforts.

First, we must make it clear that parole is a simple bargain—obey the law or suffer the consequences.

Second, we need a system that has the resources to monitor the enormous number of offenders and the methods to monitor them effectively.

Finally, we need to give those offenders who are truly ready to become law-abiding citizens the chance to succeed.

Let me explain each of these principles a little further.

First and foremost, we need real punishments for people who commit real violations of probation and parole. Today we have the opposite. We have a system where at one extreme, people can violate probation or parole 10 times before anything actually happens to them. Nearly half the people in the probation system have violated the terms of probation, but only one in five gets sent back to jail for doing it. At the other extreme we have some people who miss an appointment and go back to jail for years. It just doesn't make sense.

Let me give an example. We know that many people commit crimes to feed their drug habits. Almost half of the crimes in many big cities are committed by drug users. So if we are going to cut crime, we have to get people on probation and parole off of drugs.

Now, it's true that right now, we say you have to remain drug-free while you're on probation or parole. But too often, that requirement only exists on paper. Drug tests are few and far between—maybe once a month and maybe less, so if a guy is using, he can hide it. If he does get caught, his parole officer has to negotiate with a bureaucracy to get the guy punished, so a lot of the time the officer doesn't bother. And if he does bother, the judge may choose not to impose the only punishment that's available, which may be years in jail.

The result of all this is that drug users on probation or parole know they're not likely to get caught, and so they use again and again and again. As they return to addiction, they commit more crimes.

We can do better. A rational probation and parole system would deter crime before it happens, using two basic elements. First, we would have strict supervision focused on the conduct that leads to crime. Instead of just rules against drug use, we would have frequent drug testing, like twice-a-week testing.

Second—and this is critical—we would have automatic punishments for people who break the rules. Those punishments would be swift and certain and graduated. You test positive for drugs, you get punished. You test positive a second time, you get punished more severely. Automatic, no exceptions; simple, swift punishment. Here in the District of Columbia, the system is moving in this direction, and research shows that it is helping in the fight against crime. It is time for more places to do the same.

By the way, the system ought to be the same for other violations of probation and parole besides drug abuse. Set real rules that focus on conduct connected with crime. If you break those rules, you suffer the consequences. That simple.

No. 2: We need to get probation and parole officers out of their offices and on the streets. Right now, a lot of probation and parole officers sit in their offices and wait for trouble to come to them. A typical probation officer has two 15-minute meetings with each probationer every month. That is no way to keep tabs on anybody.

What needs to happen in probation and parole today is not all that different from what needed to happen in police work 20 years ago. Twenty years ago, cops spent their time in squad cars responding to crimes. They caught some bad guys, but they did not stop crime before it happened.

Some innovative police chiefs went back to the method of policing they had learned when they first came on the force. They moved police officers out of the cars and back onto the beat, where they got to know the neighborhood; got to know the shopkeepers, the pastors, the principals; got to learn from the many good folks in every community who the handful of troublemakers were. And this kind of police work, community policing supported by the COPS program, has helped to cut crime rates across America.

It is time for the same revolution in probation and parole: Officers need to know the communities, not just the criminals. It has worked in Winston-Salem, where teams of probation and police, working with the clergy and the community, helped cut juvenile violence by 35 percent in the last year. That effort drew on a success in Boston where a team effort called Operation Nightlight helped cut youth homicides by 65 percent.

Getting probation officers back on the streets will not be easy. For one thing, it will be impossible until we cut the massive burdens on these officers. The average probation officer had over five times as many cases in the late 1990s as in the early 1970s—sometimes 200 cases. Under these conditions, even the most dedicated public servant cannot get the job done. So we have to both change the bureaucratic culture and cut the caseloads in these departments. That may mean increasing the number of officers, it may mean holding managers more accountable, it may mean increasing competition for the work. But it is something we have to do.

No. 3, We need to make sure offenders who are ready to turn their lives around have a real chance to do it.

A convict's debt to society does not end with his prison term. Men who have left prison have a responsibility to obey the law, stay off drugs, and stop victimizing their community. They have another responsibility as well—a responsibility to become productive members of our society who work hard, pay taxes, and support their children. If they are willing to fulfill those responsibilities, we have to be willing to help them and keep an eye on them while they do.

This is not about what society owes to prisoners, but we have to face the reality that we will never build enough prisons to keep people behind bars forever, and we would not want to be a society that did. Except for a tiny minority, they all come back to our communities.

This is about what society owes vulnerable communities. The last thing they need is an influx of people who are addicted to drugs and do not have jobs and do not have supervision. Far too often, that is what our prisons are churning out today.

We know that drug treatment helps prisoners get straight, but the share of prisoners receiving treatment dropped from 25 percent at the beginning of the 1990s to just 10 percent at the end. We know that prisoners who learn to read and write are less likely to commit new crimes, but we have cut prison literacy programs. We know that when somebody leaves jail, giving him a sweatsuit and sending him to the bus station in the dead of night is not the way to give him a fresh start. Too often, though, that is all we do when we release people from prison.

We need to recognize that enabling prisoners to reintegrate into our communities as lawful and productive citizens is good for everybody. We should support proven efforts that get former prisoners to beat addictions and stay at work. And we should support the efforts of community leaders, especially religious leaders, to keep a stern eye on former offenders, while also lending them a helping hand. This is something that is beginning to work in Winston-Salem thanks to the Center for Community Safety at Winston-Salem State University. It is beginning to work in places like Maryland and Ohio. It is something that needs to work across America.

That is the challenge: First, develop real and automatic punishments for real violations of probation and parole. Second, enable probation and parole officers to get out of their offices and onto the streets. Third, make sure offenders who are ready to turn their lives around have the chance to do it.

Meeting that challenge will not be easy. Every State has different probation and parole systems. Some States have differences within their systems. While the truth is that a lot of these systems are not working, some of them are. Every reform I have described is already working someplace in America today. Our job in Washington will be to spread the things that work. I know there is legislation in conference right now that will help do that in a limited way.

I believe we should think bigger, on the model of the COPS Program, a program that not only helped police departments hire over 100,000 more cops, but that also helped change the way police departments do business. We need the same kind of effort when it comes to transforming probation and parole into an effective, accountable system for reducing crime.

It may be that this administration will oppose this effort. Their current budget has already proposed gutting the COPS Program. This administration seems to think that permanent tax cuts for the very wealthiest Americans are more important than cutting crime in the very poorest communities. I see it differently.

ESTATE TAX

Mr. EDWARDS. Mr. President, I also wish to say a few words about the estate tax debate we are having right now.

With all due respect for my colleagues, I think this debate shows that a lot of people in Washington are totally out of touch with regular people back at home. I think we should step back and take stock of where we are right now.

No. 1, as all of us know, we are in the middle of fighting a war against terrorism, and we do not know when that war will end. Our young men and women are in harm's way overseas as I speak.

Here at home, we have very serious homeland security needs that the administration is struggling to meet. It is no exaggeration to say that Americans' lives depend on the success of those efforts. That is No. 1.

No. 2: We have a whole raft of serious needs in our country. I have been talking about the rising crime rate, but that is just the beginning. We have seniors who cannot pay for the medicine they need to live. We have parents who cannot afford to send their kids to college. We have children who go to school every day in crowded classrooms with leaky roofs, even as this administration cuts funding for education. That list goes on and on.

No. 3: We have a coming challenge in Social Security. We are going to have baby boomers retiring in huge numbers, and we are going to have to find a way to keep our social contract with them.

No. 1, we have a costly war against terrorism to fight abroad and at home. No. 2, we have deep problems with crime and education and health care that we are not addressing. No. 3, we have a coming crisis in Social Security.

And here is No. 4. Right now we cannot afford to address a lot of our serious needs—and in fact, our economy continues to sputter after a decade of extraordinary growth—because the country has gone from a multitrillion dollar surplus to a deficit in barely a year. That is very largely because of the tax cuts targeted to the wealthy this Congress already passed. It is a breathtaking fiscal turnaround.

With terrorism, with crime and education and health care needs, with a Social Security crisis, with massive fiscal hemorrhaging, what are we talking about here today?

We are not talking about reforming the estate tax to eliminate unfair burdens on farmers and small businesses, something I support. I very strongly believe that farmers and small businesses have to be protected from estate taxes.

We are talking about whether to blow another massive hole in the budget to pay for a tax cut that mostly benefits about 3,000 of the wealthiest families each year. In a country of over 275 million people, many of them struggling to pay their mortgages and send their kids to college, we are talking about multimillion dollar windfalls for about three thousand fortunate families.

I have only one question. Is this really why the American people send us here, to massively cut taxes on a very fortunate few while we are fighting terrorism and Social Security is in trouble and millions of middle class people are struggling? I do not think that is why people send us here.

What my colleagues are trying to do today on the estate tax is wrong from a national security perspective. It is wrong from a Social Security perspective. It is wrong from an economic perspective. And most important of all, it is wrong from a moral perspective.

Mr. President, I yield the floor.

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

Mr. CORZINE. Mr. President, I commend the Senator from North Carolina for his remarks with regard to his views on probation and the deteriorating situation with regard to how we are moving and progressing with regard to crime. I am also glad to hear the Senator from North Carolina speak about estate tax in the context of Social Security. In fact, I will be speaking in a minute with regard to the Social Security issue.

It seems inconceivable to me that the roughly 3,000 people the Senator is talking about in our Nation, those who have benefited most from the power and the success of our Nation economically and done so well, should put at jeopardy the universal program that is such an important part of retirement security for so many Americans. It does not seem right in the context of the national security, but truly it seems misplaced when one thinks about Social Security for the breadth of Americans.

So I commend the Senator for his remarks, and particularly the tying together and juxtaposition of those efforts.

SOCIAL SECURITY

Mr. CORZINE. Mr. President, as many of my colleagues know, I have over the last few weeks been speaking regularly with regard to Social Security and proposals to privatize Social Security. I think this is one of the most important debates we as the Senate and Americans need to have. It needs to be done before elections, not afterwards, because I think we need to hear from the American people about what it is they want.

To many Americans, certainly to whom I talk, and many of my constituents in the State of New Jersey—and I certainly hear it from my colleagues, and I feel strongly—these proposals that are circulating with regard to private takings of Social Security are not the mindset of most Americans. That is particularly true when people become aware that they will involve deep cuts in guaranteed benefits and that, by implication, is going to force many Americans to work longer, delay their retirement, and develop a level of insecurity in a program that was really designed to promote security among senior citizens in our Nation.

The fact is that we have seen developing an undermining of retirement security for a whole host of reasons, whether it is the diminishment of the number of Americans who are covered by defined benefit programs or the insecurity of 401(k)s which we have seen in light of some of the elements that have come out of Enron. It is very hard for me and for most of the people with

whom I have conversations to understand why we should be taking the security out of Social Security.

President Bush's Social Security Commission proposed privatization plans—there were three of them—that would cut guaranteed benefits for current workers by more than 25 percent. Those cuts would exceed 45 percent for those who would be retiring long in the future. They would apply even to those who choose not to invest in privatized accounts, and they would be even deeper for those who did not make such investments. In fact, actual cuts are likely to be deeper still. This is an important part. There is a high probability the cuts will be deeper since the Commission's plans—all three of them—are dependent on significant infusions of general revenue funds to accomplish the transition from the current system we have, the pay-as-you-go system, to the privatized system. This is arithmetic. It is not something that is political or partisan.

The only way to get from one place to the other is by taking roughly a trillion dollars from general revenues to make it supportable, if the same benefit payment schedule is going to be held to that which we have now for most future retiring American citizens.

It is hard to understand how we can talk about taking funding from general revenues in the current circumstance when we passed a debt ceiling limit yesterday of another $450 billion, and that is only expected to take us for 18 months. We have a growing deficit problem in this country. Put that together with a need to be able to provide general revenues to support this initiative towards privatization and I think we have a real problem. We have a train wreck coming. To me, that is not the direction in which we should go.

So I hope we will look at these in a serious way. The Commission's report itself talks about these 25-percent cuts and 45-percent cuts. The Social Security actuaries are the ones who present them. While they did not speak to it directly, those cuts will even be more serious and more immediate for surviving beneficiaries and disabled beneficiaries from the Social Security Program.

We are basically taking a program that has worked, has reduced the poverty level for senior citizens in America, and really putting it at great jeopardy. That is why I feel so strongly about speaking out on a repeated basis to develop this debate.

Despite the very clear proposals developed by the Bush Commission, my fear is that few Americans have any real idea what is at stake in regard to what I have described. I am afraid a lot of this is not on people's radar screens because there has not been a lot of debate about it. There has not been a lot of talk about it.

There is a point of view that this ought to be put off until after the election. I think it is important that those of us who believe in protecting Social Security as we basically know it—there will have to be some changes but basically as we know it—should be talking about the true nature of the kinds of cuts that are being talked about.

A little bit of this dialogue on the Senate floor has developed into some debate, at least inside the beltway. I would like to take it outside the beltway because that is where the real impact will lie. But there has been a continuing dialogue between the Cato Institute and myself. A minority of members of the Bush Commission have responded to some of the commentary I have tried to make. We have both exchanged long and relatively detailed treatises that are translated into explaining each other's positions, and I think that is all healthy. I think that is good. Hopefully, there will be more debate in the future.

This past weekend, a new player entered the debate, at least as reported by the Washington Times. The Commissioner of Social Security, Ms. Anne Barnhart, went on the record to criticize Democrats—at least one Democrat—for using false charges and for what the article calls incendiary rhetoric. I hope people do not presume the kind of language I am using today is incendiary. It is trying to get to a healthy debate about how Social Security should work and how it will impact seniors, survivors, and disability beneficiaries in America.

The article quotes Ms. Barnhart as stating:

> The most important message I want to send out is that benefits are not going to be affected.

Let me repeat, ''benefits are not going to be affected,'' according to Ms. Barnhart.

Ms. Barnhart then seemed to back off in the article—again, I did not see the full text of her remarks—and adopt a little less absolute approach. That is hopeful because that cannot be an absolute condition of the interpretation of the President's proposals, offering assurances only to retirees, current retirees, near-term retirees.

In any event, I was very disappointed by these reported statements which, in fact, I have tried to respond to in a number of venues, which I believe are highly inaccurate in themselves. The truth is, as I said before, President Bush's Social Security Commission proposed privatization plans that call for deep cuts in guaranteeing benefits. This is by the Social Security actuaries themselves. I do not happen to have the pages, but I can cite it in the report that the Commission put forward. As I said, these cuts apply to even those who do not choose to invest in privatized accounts.

It seems to me we ought to have this on facts at least as they are talked about. I do not want to go back through the point, but if we are to avoid these cuts, even for near-term retirees, or certainly for survivors and disability beneficiaries, we will have to have significant transfers from the General Treasury to be able to sustain Social Security benefits even for those groups. I think that is going to be an increasing challenge for this body, for public policymakers in general, because we are running deficits.

Arguing that benefits are not going to be affected seems precisely the kind of false charge for which Ms. Barnhart reportedly was criticizing Democrats.

This is a debate we need to have. We need to have it on substance. We need to make it balanced, thoughtful, very public. I will work to that end. There is not a more important issue—perhaps prescription drugs, as the Presiding Officer is articulately making the case to the American people. This gets at retirement security, things that make a difference in real people's lives. I was in the chair several weeks ago when the Presiding Officer made the case that he went to a diner and heard what was on people's minds. Prescription drugs are on people's minds, and making sure that Social Security is there as people have expected, as they have paid into the system. It is right in the gut to most Americans, at least those diners I go to in New Jersey. This is something we have to be attentive to, we need to debate, we need to come to a conclusion, and get on with the process.

I am hopeful Ms. Barnhart was misquoted in the Washington Times. I have been misquoted once in a while, as I am sure all Members have. I do not think engaging in incendiary commentary is helpful, nor do I think many of my colleagues do. I hope she will write to the editor of the paper and clear up the matter. I would love to get into a very serious debate about the substance of how we will finance Social Security as we go forward. That is an important element of our necessary debate to get to long-term solutions that make a difference in people's lives.

I hope she will review the facts involved in the President's commission's report when we are talking about these deep cuts in guaranteed benefits. They are there in black and white.

I ask unanimous consent a copy of the Washington Times article and my response to Ms. Barnhart be printed in the RECORD.

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

[From the Washington Times, June 8, 2002]

SOCIAL SECURITY REFORM DEFENDED

(By Donald Lambro)

The head of the Social Security Administration criticized Democrats yesterday for using false charges and ''incendiary rhetoric'' to stir up political fears over President Bush's plan to reform the retirement system.

Jo Anne Barnhart said there is no truth to Democratic claims that Mr. Bush's plan will cut retiree benefits or that the administration was robbing the trust fund.

''I think the fear factor is really unfortunate. It is important that Social Security beneficiaries be reassured,'' said Mrs.

Barnhart told The Washington Times yesterday—her first interview since Mr. Bush selected her last summer to run the nation's largest retirement program.

''The use of highly charged, incendiary rhetoric doesn't accomplish this,'' she said.

Mrs. Barnhart spoke approvingly of Mr. Bush's plan, saying it's important to restore faith in the program and give people more control over their retirement funds.

''The most important message that I want to send out is that benefits are not going to be affected. Regardless of what proposal you look at in terms of reform, I want to reassure retirees and near-retirees that they will not have a reduction in benefits,'' she said.

Democratic leaders have been escalating their attacks on Mr. Bush's Social Security reform plan in recent weeks, believing that the issue will motivate older Americans to vote in larger numbers against Republican congressional candidates this fall.

''It is indisputable that the Bush Social Security Commission's privatization proposals include drastic cuts in guaranteed Social Security benefits,'' said Sen. Jon Corzine, New Jersey Democrat, who has been leading the attacks in the Senate.

Until yesterday, the White House had not directly struck back at its critics, and Mrs. Barnhart's surprisingly strong remarks signaled that the administration now believes it should respond to the Democrats' mounting political offensive.

Mrs. Barnhart declined to compare the Social Security benefits with what workers would get under Mr. Bush's plan to let workers voluntarily invest part of their payroll taxes in stock and bond mutual funds.

''These are highly technical issues that our actuarial analysts can answer,'' she said.

But when asked about questions of financial risk and safety that Democrats are raising about Mr. Bush's investment plan, she revealed that her own federal pension was fully invested in stocks.

''I'm a federal employee. I participate in the Thrift Savings Plan. I went into the stock fund,'' she said. The government's popular Thrift Savings Plan lets federal employees invest their retirement funds in stock and bond funds.

Such stock funds are ''widely diversified to lower risks'' and government bond funds posed no risk, she said. The president's commission on Social Security, which proposed three different plans to implement Mr. Bush's reforms, examined the Thrift Savings Plan as a possible model to follow.

Mrs. Barnhart said that she thinks that ''we can look at the Thrift Savings Plan'' as the basis for a larger retirement for the general public.

''I don't think there is any question that people, particularly younger people, would have more control over their investments in the future,'' she said of the administration's proposed reforms.

U.S. SENATE,
Washington, DC, June 12, 2002.

Hon. JO ANNE BARNHART,
Commissioner, Social Security Administration, Baltimore, MD.

DEAR COMMISSIONER BARNHART: I am writing with respect to statements attributed to you in an article published in the Washington Times on June 8 on the topic of Social Security.

According to the article, you ''criticized Democrats for using false charges and 'incendiary rhetoric' to stir up political fears over President Bush's plan to reform the retirement system.'' The article quoted you as saying. ''The most important message that I want to send out is that benefits are not going to be affected.''

I am very concerned about this last statement, which is simply not accurate. President Bush's Social Security Commission proposed privatization plans that call for deep cuts in guaranteed benefits. The Social Security Administration's own actuaries have calculated that the cut for many current workers would exceed 25 percent, and cuts would exceed 45 percent in the future (see page 75 of the actuaries memo on the report, dated January 31, 2002). These cuts would apply even to those who choose not to invest in privatized accounts. The cuts would be even deeper for those who do make such investments.

I recognzie that, after stating simply that ''benefits are not going to be affected'' you seemed to back off and provide assurances only to retirees and near-retirees. However, the Commission's plan relies on significant infusions of general revenues none of which have been provided for in the President's budget. If and when these revenues fail to materialize, retiree benefits clearly could be at risk. While, in the short-term, I hope that Congress somehow would find the resources to protect current retirees, over time the threat of further benefit cuts for retirees seems very real. In addition, based on the text of the Commission's report describing Model 1, it appears that some near-retirees would have their guaranteed benefits reduced if they participate in the program of privatized accounts.

I understand that reasonable people can disagree about the merits of privatization and believe it is importannt that the debate on Social Security's future be conducted without excessive rhetoric on either side. I have tried not to engage in attack language in the discussion so far, and I am hopeful that other parties will adopt a similar approach. The future of Social Security is too important to be decided by misleading claims or partisan politics.

Sincerely,

JON CORZINE.

Mr. CORZINE. I hope we continue this dialog in a thoughtful, balanced matter.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. CRAIG. Mr. President, I believe we are in morning business, is that not correct?

The PRESIDING OFFICER. That is correct.

HOMELAND SECURITY

Mr. CRAIG. Mr. President, this morning I want to speak to a couple of issues that I think are important to this body and certainly to the citizens of our country. First and foremost, I want to speak of a meeting that occurred at the White House yesterday that I had the good fortune to be a part of, a meeting of the President and the joint leadership, Democrat and Republican, of the House and Senate. We met with President Bush, the Vice President, and Governor Ridge to talk about the President's decision to create a new Cabinet-level Department of Homeland Security and his decision to send to the Congress a proposal that would allow us to work with him in the shaping of legislation to ultimately create that agency.

I saw the current Presiding Officer on television the other night speaking to this issue. I was pleased that he, too, like I, agree that a time has come in our country that we need to recognize the extraordinary global terrorism threat that has been brought to our doorstep and to the doorstep of most American citizens, and the need to recognize that the mechanisms of our Government to combat this threat have in part failed—or certainly the mechanisms are not in tune with the current threat in a way that they can effectively connect all of the dots to draw the necessary conclusions of the magnitude of the threat by those who bring it to our doorstep.

As a result of that, the President, in a very forward-looking way, having assumed the leadership of this great country, has brought to us an opportunity to work with him to make a decision that I think will be historic for our country, a decision to create a new department that I believe, when completed and effectively run, will make all Americans safer. It will give our country, through this department, the ability to protect our borders, to collate and analyze intelligence and information about ongoing threats, to expedite decisions at all government levels, and to take immediate action when the conclusion of the event or the risk that might occur warrants it.

The new department eliminates what has become a patchwork of agencies and lines of authority that were designed for a threat of an era ago. What worked in cold war and post-cold-war environments does not fit, or is apparently not fitting the current threat that this Nation recognizes.

This department, in my opinion, is not a step toward big government. Big government is when the Federal authorities needlessly take over functions better left to State and local governments.

The Presiding Officer is a former Governor. He understands so well the importance of State government and State law enforcement authorities. What we want to have happen is an improvement of those relationships as they relate to the threat.

My Governor, Dirk Kempthorne of Idaho, was once a U.S. Senator. As a Senator, he had greater clearance than he now has as a Governor. In other words, he had a right to know, under the law and by his title, more about the security risk in our country than he does as a Governor today. That is wrong. Governors in the role they must play as law enforcement officers within their States and directors of law enforcement communities within their States have to know. I use as an example the opportunity to create a seamless relationship between Federal intelligence and Federal law enforcement and State law enforcement. In my

opinion, this is not the creation of a bigger government. This is called getting smart and getting it right at a time when our country demands it.

This proposal, however, which I think the President offers is the direct opposite of what some might call big government. Our Founding Fathers said it clearly when they stated within the Constitution the responsibility of the Federal Government to provide for the security of the citizens of this country. That was the foremost charge of a Federal Government's responsibility under the Constitution.

I think our President has recognized that oh so well ever since 9–11 and now brings to us an opportunity and a challenge to create this new department that, in my opinion, will not bloat government. Personnel and offices will remain relatively at current levels. In fact, due to consolidation, it is possible we might even see over time a slight reduction. The challenge is now ourselves. The challenge is to set aside that which is mine or that which is yours—it is called turf here on Capitol Hill—and to recognize that this is a time to act and to act promptly.

I was extremely pleased to see the bipartisan character and feeling of the meeting at the White House yesterday with TOM DASCHLE, TRENT LOTT, DICK GEPHARDT, and DENNY HASTERT—all of these leaders talking in a bipartisan mode about a timeline of importance. I think we all recognize that Leader GEPHARDT said: Why not 9–11–02? Why not on the anniversary of this tragic time in America when we began to rethink and realign our efforts that we should make available to the American people a new department, a new government, a new shaping of government. Well, I hope we can do 9–11–02. But if we are to do it, it means we have to burn the midnight oil a bit. It clearly means we have to roll up our sleeves and go to work. And it also means that the Senate and the House operate differently than they are historically at least expected to operate. We have done it in the past, and we can do it again. And we should do it now.

I hope Leader DASCHLE and Leader LOTT, in recognizing this, can bring the Senate together in a way unprecedented at least in modern times to get the job done—to get it done in a quick but thorough fashion, to do the necessary and proper reviews that bring about for this country a new shaping of government that we hope in the end will make us a safer, more secure place, and in that process not infringe upon or in any way lessen the rights and the freedoms of the citizens of this great country.

NUCLEAR WASTE POLICY

Mr. CRAIG. Mr. President, I want to speak about a need of this Senate to act and act soon. I am speaking about a provision within the Nuclear Waste Policy Act of 1982 that required a procedure by which this country would ultimately step forward in determining a permanent storage site for high-level nuclear waste. It is known here as Yucca Mountain in the State of Nevada. It has been a high-profile issue, one that has been given a great deal of debate over the last good number of years, but one that has come again to the floor of the Senate in which we must make a decision to make one step forward in a review and licensing process to determine whether the site of Yucca Mountain in the State of Nevada is capable of handling and effectively storing for 10,000 years the high-level nuclear waste of this country.

In the Nuclear Waste Policy Act of 1982, we established what is known as an expedited procedure for consideration of the resolution approving the President's selection of the nuclear waste site. Now the President has selected, because the NEPA process through the Department of Energy has determined that it is now time to go to the Nuclear Regulatory Commission for their review and their determination as to whether the site ought to be licensed. So the time is at hand, as was seen in 1982 under this act.

The expedited procedure under the Nuclear Waste Policy Act, as amended, specifically provides that once an approval resolution is on the calendar—and that means the authorizing committee has acted and sent it forward, as it has—the law says very specifically that any Senator may move to proceed to its consideration. And the motion to proceed is privileged and nondebatable.

Under current practices, measures normally reach this floor through agreement to a unanimous consent request by the majority leader. It is critically important for the operation and the procedure of this Senate on a daily basis that the majority leader of the Senate set the agenda. But there is always the provision, because we are all equal in the Senate under the Constitution, that sometimes the majority leader may not set the agenda the way the majority of the Senate would want it set. And, of course, that can be objected to and a vote to proceed.

But what we are talking about here is recognition of a special procedure—unprecedented, or at least certainly one that does not establish the precedent of the normal decorum of the Senate. If unanimous consent cannot be obtained, as we know now, the Senate has taken care of that procedure by simply allowing the rule or the decision to be tested.

The Nuclear Waste Policy Act provides special statutory authority to make exceptions to the contemporary practice to which I have just spoken.

Let me say that again. The Nuclear Waste Policy Act provides a special statutory authority to make exception to contemporary practice. In other words, it is not to establish a precedent. It is not to override the majority leader, as some would like to have it thought today and are certainly arguing. It is in fact the law of the country and not the rules of the Senate to which we are speaking. It is one of four statutes adopted since the 100th Congress that expressly allow any Senator to offer a motion to proceed to an item of approval or disapproval. Those statutes are not redundant to Senate rules and do not upset contemporary practice regarding motions to proceed to other legislation on the Senate calendar.

Exercising a Senator's right under the statutory authority in the Nuclear Waste Policy Act should be considered extraordinary, and not a general assault on the normal prerogatives of the majority leader.

When the Senate passed the Nuclear Waste Policy Act, it envisioned a circumstance in which a leader might be unwilling to propound a motion to proceed. It appears that may be what is happening on the floor of the Senate. Thus, the law expressly permits someone else to act so Congress can work its will before a statutory deadline passes.

Finally, let me say this: If a leader will not propound a motion to proceed, he cannot contend his leadership prerogatives will be violated if someone else moves the procedure. You can't contend that you have been violated if in fact that is the law of the land. And that is the law of the land.

The very procedure I have outlined is expressly stated in the Nuclear Waste Policy Act. Agreement with such a position gives the leader absolute and unilateral authority to veto power over consideration of any legislation, if in fact that can be argued. But at times, when TRENT LOTT was majority leader of the Senate, that was challenged, and a majority of the Senate stayed with the leader when it dealt with contemporary legislation of the moment and the setting of the calendar outside the statutes of the Federal Government within the rules of the Senate.

I wanted to speak about that briefly this morning because I know that is now being talked about amongst us Senators as we ultimately come to a time, prior to late July, when we must address this issue for the sake of the country, for the sake of ratepayers, certainly for the sake of the future of the energy sources of our country, and especially for nuclear-generated energy.

It is important to understand, and I will be to the Chamber speaking out about this issue more as we develop it. I would hope that the majority leader or the authorizing committee chairman who brought the resolution forward would act as they should under the rules to establish a time and a date certain when this Senate can debate and act responsibly on this most critical national environmental issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I compliment the Senator from Idaho for

making this last point. He is absolutely right. Under the law that we passed, we have to consider what we are going to do with nuclear waste before the middle of July. And there is only one procedure under which it can be done. If the majority leader does not bring it up, then the statute provides anybody else can. That is what will happen.

The Senator from Idaho is exactly correct. I compliment him on his leadership on this issue.

PERMANENT REPEAL OF THE DEATH TAX

Mr. KYL. Mr. President, I rise this morning to talk about the issue that will be before us as soon as we resume business, and that is the permanent repeal of the death tax. This Senate has already repealed the death tax. The President has already signed it into law. But most Americans are now realizing there was a catch.

Under the special procedures that the Senate operates, that bill came before the Senate with a 10-year sunset. So all we could do was pass a law that was in effect for 10 years and in the 11th year, we are right back to where we were in the year 2001, meaning that while we repealed the death tax, it is back in the year 2010. That is not something we intended when we voted to repeal it.

I don't think anybody could argue that they intended only that it be repealed for 1 year. That is extraordinarily bad tax policy and a cruel hoax on the American people, who thought we were repealing it permanently. Obviously, we need to repeal it permanently, and that is what the Gramm-Kyl amendment will do.

I want to speak this morning about why this is so important, to bring it down to simple, personal terms.

In the Mansfield Room, just a few feet from the Senate Chamber in which we are right now, Mr. President, there is a small businessman, the owner of a lumber company. Actually, his dad owns the lumber company. He is helping to run it now. His name is Brad Eiffert, from Columbia, MO. And it is the Boone County Lumber Company.

His problem is this. When his father dies, the U.S. Government says: We want half of the value of everything you own with this lumber company. Let's explore what that means. They have been paying income tax on their corporate income. They have been paying individual income tax on the salary they take out of the company. They pay the payroll tax. They pay the Social Security tax. They generate a lot of taxes for Boone County and for the State of Missouri. And they have created 30 jobs.

This has been a successful, now second-generation company. The children of the father who owns the company now pay $58,000 a year in insurance premiums so that when their father dies, they will be able to inherit the business and have the money to run the business. Think of an insurance premium of $58,000 a year.

What does the Government do right now? The policy before we repealed the death tax was, the day he dies, his estate—that is to say, the people who would inherit the money the father owns and would inherit the business—has to pay half of that to Uncle Sam—half, 50 percent.

There is an exemption of a few hundred thousand dollars. I don't know how much this lumber company is worth, but let's say it is worth $5 million, just to pick a figure. I could be way off. About $4.5 million is now subject to the estate tax when the father dies.

So how do people pay the estate tax? This is the perversity of this tax. This lumber company has an inventory of lumber. They buy lumber from different companies that chop down trees and make it for them. So they have a bunch of warehouses full of lumber. And they have trucks that deliver the lumber. They have forklifts that enable them to move that lumber around. They have a little office. They have some other things; I am sure they sell hammers and nails and things such as that.

When this business is valued at, let's say, $5 million, they don't have a drawer that says: If you need $2.5 million to pay Uncle Sam, here is $2.5 million. No business has that. What they have is a value in the inventory, the lumber, the trucks, the forklifts, the warehouses, and so on. That is what is worth $5 million.

So, in effect, Uncle Sam wants to come in and say: We want half of that value. If you have 10 forklifts, we want 5 of them. If you have 10 lumber trucks, we want 5 of them. We want half of the inventory. In effect, just put it on a railroad car and send it to Washington. We want half of your warehouses.

There isn't money to pay Uncle Sam. We are talking about the value of the business. Remember, they have paid their income taxes. We are now talking about the value of the estate. It is called an estate tax.

What is the estate? The estate is the Boone County Lumber Company, with its forklifts and trucks and lumber. If that is worth $5 million, Uncle Sam says: I want half of it. How do you keep the business going by sending Uncle Sam half of the forklifts and half the trucks and half the lumber? That is obviously not what happens. You have to sell it to generate cash to write a check to Uncle Sam. You cannot just sell half your business. You end up selling the whole business.

Somebody said maybe they could get a loan to pay the taxes. Wrong. Anybody who knows anything about small business knows two things: One, you have financed the purchase of your equipment. You have financed the purchase of the land. Who buys a house for cash? You go get a home mortgage loan.

Well, businesses are the same. They don't pay cash for the land and the buildings; they get a loan from the bank so they can buy the property. They get a loan from the bank to buy their trucks, just as you buy a car on time, and you pay a Ford or GMC creditor or whoever it might be. The same with lumber, you get a bank loan to buy the lumber. Then you sell it and pay back the bank.

So these small businesses are highly leveraged in the sense they have already gotten all the credit they could get out of the bank. They can't go to the bank and borrow $2.5 million to pay the estate tax.

There is another reason, too, and that is there is an exemption. Today you get a $1 million exemption—and some people are proposing the exemption be more than that—but you can't qualify for the exemption.

The National Federation of Independent Businesses, which knows a lot about this because it represents a lot of these businesses, has testified, as have other experts, before the House Ways and Means Committee, which considered this, that the provision under which you can theoretically get an exemption is way too complicated and does not work.

The ABA, as a matter of fact—the American Bar Association—has advised its lawyers of being very careful of trying to help anybody to qualify for this exemption because they likely will be committing malpractice. So it does not work either.

So the bottom line is, hundreds of thousands of small businesses around this country face what Brad Eiffert faces. When his dad dies and Uncle Sam says pay us half of the value of everything in this business, he does not have the cash. He is not going to be able to borrow the cash. He has one choice: Sell the Boone County Lumber Company.

I will give you another company. The idea of the death tax was to prevent the accumulation of wealth. I had a good friend in Arizona. His name was Jerry Witsosky. He died. He created a printing company, Imperial Lithograph. He started with one employee, himself. He gradually built it up. He had about 150 employees, somewhere in that neighborhood when he died. It was a very successful business in Phoenix.

He contributed more money to charities in Phoenix than anybody I have ever known—a wonderful man. He died. His family could not pay half the value of that printing company to Uncle Sam, and they eventually had to sell the business.

Who did they sell it to? They sold it to a great big corporation. So much for preventing the accumulation of wealth. Here you had a family business, a going concern, a wonderful contributor to the community, and it had to be sold to a big corporation just to generate the cash to pay the estate tax.

Is this right? No. It is bad tax policy. It is unfair. It destroys all of the incentive. We talk about the American

dream: save, invest, and hope that your kids can have a better opportunity than you had. That is the American dream. And the estate tax, or the death tax, just cuts that right to the quick and says: We want half of everything you earned during your lifetime. And, by the way, if you have to sell your business to pay us the money, that is tough. We want to spend it back in Washington.

This is a perverse tax policy. The good thing about the version of the repeal that Senator GRAMM and I have proposed is that it does not let anybody off the hook in terms of paying taxes to Uncle Sam. They already paid the taxes on the income. What we say is when Brad Eiffert inherits his father's business, the Boone County Lumber Company, he does not pay a tax when his dad dies—that is perverse—but if he ever sells the Boone County Lumber Company, then he pays a capital gains tax, and he pays it based on what his dad paid for the original company.

So Uncle Sam is going to get the full take. We will get all the money we need here to spend in Washington, but it is when he decides to sell the business; that is the taxable event. Death should not be a taxable event.

So I hope my colleagues will join Senator GRAMM and me later today when we have an opportunity to finally repeal this perverse tax and replace it with a capital gains tax. We are not letting anybody off the hook. We are substituting one tax for the other, but we are substituting a tax that is fair because it says if you make a decision, knowing the tax consequences, to sell the asset, you pay Uncle Sam. If you don't, you don't. But that is your decision. It replaces a tax on the event of death which is more perverse and unfair.

The U.S. Government should not have that as a policy for the people of the United States of America. I urge my colleagues to reject the alternatives. There is only one real repeal, and that is the Gramm-Kyl repeal of the death tax.

I yield the floor.

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.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRIME MINISTER OF AUSTRALIA

The PRESIDING OFFICER. Pursuant to the order of the Senate, the following Senators are appointed to escort the Prime Minister of Australia into the House Chamber: The Senator from South Dakota (Mr. DASCHLE), the Senator from Florida (Mr. NELSON), the Senator from Mississippi (Mr. LOTT), the Senator from Oklahoma (Mr. NICKLES), the Senator from Texas (Mrs. HUTCHISON), the Senator from Idaho (Mr. CRAIG), and the Senator from Indiana (Mr. LUGAR).

Without objection, in accordance with the previous notice, the Senate will now stand in recess for the purpose of attending a joint meeting with the House of Representatives to hear the very distinguished Prime Minister of Australia, John Howard.

Thereupon, the Senate, at 10:46 a.m., took a recess and the Senate, preceded by its Secretary, Jeri Thomson, proceeded to the Hall of the House of Representatives to hear an address delivered by the Honorable John Howard, Prime Minister of Australia.

(For the address delivered by the Prime Minister of Australia, see today's proceedings of the House of Representatives.)

At 12:30 p.m., the Senate, having returned to its Chamber, reassembled and was called to order by the Presiding Officer (Mrs. CLINTON).

DEATH TAX ELIMINATION ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 8, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 8) to amend the Internal Revenue Code of 1986 to phaseout the estate gift taxes over a 10-year period, and for other purposes.

Pending:

Conrad amendment No. 3831, in the nature of a substitute.

AMENDMENT NO. 3831

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, what is the issue before the Senate?

The PRESIDING OFFICER. The Conrad amendment No. 3831.

AMENDMENT NO. 3832 TO AMENDMENT NO. 3831

Mr. REID. Madam President, on behalf of Senator DORGAN, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DORGAN, for himself, Mr. DURBIN, Mrs. CARNAHAN, and Mr. CORZINE, proposes an amendment numbered 3832 to amendment No. 3831.

Mr. REID. Madam 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 amend the Internal Revenue Code of 1986 to make permanent the estate tax in effect on December 31, 2009, to increase the exclusion amount to $4,000,000 in 2009, and to provide a full family-owned business interest deduction in 2003)

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. ESTATE TAX WITH FULL TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTERESTS.

(a) ELIMINATION OF ESTATE TAX REPEAL.—

(1) IN GENERAL.—Subtitle A of title V, sections 511(d), 511(e), and 521(b)(2), and subtitle E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001 are repealed.

(2) CONFORMING AMENDMENTS.—

(A) The table contained in section 2001(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking ''2007, 2008, and 2009'' and inserting ''2007 and thereafter''.

(B) The table contained in section 2010(c) of such Code is amended by striking ''2009'' and inserting ''2009 and thereafter''.

(C) Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(i) by striking ''this Act'' and all that follows through ''2010.'' in subsection (a) and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.'', and

(ii) by striking '', estates, gifts, and transfers'' in subsection (b).

(b) INCREASE IN EXCLUSION AMOUNT.—The table contained in section 2010(c) of the Internal Revenue Code of 1986 (relating to applicable credit amount), as amended by subsection (a)(2)(B), is amended by striking ''$3,500,000'' and inserting ''$4,000,000''.

(c) FULL TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTERESTS.—

(1) IN GENERAL.—Section 2057(a) (relating to deduction for family-owned business interests) is amended—

(A) by striking paragraphs (2) and (3), and

(B) by striking ''GENERAL RULE.—'' and all that follows through ''For purposes'' and inserting ''ALLOWANCE OF DEDUCTION.—For purposes''.

(2) PERMANENT DEDUCTION.—Section 2057 is amended by striking subsection (j).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2002.

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

Mr. REID. Madam President, I suggest the absence of a quorum and I ask unanimous consent that time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRAMM. Madam President, let me remind my colleagues where we are and what we are doing. Last year, we adopted a repeal of the death tax. Under that repeal, we phased up the exemption. We will soon start phasing down the rates, and in 2010 we will actually repeal the death tax. But because of a quirk in the rules of the Senate and the budget process, this death tax snaps back into full force in 2011.

Members of the Senate voted to repeal the death tax. They proclaimed they were repealing the death tax. We are here today to really finish that work by simply taking the provisions of law that are in place and in 2010—a

year when according to the Congressional Budget Office March estimate we will have a surplus of over $300 billion—we would eliminate the death tax forever rather than having the death tax come back from the grave to prey on working families. That is the provision we are here to debate.

We have had offered an amendment which is really not about protecting family farmers. It is not about protecting small businesses. It is about protecting politicians. It is an amendment that makes a nominal change in existing law that still allows the death tax to continue but it claims to give an unlimited exemption to small businesses and to small farmers under a section of law called section 2057. This is a provision that was proposed last year by the opponents of the death tax repeal as an alternative when we voted on repealing the death tax. It is in law today but at a lower level of protection.

The point I want to make is, section 2057—which this amendment claims would be expanded to shelter more value in small business and family farms—and all the other special exemptions put together have been used by only 33 taxpayers in the time they have been in effect. In other words, these provisions that supposedly shelter and give small business and family farms special protection are so convoluted, so burdensome, so inefficient that only 33 taxpayers in the years since these provisions have been in effect have found it possible to use this section 2057 to gain the promised relief.

So the reality is, if this amendment were adopted, it would provide assistance to 33 known taxpayers but it would provide a figleaf to 40 Senators by allowing them to vote against the repeal of the death tax once and for all.

My colleague and cosponsor on this bill is a distinguished attorney, and I want to give him an opportunity to talk about this provision in some detail, but let me basically sum up the arguments we have heard thus far and that we are certainly going to hear today.

The first argument we are going to hear is that repealing the death tax is going to cost money, is going to drive up the deficit, and is going to increase debt. I remind my colleagues that under the latest estimates we have, the death tax collects less than 1 percent of the revenues that we collect in the Federal Government.

Yesterday, I made reference to two studies, one by our own Joint Economic Committee titled ''The Economics of the Estate Tax,'' and the other by the Institute for Policy Innovation titled ''The Case For Burying the Estate Tax.'' Both of these studies make a very strong case that by forcing small business and family farmers who are trying to protect their families from the death tax to pay these big insurance policies, to hire all these lawyers, to hire all these accountants, and by forcing people to sell off businesses and farms prematurely to try to plan for this tax, we have lowered the efficiency of the economy. The study by our Joint Economic Committee concludes that the level of capital in America is $50 billion lower than it would be without the death tax. The study by the Institute for Policy Innovation concludes that by disrupting economic activity and lowering efficiency, this tax actually collects no net new revenue.

Our colleagues say, and we are going to hear it throughout the day in the debate, that, well, we would make it permanent but we cannot afford it; we cannot afford to make it permanent.

I remind my colleagues that the amendment I will offer, which is the permanent repeal amendment that passed the House, does not go into effect until 2010. As I noted earlier, in 2010 we are projected to have a surplus of some $300 billion. What those who oppose permanent repeal of the death tax are really saying is they want to spend that money.

There is an interesting paradox here. Despite all the talk we had yesterday and will likely hear again today that we simply cannot afford to make the repeal of the death tax permanent and we have to force families to sell off the family business and sell off the family farm and give government 55 cents out of every dollar people have accumulated in their working lifetime in aftertax dollars, that we have to do that because we need the money, I find it interesting that in five different instances over the last 9 months where this Senate has voted to spend more money than we would lose in revenues next year if we made the repeal of the death tax permanent. We spent $14 billion on nonemergency items in the emergency supplemental appropriation that the President did not ask for and that over the next 2 years is some four times as much as repealing the death tax would save families if they got to keep the money.

The farm bill next year costs seven times as much as letting people keep the family farm or keep their small business.

The energy bill was more expensive than the cost of letting people keep their family farms.

The trade bill added new entitlements that cost more over the next 3 years than letting people keep what they have accumulated over a lifetime.

Railroad retirement costs 15 times as much next year.

The stimulus package that was adopted, the parts that were not asked for by the President, cost more than making the repeal of the death tax permanent next year.

Finally, the budget reported on a straight party line vote out of the Budget Committee adds new spending—not requested by the President, not defense related, not related to our security needs in fighting terrorism—of $105.8 billion.

In short, on five different occasions in the last 9 months we have voted on the floor of the Senate or in the Budget Committee to add new spending that, when it is added up, is some 15 times more expensive than repealing the death tax permanently, and yet our colleagues who voted for each and every one of these increases in spending now say, well, we could afford to spend all of this money but we cannot afford to stop forcing families to sell off their farms and their businesses and the accumulated value of the life work of their parents.

That represents misplaced priorities. We have colleagues who could name 100 taxes that ought to be increased, who could name 40 tax reductions that should be taken back, but they cannot name a single Government program that we could live without or we could reduce.

At its root, this issue boils down to one simple choice. We will hear many arguments today, but it comes down to a simple choice. The people who do not want to make the repeal of the death tax permanent believe it is worth forcing people, at the death of their parents, to sell off their life's work to give over half of it to the Government, even though it is all aftertax income. They have already paid taxes on it once.

The opponents of making the death tax repeal permanent believe it is worth forcing businesses to liquidate farms, to shut down, equipment to be sold, jobs to be destroyed, because they believe that having that money in Washington so they can spend it is worth it. Those who want to make the death tax repeal permanent do not believe that. Those who want to make the repeal of the death tax permanent believe we would be better off as a nation—we would be richer, freer, happier, and the world would be fairer—if, when families work and save and sacrifice and pay taxes on every dollar they earn in their lifetime and they build up a business, farm, or estate, that their death should not be a taxable event.

We will hear a discussion today that says, OK, we are willing to do this for some. We know it is bad for some people, but we want to pick and choose as to who has to pay this death tax. The position of those who want to repeal the death tax permanently is a position that we believe the tax is immoral. We believe it is wrong. We think, whether somebody's estate is worth $700,000, or whether they built a business that has 200 employees and that has tools and capital and land and trucks and equipment worth $10 million, we believe, if they built a business worth $10 million, that destroying that business to bring $5.5 million of that to Washington so we can spend it does not represent a good choice in public policy. After all, it is their money. They built it. They accumulated it. They sweated and saved and sacrificed for it.

That ultimately is the issue. We believe it is wrong to tax death. We believe it is wrong when people build up assets and build a business for government to then destroy it.

I showed data yesterday indicating more than 70 percent of small businesses that are founded by a family member do not survive into the second generation; 87 percent do not survive into the third generation. According to the NFIB, the No. 1 reason is the death tax.

It is time to fix this provision of the Tax Code. We are going to have an opportunity to do that. There will only be one real amendment. There are two amendments that give political cover. There is one amendment I will offer that is exactly the same language the House passed, and if we adopt it, it will go to the President and he will sign it into law. That is the issue. There is one real repeal, as my colleague from Arizona says.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Just so we know where we are, I know there was time during the quorum attributed to both sides. How much time remains on both sides?

The PRESIDING OFFICER. Forty-one minutes remain in opposition and 56½ minutes remain for the proponents.

Mr. KYL. Madam President, let me make two quick points. The first has to do with the question of who pays the estate tax or the death tax. We know it is not the person who died. We know it is the people who have the estate and who are required, therefore, to, in many cases, actually sell a business in order to generate the cash to pay the tax.

Who are the estate tax filers and what occupations do they hold? I am going to quote from official Internal Revenue Service reports. In the last analysis of the IRS of people's occupation and sex in filing estate tax returns, published in the Statistics of Income Bulletin, summer of 1999, pages 72 to 76, the IRS reports:

> For males, the largest group of filers at 27.7 percent were administrators, upper management and business owners. The second largest group at 12.3 percent were schoolteachers, librarians, and guidance counselors. For females, the largest group of estate tax filers at 14.1 percent were educators. The next largest group at 9.6 percent were in clerical and administrator support occupations.

A significant number of the total of estate tax filers were scientists, sales people, entertainers, airline pilots, military officers, and mechanics. That is according to the IRS.

There is a vision of some fat cat sitting on a yacht someplace that we are going to stick and get a lot of money from to run the Federal Government. We know the Federal Government's collections of estate taxes are only 1 percent, slightly more than 1 percent of total revenue collections. Who is that money coming from? The largest group of women were educators. The next largest were clerical and administrator support people. They are airline pilots, scientists, salespeople, military officers, mechanics. I can understand the category of entertainers. But, remember, those entertainers pay a lot of income tax, too. And the second largest group of males is schoolteachers, librarians, and guidance counselors.

Do we want to punish these people because they have been lucky enough to have been born into a family in which their father or mother was able to accumulate some kind of an estate? This is perverse tax policy.

As I said this morning, the primary problem is that the businesses that have the value are not easily liquidated to generate the money to pay the tax. It is not as if when someone dies there is a lot of money in a shoe box and Uncle Sam taps you, as the heir, on the shoulder and says, I would like half of that, 50 percent. That is not what happens.

Ordinarily what happens is there is a business. We talked this morning about the Boone County Lumber Company in Columbia, MO. They have a lot of money tied up in lumber that they bought that they hope to sell—in trucks, in forklifts, in warehouses, and so on. That is equipment that enables 30 people to have a job. When the owner of that business dies, his family is going to have to make a decision. They do not have the money to pay half of the value of that business to Uncle Sam. The salaries that people take out are $48,000, $60,000, some approaching $100,000, and in some cases more than that, but most are the salaries of any other small business. And bear in mind, half the small businesses in this country are women owned. These salaries do not generate a whole lot of capital by which you can pay an estate tax. The only way you can get the money to pay the estate tax is by selling the business on which the estate tax is based. The estate tax doesn't say, How much money did you have left over at the time of death? The estate tax says, What is the value of the company or the business or the farm that you are running? The value of that business is based on the value of the equipment and the land, and so on, most of which are probably going to be financed and therefore probably already heavily leveraged. But that value determines what has to be paid to Uncle Sam—half of it. That is why the estate tax is particularly perverse, especially because you have to do the liquidation right after the time of death.

There is an effort by our colleague from North Dakota, who has laid down a second-degree amendment here—to ''improve on the existing law'' would be the way I think he would characterize it. He does this by providing that the exemption we provide in the law, that goes to $3.5 million, would go to $4 million, as I understand it; and for small businesses and farms it would become an unlimited exemption.

Certainly the sentiment behind that is laudable. The problem is it simply will not work. How do we know that? Because we know it currently does not work. The law currently provides methods for small business people and family farms to get an exemption from the estate tax. The exemption today is $1 million. It is going to go up in the future. The Senator from North Dakota would make it an unlimited exemption. But the problem is even unlimited exemptions are worth exactly nothing if you cannot qualify. In other words, there is a door you have to get through. There is a gate you have to get through. You have to stay on the other side of that or none of this matters, and that is the problem with the amendment of the Senator from North Dakota.

In the business, people referred to it as QFOBI, and I am going to do that for the purposes of brevity here, but it is technically the family-owned business exclusion. That is the provision of the existing law. There are actually two different sections under which people who have a small business or farm and who want to be exempted for part of the estate tax will try to qualify. But as I said, if you can't qualify under this provision, it doesn't matter how big the exemption is, you are out of luck. The problem with this QFOBI is it is much too difficult and too complex for most people to be able to qualify. I will give you an idea.

For the calendar year 2000, 108,322 estate tax returns will be filed. Of course, only 1,470 made the QFOBI election; in other words, about 1 percent of the total.

By the way, that number is actually a little higher than in some previous years. In 1999, for example, the total number of estate tax returns for which the exemption was requested was 173. In 1998, that number was 889. My colleague from Texas pointed out that only 32 people have ever qualified for a combination of both. But even take the larger number we have for the tax year 2000; that is 1,470, and that represents about 1 percent of the total of the estate tax returns filed.

If the percentage of people filing estate tax returns is as low as our Democratic colleagues for the most part say it is—and although I will contest it, let's assume for the moment they are right—it is maybe about 2 percent of all taxpayers; and if of that 2 percent only 1 percent of them qualify for this small business or farm exemption, then the amendment of the Senator from North Dakota helps a grand total of two one-hundredths of 1 percent of people filing tax returns—two one-hundredths of 1 percent. The fact is, it doesn't even help that many people because QFOBI is recognized as very treacherous for somebody to get involved in.

A representative of the American Bar Association testified before the Ways and Means Committee that the provision was simply too complicated to be effective. A professor of law at Temple noted that very few people would try to meet the qualification because of its complexity. The NFIB, which represents a lot of these people, testified

that qualifying for the family-owned exclusion currently is difficult, costly, and complex. Studies by numerous organizations and scholars routinely find that family businesses spend exorbitant amounts of revenue on lawyers, accountants, and financial planners in order to try to do this.

The reason I say even two one-hundredths of 1 percent is a high number is that the reality is, if you try to qualify for QFOBI, you are going to find yourself face to face with the friendly IRS.

The reason is the IRS will look at every one of these filings. They will contest a significant number of them. As a matter of fact, in the year 2000 there were 149 cases pending, which represents about 10 percent of the total number that were filed at that time—the total number of estate tax returns filed at that time. There are an equal number of cases in the administrative process. You first have to go through the administrative process, and then you will actually have your case taken to court.

What happens when the IRS challenges these? The IRS wins. As of the last time we have statistics, the IRS had won 67 percent of the cases.

So if you have the courage to try to qualify under this QFOBI election, understand you are going to have the IRS question the value. It is going to be an administrative appeal. At least 10 percent of the cases are going to be in court. And you are going to lose two-thirds of the time.

That is why the group of lawyers that works on these kinds of things, the section of the American Bar Association which handles estates and taxes, has recommended to their lawyers that they not try to help people qualify because it is too risky from a malpractice point of view. They have recommended that this particular section be repealed.

The bottom line is that it doesn't matter whether you have a $1 million exemption or a $3.5 million or a $4 million exemption or an unlimited exemption for small businesses or family farms; if you cannot qualify in the first instance, it does you no good. From what we can find from IRS statistics, only two one-hundredths of 1 percent qualify. That doesn't take into account the challenges by the IRS.

Let me just make one last point, and then I think there are others who would like to speak.

I am not going to read to you the page after page of complex provisions. It is a nightmare to read and understand. I am a lawyer. I don't understand it. It takes a real expert to try to figure out how to make this work and, as I said, the ABA itself has recommended to its members that they approach this with extreme caution.

One of the problems with the people who qualify is this. Let's assume you are one of the lucky two one-hundredths of 1 percent who actually qualify and you have gotten through the IRS hurdles. What does this mean for you now that you have qualified? Are you home free? Not exactly. There is a 10-year period of time in which the IRS can—and I love this term—''reach back'' and collect the tax from you.

There is a lot that can happen that could cause that to occur. If you have trouble in your business, for example, and go bankrupt, that is tough; as far as the IRS is concerned, they can go back and collect the entire estate tax from you.

But here is what happens even if things go well. The IRS, if you qualify—believe me, this is the truth. It seems that it could not possibly be, but under the amendment of the Senator from North Dakota and the existing law, the IRS has a lien on your property, all of the estates that would be subject to the estate tax, for 10 years. And they have a first position, which means: Good luck if you want to try to get financing for anything. Every small business finances its inventory, its machinery. We do not go out and buy a house and pay cash for it. We get a loan from the bank or from Fannie Mae, FHA or someone, and we finance a home. That is the way small businesses finance their operations. But, good luck going to the bank when they know the IRS has a first lien for a period of 10 years and the bank only has a second position. That is a poor position to be in, and the bank will tell you one of two things—either: Sorry, we can't lend you the money or: We could lend you the money for 2 or 3 or more percent premium.

In other words, if you qualify for this provision, you are going to have to pay a lot more money if you can get financing in order to finance the continued operation of your business. Basically, it is a set up for failure. That is why most people do not even try to qualify for it. Many of those who try cannot qualify for it. It is an extraordinarily complex and ineffective provision. Therefore, with all due respect to my friend and colleague from North Dakota, his attempt to grant an unlimited exemption for small businesses and farms is fatally flawed. Very few, if any, of these small businesspeople or farmers are going to be able to qualify. As a result, the amendment is, in fact, a nullity, and does nothing to help the very people who all of us would like to help.

I will relinquish the floor at this point and hope as the debate on the amendment is concluded that I will have an opportunity to talk about the comments that the Senator makes, and also to point out again that the people who actually pay this tax are not the kind of people you might envision but they are schoolteachers, airline pilots, mechanics, librarians, guidance counsellors, and the like, according to the IRS itself.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, inform me of the time remaining on both sides.

The PRESIDING OFFICER. The Senator from North Dakota controls 56½ minutes and the time in opposition is 25 minutes.

Mr. DORGAN. Madam President, my amendment is cosponsored by Senators DURBIN, CARNAHAN, CORZINE, and STABENOW.

Let me respond to some of the discussion we just heard. I have great respect for my friend from Arizona. I have listened to him with great interest in previous debates about repealing the estate tax. He believes passionately that we ought to get rid of the estate tax and makes the case for it. But I was reminded when I heard his discussion of my amendment of Mark Twain who was asked once if he would be willing to engage in a debate. He said: Of course, I would—as long as I can take the negative side. They said: We have not told you the subject of the debate. He said: It doesn't matter. The negative side will take no preparation. It is easy. It is inherently easy to oppose things.

The way the opposition renders this amendment is almost indescribable to me. I am the one offering the amendment. But the interesting discussion that incorrectly describes this amendment needs some correction.

Let me begin by talking about why we are here and what this debate is about. Then I will describe my amendment.

We are here because our country, a little more than a year ago, decided on a new kind of fiscal policy. Those who seemed to think they knew saw surpluses for years and years ahead—surpluses as far as the eye could see for the Federal budget. They said that because we have all of these surpluses that stack up in the future, let us cut taxes and let us do it right now. By the way, they said, let us cut the estate tax sequentially so in the year 2010 it will be completely repealed.

It is true that the goofy kind of proposal finally offered and passed into law takes the estate tax right up to the repeal in 2010, and then reinstates it in 2011. Historians will scratch their heads for some while when they evaluate what was done a year ago on estate tax.

Our colleagues who want to repeal the estate tax forever because they said we are going to have these large and continuing budget surpluses say, although they wanted to reinstate it in 2011, they now want to make that repeal permanent.

Of course, over a year later, things are different. We don't see surpluses as far as the eye can see.

Yesterday, the Senate had to consider an increase in the debt limit. Why? Because surpluses have turned to deficits. The country has an economy that is in some trouble. We now have deficits for some years into the future. Yet my friends on the other side of the aisle are coming to the Senate saying: Oh, by the way. Our urgent priority is to permanently repeal the estate tax.

Let us evaluate what these priorities are about.

Do we have a priority, for example, to try to help people at the bottom of the economic ladder in this country—people who are working for the minimum wage who haven't seen an increase for years and have seen the value of that minimum wage eroded? Do we have an obligation to them? Is that a priority? No. It is not a priority for some. They do not want that question on the floor of the Senate.

Do we have a priority to see if we can't do something about people who do not have health insurance—over 40 million people who tonight may find their child is sick, discover they do not have any money in their pocket or in their bank account to help take care of their child? Do we have a priority to deal with sick children and people who do not have the capability of providing health insurance for their children? No. That is not a priority for some.

How about schools? Are schools a priority?

I have spoken on the floor of the Senate many times about schools. I toured a school populated largely by American Indians. But it is a public school district. And a little girl in the third grade named Rosie Two Bears looked up at me and said: Mr. Senator, will you be able to build us a new school?

Do you know why they needed a new school? Because there are 150 kids and two toilets and one water fountain. They were holding classes in a basement room in a building that had been condemned long ago. Two or three times a week they had to evacuate that classroom because sewer gas was backing up in the classroom. Rosie Two Bears wanted to know if her Senator could build her a new school. Incredibly, the answer is we don't build new schools.

But the question is, Is education a priority for that young girl and others around the country? Not for some—that is not on the floor of the Senate.

This isn't about helping people at the bottom of the economic ladder. This is not helping to address the issue of health care costs, or lack of health care coverage, or lack of insurance for some American families—nearly 40 million of them. This is not about improving American schools. No. This issue is different than that. This issue is saying, let us permanently repeal the estate tax.

How narrow is this? Let me describe the amendment I am offering and that I offered last year which got 43 votes. Those who now speak loudly about the need to repeal the estate tax voted against my amendment last year.

My amendment said the following: It said, let us have a $4 million exemption per estate—$8 million for husband and wife. If you have fewer assets than $8 million, you pay no estate tax under any circumstance.

My amendment also said, by the way, this issue that the other side continually says persuaded them to deal with the estate tax—that is, the inability to pass a family farm or a small business from the parents to the kids—let us totally repeal the estate tax for the passage of a family farm or business. If it is family owned, the parents die, and the kids want to keep running it, I say don't interrupt the transfer of that business. Let us not have the kids inherit a business and a crippling estate tax. Let us allow them to inherit the business exempt from the estate tax, if they want to keep running it.

This says no estate tax at all. Repeal it for the transfer of a business from parents to children who want to keep running it.

It is very simple. We will do it in 2003. I offered that amendment last year.

Those who come to the floor of the Senate and say they are persuaded to propose a permanent repeal of the estate tax because they care so much about family businesses and the transfer of family assets to the kids who want to run the business are the ones who voted against my amendment. This amendment will provide that repeal next year. Their proposal would provide the repeal some 7 years later.

One wonders whether they care less about this issue and more about repealing the estate tax for the wealthiest Americans. Or do they really care about family businesses and family farms? If so, this is the amendment to support.

Let me talk a little bit about privilege and those at the upper end of the economic ladder.

I think it is terrific that in this country people do well. In fact, we have some innovative geniuses in this country who have done very well. One-half of the world's billionaires live here, and good for them.

But let me talk about the question of whether our priority at this point—given the kind of Federal budget deficits we have and the kind of economic problems we have—ought to be to bring to the floor of the Senate a billionaire tax relief package. Because that is what this is. This is all about, let's cut taxes for billionaires. And you can describe it however you want.

You can put all kinds of seasoning in it. You can stir it up, boil it; you can do whatever you want with it. Just strip it away, it is a tax cut for billionaires, when we have very big Federal deficits and when we have other priorities that some in this Chamber want to ignore.

Let me talk about some of these issues. Here shown on this chart are people who are going to benefit from the proposal on the floor of the Senate to permanently repeal the estate tax. That is why I want to amend it, so we don't repeal the estate tax for everybody.

The chief executive officers of our corporations in this country, in 1980, made 42 times the amount of money that the average worker made. Twenty years later, they made 531 times the money the average worker made. That is who is going to benefit from what the minority is proposing here today.

In 1981, the average compensation of the 10 highest paid CEOs in a U.S. corporation was $3.5 million. I come from a town of 300 people, a small high school class of nine. I happen to think $3.5 million is a lot of money. So is $3.5 million a year in compensation. That was 20 years ago. Do you know what it is today for the 10 highest paid CEOs in the country? It is $155 million a year.

That is who benefits from this tax cut. That is what this debate is all about. They say that these folks pay too much in taxes, so they want an estate tax repeal even including the highest income earners in our country. And they will do that at the expense of all the other priorities that exist in this country.

I say, yes, let's repeal the estate tax for the passage of family-run businesses and farms. Let's provide an $8 million threshold for families, below which you will pay no estate tax. But if you are fortunate enough to have tens and hundreds of millions and billions of dollars, I think it is important to understand a couple things.

One, most of that has never ever been taxed. Most of it comes from the growth appreciation on assets and has never been subject to a tax. And, yes, I think your descendents ought to get a fair part of that. But I also think this country ought to capture part of that and use it to invest in our kids, invest in education, invest in the solvency of Social Security, invest in the solvency of Medicare, to strengthen this country. That is what I think ought to happen.

Let's talk about compensation just for a minute. I mentioned some of the compensation that exists for individuals. I have a chart that shows the 1-year compensation in the year 2000. These are the people, incidentally, who are the beneficiaries of this proposal. And I guess I don't know of a time when I have heard people come to the floor of the Senate and say: I know we face a big budget deficit, I know our economy is in some trouble, I know we have other priorities—education, health care, and other things—but our priority is to provide a tax cut for the wealthiest Americans. These figures—$290 million, $225 million, $157 million—these are individual compensation numbers in the year 2000 for people who ran America's corporations. These are the people who will ultimately benefit from repealing the estate tax.

We have a lot of folks out there in this country who are working hard, trying to do the best job they can. Look, they are never going to pay an estate tax. They are not going to have $8 million, as provided under my amendment. But their proposal today is to say $8 million isn't enough of a threshold; we need to be able to exempt those who have $20 billion, those who have $2 billion, those who have $500 million in assets, so none of those assets can ever be used to help America's

children, to invest in America's schools, to strengthen Social Security, to strengthen Medicare, and to do the other things we also know are necessary.

So my amendment, as indicated, is very simple. It was described in a tortured way by my colleague from Arizona. He said: Well, you know, if you try to exempt family businesses and family farms, you run into this web of complexity. A web of complexity, he calls it. So the result is, we have to exempt from the estate tax billionaires in order to solve the issue of family farms and family businesses? I don't think so. I think if you go into any store in the county, they call that a bait and switch.

You come out to the floor of the Senate and say: Look, our mission is very simple. Our mission is in support of family farms and small businesses. That is what we are trying to do, to get rid of the crippling estate tax that exists on the transfer of a business or a farm from the parents to the kids. I say, if that is your mission, then I am with you.

Let's repeal the estate tax for the transfer of that property. The kids want to run the business? It is fine with me. I don't think we ought to shut the business down. I don't think we ought to load the business with an estate tax debt. I think the parents ought to be able to move that business to the kids upon the death of the parents with no estate tax obligation at all. And that is what my amendment does.

No amount of arm waving in this Chamber can obscure the fact that we have an exemption that is workable. It has only been in existence since 1997, I might say. It was described as QFOBI, which is an acronym. We use too many acronyms in this town. The fact is, if you have spent the last couple of years of your career talking about protecting small businesses and family farms, and its passage to the kids, then don't vote against this amendment and say to folks back home: Oh, by the way, it was too complicated.

This amendment I offer does two things. It provides an $8 million unified credit threshold for a husband and wife, below which there is no estate tax. It is repealed for everybody below $8 million in assets, husband and wife. And second, and most important to me, is that family businesses, regardless of size, if transferred to the kids—and if those kids continue to run those family businesses—will be exempt from the estate tax; and, no, not in 2010, but in 2003.

You see, the problem with the proposal offered by the other side, first of all, is they propose a complete repeal, but it just kind of dribbles along, as with most of their proposal; they just dribble it out over a period of time. If it is worthy to say, let's not interrupt the transfer of a family business, so the kids can continue to operate it without an estate tax obligation—let's do it next year. If you don't want to do it next year, then vote against our amendment, but don't you go home and say you stood for family businesses and family farms. Don't you dare do that, because voting against this amendment, just as many of you did last year—we got 43 votes in favor—voting against it is to say to folks back home: No, I want you to wait 7 or 8 years for the relief that was offered permanently in this amendment for family businesses and family farms.

Ms. STABENOW. Will my friend from North Dakota yield?

Mr. DORGAN. I am happy to yield.

Ms. STABENOW. I thank the Senator.

I rise to thank my colleague for this amendment. And I join him. I am very proud to be a cosponsor of this amendment. I appreciate very much what he is doing.

It seems to me, as we have looked at this issue to find the right balance, that this amendment is in fact the right balance. It says that we will say to our family farmers and family-owned businesses—of whom we have many in Michigan—that we want to make sure, after you have worked hard and your family has been able to develop a good business or family farm, that if you want to pass that along to your children, you will be able to do that and that it not be jeopardized in any way. That makes perfect sense to me. I support repeal for family-owned enterprises.

I think it also says that we are going to set a limit, we are going to set priorities for the country, so when we are talking about a billionaire versus having the resources for seniors or families to be able to afford prescription drug coverage—which is also a tax, I would argue a significant tax, on our seniors and our families—or whether it is looking at the priority of educating our children, we are going to have a balance, and those who are the top billionaires in this country ought to contribute to national defense and the war on terrorism and education and health care, and so on.

So I wonder. I would just ask my friend from North Dakota a question. It is my understanding that our amendment would in fact exempt 99.5 percent of all of those who might pay the estate tax. Is that correct?

Mr. DORGAN. The Senator from Michigan is correct. Well over 99.5 percent will no longer have to pay an estate tax. But even that is not enough for those who insist on complete repeal. Those who insist on complete repeal are saying—during a tough time, where we have Federal budget deficits and other priorities that we can't fund—they are saying: This is our priority. The top of the heap. Those at the very top, the billionaires, the $100 million per year executives, that is our priority. We believe that our priority is to exempt those estates from an obligation.

The Senator from Michigan is right. Over 99.5 percent of estates will not be subject to an estate tax.

When the Senator from Arizona was present, he said this issue called QFOBI, which is the method by which you value the assets of family-owned businesses, is totally unworkable. The Center on Budget and Policy Priorities says that businesses can easily qualify for this special status as long as the family owns and operates the business and intends to continue to do so.

Let's say you have a $200 million family business, a big one. In my judgment, if it is family owned, it goes to the lineal descendants. If they want to continue to operate it, no tax. We repeal the estate tax for that transfer. If, however, there are not lineal descendants who want to operate it—one lives in California and one in Florida, one in Texas—and they want to sell the assets, they have the same $8 million exemption that we would provide in this amendment.

The Senator from Michigan is correct. This affects very few estates. They are only the largest estates, and that is what we are fighting about.

We have people here saying: That is our priority, tax exemption, tax relief for the highest income earners in our country at a time when we have so many other priorities.

Ms. STABENOW. If I might again say to the Senator from North Dakota, I thank him on behalf of Michigan family farmers and small family-owned businesses, as well as large family-owned businesses, for putting forward what I believe is, in fact, just the right balance. We say to our family-owned enterprises, we want you, if you have worked hard all your life, to be able to pass on that business, that farm to your family. We want to make sure you are not paying the inheritance tax. But at the same time we say to middle-class families and seniors and everybody else in the country that we are going to make sure your priorities, those that affect the majority of Americans, will be funded before we, in fact, give a tax cut again to the top half a percent of the public, the top billionaires of the country.

It is the right balance. It is the right set of priorities. I thank my friend. I appreciate the opportunity to join with him in his amendment.

How much time remains on my side?

The PRESIDING OFFICER. The Senator has 35½ minutes.

Mr. DORGAN. I reserve the remainder of my time.

Mr. GRAMM. Madam President, how much time do we have?

The PRESIDING OFFICER. The Senator has 25 minutes.

Mr. GRAMM. Let me take 5 minutes of it. Then I will yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, facts are persistent things. The good thing about fiction is you can always have it the way you want it. If you make it up, it can always be good, if you are for it. It can always be bad, if you are against it. But facts are persistent things.

In 1997, recognizing that we had confiscatory taxes on small businesses and family farms upon death but not being willing to repeal the death tax, which our Democrat colleagues are not willing to do—the only vote we are going to have today that would repeal the death tax or would change the death tax, the only one that would go to the President to be signed today is the one I will offer—wanting to get credit for helping without helping, we adopted a provision called 2057. That is the closely held family business exemption.

Our colleague says: We will expand it so it will cover every small business, every family farm.

It has been in effect for 5 years. How many farmers and ranchers do you think have qualified for this protection in 5 years? In 5 years that this provision of law has been in effect, only 33 farm and ranch families have qualified.

This bill that is being offered as an alternative to the real repeal of the death tax is not about 33 families. It is about protecting 40 Senators by giving them a fig leaf when they vote against repeal of the death tax.

The plain truth is in 5 years of being in effect, this provision has afforded relief to 33 farmers and ranchers. And why? It is 17 pages of single-spaced requirements. It gives the government a lien against your property for 10 years. It sets up requirements like ownership of assets for at least 8 years, when if you are growing chickens, they don't live 8 years.

The bottom line is, this is absolutely unworkable and meaningless except for fewer taxpayers than we are going to have Senators vote against repeal of the death tax.

I go back and make my point: Our colleagues know this is an issue that Americans care about. They desperately want to spend the money we are collecting by making people sell their farms, sell their businesses upon the death of the founder in order to give the government 55 cents out of every dollar they have accumulated in their lifetime. But rather than repeal the tax so that this absolute tragedy and theft could stop, this outrage could end, they are offering basically a proposal that has proven to be unworkable.

When it gets down to the bottom line, the question before us is a very simple one: Do you think it is worth making people sell their business, sell their farm, sell off the product of their life's work to give government 55 cents out of every dollar they have accumulated, even though every dollar they have accumulated they have paid taxes on, so that Government can spend that money? Or do you think it would be better to let people keep the money and eliminate the situation where death is a taxable event? That is the question before us.

There is only one real repeal. I have been around the track before. I have seen it. I know what is going to happen here. We are going to have a bunch of people who are going to vote to sustain this point of order so that even though we have a majority who want to repeal the death tax, we won't be able to do it today. But they are going to vote for these proposals where only 33 farmers and ranchers in 5 years have qualified, and they are not outside the 10-year window. They may not end up qualifying.

They are going to go back home and say: Look, I wasn't against repealing the death tax. I just was against their repeal of the death tax.

There is only one real repeal, and that is the one that passed the House.

I yield 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Madam President, I thank my colleague, the Senator from Texas, Mr. GRAMM, and my colleague from Arizona, Senator KYL, for their tremendous effort in working on eliminating the death tax.

I rise in opposition to the Dorgan amendment and in support of the Gramm amendment which is the provision that was passed out of the House of Representatives last week. Fundamentally, if we want to help farmers and ranchers, if we want to help small businesspeople, we need to kill the death tax. It is a sham to put in qualifiers and provisions so that such a small number of small businesspeople can qualify instead of eliminating the tax altogether.

What we need to do is to kill the death tax. This unfair tax has been a concern of mine for some time. I have previously introduced my own legislation to eliminate the death tax. I was pleased to support the repeal of the death tax as part of last year's tax relief package. But those cuts simply do not go far enough.

One of the tenets of a fair tax system is that income is taxed only once. I know this argument has been made a number of times by my colleagues. These small businesspeople, farmers and ranchers, families are subjected to a tax that is initiated at the time of tragedy in the family, an event when somebody passes away. This is money on which the taxpayer has already paid taxes. Income should be taxed when it is first earned or realized. It should not be repeatedly taxed by the government.

The death tax simply violates this tenet. The way I see it, it comes down to one question: Should death be a taxable event? I emphatically believe the answer is no.

People who work hard and save throughout their lifetime should be able to expect that the products of their labor will go on to help their family, not go on to fund some politician's pet project.

This issue of the death tax really hits home for me. Family farms and small businesses are two of the groups most affected by the estate tax. I grew up on my family's ranch in Colorado, and I owned a small business before I came to Washington. So I truly understand the concerns of those who live in fear of the impact that this tax will have on their legacy to their children.

The estate tax has resulted in the loss of family farms and family businesses across the Nation. Many people work their entire lives to build a business that they can pass on to their children. When these hard-working businessmen and farmers pass away, their families are often forced to sell off the business to pay the estate tax.

I see this as an affront to those who try to pass on the fruits of their life's work to their children. America was founded on entrepreneurship and hard work, and a high death tax serves to stifle both.

The people affected by this tax are not necessarily wealthy. Many small businesspeople are cash poor but asset rich. For example, the owner of a small restaurant might have $800,000 of assets but not much cash on hand. Her children will still have to pay an excessive tax on the assets.

The produce wholesaler, who has invested all of his revenue in trucks and storage, might have more than $700,000 in assets. That does not make him a cash-wealthy man. Yet he is still subject to this so-called ''tax on the wealthy.'' In too many situations the heirs must dismantle or sell a family business simply to pay the taxes. This isn't right.

The death tax also impacts employment and the economy. When a family-owned farm or a small business closes, the workers lose their jobs. Conversely, leaving resources in the economy can create jobs. In fact, in a 1995 Gallup Poll, 60 percent of business owners reported that they would add more jobs over the coming year if the death tax were eliminated.

Additionally, the estate tax is a disincentive for Americans to save their earnings. The government has created a number of tax breaks and other incentives for those who save their money: 401(k)s and IRAs—to name a few. Yet the estate tax sends a contradictory message. Basically, it says, ''If you don't spend all your savings by the time you die, the government will penalize you.'' This tax is no small penalty, either. We are talking about some very high tax rates.

The death tax also represents an unjust double taxation. The savings were taxed initially when they were earned. Then, when the saver passes away, the government comes along and takes a second cut. There is no good reason for the current system—other than the government's desire to make a profit.

The current death tax law has a greater effect on the lower end of the scale than the higher. Wealthy people can afford lawyers and planners to help them plan their estate. Those at the lower end of the estate tax scale are often unable to afford sophisticated estate planning. So the current law also makes the tax somewhat regressive, which is not fair. This is particularly

true given the uncertainty of the tax due to phase in and sunset dates.

Planning and compliance with the estate tax can consume substantial resources. The National Association of Manufacturers has reported that more than 40 percent of its members have spent at least $100,000 on death tax planning. For three out of five members the annual compliance costs are more than $25,000. This is money that could have been better spent to expand the business and create new jobs—rather than dealing with the death tax.

The estate tax only raises 1 percent of Federal revenue, yet it costs farms, businesses, and jobs. No American family should lose their farm or business because of the Federal government. I support full permanent repeal of the Federal estate tax.

I urge my colleagues to end this unfair system and join me in supporting permanent repeal of the death tax.

Mr. DORGAN. Madam President, I yield 10 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, I am happy to stand as a cosponsor of the amendment by Senator DORGAN and Senator CARNAHAN of Missouri. People who are following this debate in our Chamber and by C–SPAN must wonder what we are doing today. We are talking about tax cuts, tax breaks, tax relief.

Can you think of a more popular issue or subject for us to entertain on the floor of the U.S. Senate? Forget for a moment that we are in deficit, that we are taking billions of dollars out of the Social Security trust fund because of our last tax decision and events that have intervened. Forget that for a moment and just concentrate on tax relief for America.

If you would go out on the street corner in Springfield, IL, or in Chicago, which I represent, or in Texas or in North Dakota, and say to the first five people walking by: If Congress is going to consider tax relief and tax cuts, what do you think they ought to concentrate on? I guarantee you not a single soul will come up to you and say: What they ought to concentrate on are the multimillionaires who may pass away and owe some money to the Federal Government; that is the thing that keeps my family up at night. We are worried about that possibility—that someone who is worth millions of dollars may end up paying some money to the Government.

No. Most people would say: I will tell you what bothers me, Senator. I cannot figure out how to pay for my kids' college education expenses. Why don't you make that deductible? That would help my family and would help our country. That makes sense, doesn't it?

If you went into the store on the corner and said to the businessperson at the store: What do you think is a good tax relief measure for Congress to consider? They might say: I am not sure how you do it, but can you help me pay for health insurance for my wife, myself, and my employees? It is killing me, going up 25, 30 percent a year. There is another interesting idea for tax relief.

Then you go to the other corner and stop by a senior citizen gathering and say: Do you have any ideas for something we can do by way of tax relief? They will probably say: Senator, can you do something about the high cost of prescription drugs in this country? We cannot afford to fill the prescriptions the doctors give us.

There you have it—three proposals you are likely to find in any city or town in America to deal with real American family problems, such as paying for a college education, paying for health insurance, affording prescription drugs. You might ask yourself, of all the possibilities, why is Congress focusing instead on tax relief for the wealthiest people in the country and ignoring the tax relief that the average person in America would like to see us enact? The reason is because the special interest groups have been at work.

First, they hired the pollster who decided to stop calling it ''estate'' tax and start calling it a ''death'' tax. People think that is terrible that you are going to tax someone for dying. Well, look at the Senate floor here. Look at the other side. The poster says: ''repeal the death tax.'' So they caught on. From now on it is no longer the estate tax, it is the death tax.

And then they said you have to convince everybody in America that this is a tax they have to worry about. Forget for a moment that it is only a handful of people who ever pay the Federal estate tax. I went to O'Hare Airport a few months ago when we were in the middle of an earlier debate on this issue. This is a true story. The baggage handler for United Airlines who took my bags at the sidewalk said to me: Senator, would you do something about this death tax? I almost said to him: Sir, there is no way in your lifetime, even if you win the lottery, that you are likely to ever pay the Federal estate tax. What you ought to think about is getting your kids through college, health insurance, prescription drugs for your mom and dad. Those are the things that will affect your life.

They have done very well here. They have convinced the average person in the street that the Government is standing by the funeral home waiting to slap a lien on the car of the widow. It just is not true.

Let me tell you something else they are arguing. They are arguing that this is a tax that is destroying farmers and small businesspeople, that they are taking away a farm that has been in a family for generations because of the estate tax.

I wrote a letter to the Illinois Farm Bureau and the Farmers Union last year and said: Can you give me one example of a farm in the State of Illinois—just one example—of a farm family who lost their farm because of the Federal estate tax? No; none, zero; not one example. Senator DORGAN and I came together with Senator CARNAHAN and said: Let's go after real estate tax reform that solves any problems we can envision. I salute Senator DORGAN for his leadership because he said: Why don't we just flat out exempt any farm, any business that is going to be transferred from one family member to the next? Let's just say they will not pay any estate tax. That puts it into the argument that this is confiscating businesses and farms.

The amendment is very simple. It is very straightforward. Guess what. It takes effect next year. It is immediate. So all of those who vote against the Dorgan amendment are saying, postpone this and for 7 years, leave businesses and farms in the lurch, if there is one, when it comes to estate tax liability.

Senator DORGAN put together this amendment, which I cosponsored, which says farms and businesses which pass to lineal heirs—children—are not going to pay any estate tax. That is as clear as it can be, and it goes into effect immediately.

Then he says: Let us increase the exemption for other estates from what will be about $1 million to $4 million for individuals, $8 million for married people. What would that cover?

Let's assume you bought a home that has dramatically appreciated in value. I have seen it in Illinois, Washington, California, you name it, and you have an estate that is left over that has a value of over $1 million. The Dorgan-Durbin-Carnahan amendment will exempt your estate from paying any Federal taxes, $4 million for an individual, $8 million for a couple.

Yet the Republicans have said that is not nearly enough. Madam President, you know who they are protecting? It is not a farmer. It is not a businessperson. It is not a person who has really done pretty well in life. It is the superrich.

The Senator from Texas called the estate tax an absolute tragedy and theft—theft. The Senator from Colorado then said: Why should death be a taxable event? Let me ask a question: Why should work be a taxable event? People who get up every morning and struggle in the workplace at their job pay income taxes. We pay taxes on sales, on income, and other items in our society so we will have enough money to make sure the Department of Defense can defend America, so there are hospitals, highways, and schools that add to the quality of life of our country.

I will tell my colleagues what we are going to do: If the Republicans have their way and eliminate the estate tax for the superrich in America, they are going to put a greater burden on taxing work in America. They will push more

of that burden right down to the working person, the average working family. That is not fair. It is totally unfair.

If this Senate is going to address real tax reform, we should at least be fair in the way we address it and not make certain that the wealthiest people in this country are always the first to benefit from tax relief. This debate ignores the average person, the average family, and the average business and farm in America.

This debate is about protecting the superrich who have their voices on the floor of the Senate and in the hallways right outside all lined up. They come here in their Gucci loafers and their fine tailored suits, and they put in these amendments to protect the superrich.

Meanwhile, day in and day out, the average person, the average family in America works hard and worries about paying the bills. Why in the world are we doing this?

To call this an absolute tragedy and theft is to ignore the fact that eliminating the estate tax on the wealthiest people in America will create a theft on our Treasury, it will create a theft on the working families of this country.

Do my colleagues want to know what the highest tax priority ought to be in our country? The highest tax priority ought to be on working families, and we are not doing that today. We are ignoring working families. We are trying our best to preserve the very best for the wealthiest of our country.

I am happy to support this amendment. I also want to indicate, we took a little survey since 1990 of all the times the estate tax issue has come to the floor of the Senate. It goes on for hundreds and hundreds of occasions.

We have a chance today with the Dorgan amendment to do something that finally puts this to rest. We do it in a sensible way. We do not raid the Treasury and we do not say 10 years from now we are going to jeopardize the Social Security trust funds so we can give a favor to the wealthiest people in this country.

It is interesting, when this debate got underway, some of the wealthiest people said: Stop, I don't need your tax relief; I am doing just fine, thank you. That does not dissuade those on the Republican side of the aisle from pushing this idea and saying: If we are going to give any kind of break in America, it should go to those well off.

I have been reading what has been going on in terms of corporate CEOs who are waltzing away with millions of dollars from these corporations even when the corporations are failing. These are people worth tens of millions, hundreds of millions of dollars, the very people the repeal of the estate tax is designed to protect. Do you have a lot of sympathy in your heart for some of these CEOs who have falsified their business records, who have been guilty of the worst corporate irresponsibility? My sympathy goes with the working families, and my support goes for this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Madam President, I yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I thank my good friend from Texas. I say to my colleague from Illinois, if the wealthiest people say not to bother repealing the death tax, it is probably because it does not bother them. A lot of the wealthiest people do not really worry about the death tax. If you have enough money, it does not matter what you would pay. Most of them can spend hundreds of thousands and millions of dollars to avoid the death tax.

By and large, the people who are paying the death tax are not the very wealthy. They are hard-working people, many of them educators, as my colleague from Arizona has pointed out. But there are an awful lot of farmers and small businesses.

I have spent a good deal of my time in my service in the Senate listening to farmers and owners of small businesses. In fact, that is where I get most of my ideas. That is where we got the idea to strengthen the regulatory relief for small businesses and to provide the assistance we give to farmers to open up markets abroad.

We have talked about regulatory relief, and we have provided a number of areas of tax relief, but one of the issues that is the top priority for the farmers and the small businesses in my State is getting rid of the death tax. These are not the wealthiest people. These are people who fear that what they have worked hard to save, to put away, to leave to their children, is going to be taken away by the tax collector.

This morning we had a news conference. We were joined by Brad Eiffert of Columbia, MO. He owns Boone County Lumber Company. He and his brother work in a business that their father started. They have a very successful business with 30 employees. They have worked hard, and they have a great deal of equipment used in their business.

They want to continue the business after their father passes on, but they have found that, because of the investment in the equipment, they will have to pay a tremendous estate tax. So now each year they take out of that business almost $60,000 for insurance premiums to pay the tax man. This is money that could be going to the employees, it could be going to buy new equipment, or it could be going to build the business in many ways. They really want to get rid of the death tax.

Farmers I have talked with have told me that they have spent over $100,000 in lawyers fees and accountants fees trying to figure out how to get around the tax. The lawyers get the money, the accountants get the money, and they hope that the Federal Treasury will not get the money. They have to spend a lot of money, that they should be putting back in their farm, to figure out how to avoid this tax.

So what they avoid does not come to the Treasury, but there is a heavy planning cost on how to get away from paying the estate tax that is paid by small businesses and farmers.

Before us we have an amendment which says we are going to expand section 2057 of the Internal Revenue Code, the Qualified Family-Owned Business Interest exclusion, QFOBI, I guess is what it is called. My colleagues propose to make it bigger, better, longer, and stronger, but in 2000 only 1.3 percent of family-owned businesses applied for this 2057 exemption.

There are people saying we are going to allow you to save small businesses and farms from the estate tax through this provision, but the provision does not work. In short, a flat tire cannot be made to roll simply by making it bigger. This 2057 exclusion is too complicated to provide widespread relief to estates harmed by the death tax.

As my colleague from Arizona has pointed out, it is so complex that the American Bar Association urges its tax lawyers not even to try it because it is so filled with traps and so many Catch-22s that they can get sued for malpractice if they try to use it.

In order to qualify, the business must constitute at least 50 percent of the estate's value. The decedent must have owned and been actively involved in the family business for at least 5 of the 8 years leading up to his or her death. Following the death of the owner, the heirs must continue to participate in the business for at least 10 years.

But once the business is transferred, the estate tax deferred by receiving this designation hangs over the business for at least 10 years, and the IRS has a first position lien on the property. So the small business cannot borrow money without going to a loan with a secondary position, if they can even get one. Moreover, such loans cost them more.

If the business goes bankrupt and they cannot continue it, then the IRS goes back and gets the entire estate tax. One hundred percent could become due with interest. Not surprisingly, there are not many people who are willing to play this kind of Russian roulette.

If this amendment were to become law, I can only imagine the insurance premiums that would be required.

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

Mr. BOND. We need to kill the estate tax and keep it dead and not let it spring back. That is what farmers and small businesses in my State want.

The PRESIDING OFFICER (Mr. REED). Who yields time?

Mr. DORGAN. Mr. President, I yield 10 minutes to the Senator from Missouri.

Mrs. CARNAHAN. Mr. President, I am pleased to offer this amendment along with my good friends, Senators DURBIN and DORGAN. Our amendment will, as of January 2003, permanently exempt all small businesses and family-owned farms from the estate tax.

Let me repeat that because I do not want there to be any confusion. The Dorgan-Durbin-Carnahan amendment will eliminate the estate tax burden on all small businesses and family-owned farms effective January 2003.

The estate tax is having an impact that was never intended when it was first enacted. Those in line to inherit family-owned businesses and farms are having to sell them to pay the estate tax. That is not right. Parents who work hard for their whole lives building up a business want to pass the fruits of their labor on to their children. The same is true of farmers. We want family farms to be passed through the generations. We want children to be able to farm the land farmed by their parents and possibly their grandparents before them.

The amendment that Senator DORGAN, Senator DURBIN, and I are offering today would allow just that. It would ensure no family-owned business would ever have to be sold to cover estate taxes. So perhaps one is asking: What is the difference between our amendment and Senator GRAMM's amendment? Well, there are big ones. First, Senator GRAMM's amendment does nothing for family-owned enterprises until 2011. Under the Gramm amendment, they will have to continue to pay estate taxes for the next 7 years.

Our amendment would end estate taxes on family-owned farms and businesses beginning next year. We have heard today concerns that the exclusion for family businesses is complex. I am more than willing to work with my colleagues to improve the family business exclusion, and I welcome their support for our proposal to truly protect family farms and businesses.

Our amendment would also relieve family-owned enterprises from the burden of estate planning. Since there would be no estate tax, there would be no need for estate planning. Under Senator GRAMM's amendment, the full estate tax will remain in effect until 2010. So family-owned enterprises would still have to pay a lawyer and an accountant to prepare for the possibility that they may be subject to the tax.

The other key difference is that Senator GRAMM's amendment would permanently eliminate the estate tax for multibillionaires. I do not believe this is good policy. The Gramm amendment would cost approximately $740 billion over 10 years and trillions of dollars in the decades after that.

Ironically, the amendment would go into effect at the time the baby boomers will start to retire. So as the number of people drawing on Social Security and Medicare starts to increase dramatically, the Gramm amendment would be draining the funds necessary to support these programs. At a time when we are running budget deficits and Social Security and Medicare funds are being used to pay for other programs, it is not wise to take any action that would threaten the solvency of these programs.

Who would the Gramm amendment benefit? The tax cut passed last year, which I supported, eliminating the tax on estates of less than $3.5 million, and our amendment would extend this provision permanently. By 2009, estates worth less than $4 million would owe no estate tax. There are very few American families who have to worry about having estates of more than $4 million. I only wish there were more of my constituents who had this problem.

In reality, the very wealthiest Americans would benefit from the Gramm amendment, but the programs that middle Americans rely on for their retirement security would be harmed, as would our ability to provide a much-needed prescription drug benefit for seniors.

So the choice is clear. If we want to make sure that parents will be able to pass their businesses and farms down to their children and we want to provide this relief right now, not in 2011, and we want to do this in a way that does not threaten the long-term solvency of Social Security and Medicare, we should vote for the Dorgan-Durbin-Carnahan amendment and against the Gramm amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from North Dakota has 19½ minutes. The Senator from Texas has 6 minutes 20 seconds.

Mr. DORGAN. Mr. President, let me make a couple of additional observations, and I suspect the Senator from Texas will wish to conclude his comments after which I will conclude mine.

The Senator from Texas said a while ago that facts are stubborn, and that is true. Facts are also sticky. They tend to hang around a fair amount.

Let me describe a few facts about this debate, and this issue. Despite all of the tap dancing around this issue, our amendment would say to farms and businesses in this country that if you are passed to the kids who will keep running it following the death of the parents, we will repeal the estate tax for that transfer effective next year.

My colleagues have said we would like to repeal it as well, and repeal a lot more for that matter, but we will do that 7 years from now. We will start 7 years from now with our complete repeal.

If it is, in fact, a priority, why would they not do it effective January 1 of next year?

In addition, we have heard some discussion about the fact that this family-owned business exclusion does not work. The fact is, it has been used a fair amount. It is fairly new, but it is interesting to me that the proposal by the Senator from Texas and others last year to repeal the estate tax also repealed in their legislation the family-owned business deduction in 2004. They are the ones who decided that they were going to repeal the family-owned business deduction in 2004.

What they also came up with last year, I suspect we will not hear anyone defend because it is almost the sort of thing that you are going to put in material for comedians.

They came up with a tax plan that says, We will gradually repeal the estate tax from now until the year 2010, at which point it is repealed. In 2011, we will reinstate it. They are saying to the American people, by the way, if anyone has a notion of planning your death, make sure you die in 2010 because that is the only year in the next 10 or so years when there is a complete repeal of the estate tax.

I don't know what pencils they used. I don't know what assistance they had or consulting advice they received when in a closed and dark room someplace they decided to repeal the estate tax gradually over 10 years and then bring it back in the 11th year. And, by the way, in doing so, we will in 3 years——

Mr. KYL. I say to the Senator from North Dakota——

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. KYL. The Senator from North Dakota suggested this was done in a dark room.

The PRESIDING OFFICER. Does the Senator yield?

Mr. DORGAN. Let me say by unanimous consent, the room was not dark. The room was not dark.

In addition to creating this comedic approach to tax relief, they decided in 2004 they will repeal the family-owned business deduction. Those who say they are on the floor of the Senate to help family businesses and family farms are the very ones who stuck in their bill last year a repeal of the family-owned business deduction in 2004. You can make one of two points, but not all at the same time. You can say, as they say incorrectly, that the family-owned business deduction does not work. If that is the case, they probably should have repealed immediately. But they are saying it does not work so we will let it continue not to work and repeal it later. I suppose this is also great material for comedy but a pretty poor excuse, in my judgment, for sound tax policy.

Strip away all of the leaves and ask the question, What are the issues? Simply, they are these:

I propose an $8 million unified estate tax exemption for a husband and wife. If you do not have assets equalling $8 million, do not worry, you will never have an estate tax obligation. That is No. 1.

No. 2, I propose a total repeal of the estate tax in 2003 for the passage of a

family business or a farm to the kids who want to continue to run it. If the parents die, and the kids want to run that operation, I say good for them. The last thing in the world we want to do is interrupt that with an estate tax obligation. It is repealed for such businesses, regardless of size. We do that January 1, 2003.

The proposal to repeal the entire estate tax means we are fighting over what is left, No. 1; and, No. 2, we are fighting over when we will give relief to family-owned businesses and family-owned farms.

Last year, they decided to take away in 2004 the family-owned business deduction. Now they are saying they are fighting to help family businesses.

A strange fight, I would say: Try to take away their deduction; you did, in fact, in law, in 2004; and now you want to stage this so they get relief 7 years from today. If it is important, how about relief immediately? How about saying if it is important for businesses and farms to stand up and do it now? That is what my amendment does.

This is bait and switch. We all understand bait and switch and have seen it in stores from time to time. This is bait and switch in legislation.

I will speak at the end about priorities because we have people saying this is the most important thing for us. Yes, we have a big deficit. Yes, we have economic trouble. But our most important priority at this point is providing a repeal of the estate tax for the largest estates in the country? I am talking about estates worth $500 million, $1 billion, $2 billion, $20 billion. That is the biggest priority? That is the highest priority we have in this country? We have Social Security issues, Medicare issues, education issues, a whole series of things we ought to attend to, but the highest priority is providing a repeal of the estate tax for the top estates in the country?

I think not. One of the priority ought to be to do what I do in this amendment: Have a thoughtful exemption, $8 million, husband and wife, below which there will be no estate tax obligation any longer, under any circumstance, and allow almost immediately, on January 1 of next year, the passage or transfer of a family business or family farm to the descendants who want to run the business or farm without an estate tax obligation. That is my amendment.

Do not vote against this amendment and go home and say, by the way, I am the champion of the business and farm that is family owned. This is the way to champion their interests if you want to repeal the estate tax obligation of the transfers, effective January 1.

How much time remains?

The PRESIDING OFFICER. The Senator from North Dakota has 11 minutes.

Mr. DORGAN. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that the quorum call I am about to ask for not be charged against either side.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that upon the disposition of the Dorgan amendment, which should be in the next 15 or 20 minutes, the Conrad amendment be set aside and that Senator GRAMM or his designee be recognized to offer his first-degree amendment, as provided under the parameters of the agreement governing H.R. 8; that upon the conclusion of the debate with respect to the Gramm or designee amendment, the amendment be set aside, and the Senate resume consideration of the Conrad amendment No. 3831, and there be 5 minutes of debate equally divided and controlled in the usual form; that upon the use of time, the Senate vote in relation to the amendment; that upon disposition of the Conrad amendment, the Senate resume consideration of the Gramm amendment, and there be 5 minutes of debate equally divided and controlled in the usual form; that upon the use of time, the Senate proceed to vote in relation to the amendment without further intervening action or debate; and provided further that no other second-degree amendment be in order.

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

Mr. REID. Mr. President, for the information of Members, we are going to have a vote very shortly. Then we will have an approximately 2-hour debate on the Gramm amendment. Then we will have two votes following that. That should end the debate on this matter, I hope, for the day—and for the year, maybe.

I have nothing more to say at this time. I think this is how debate should take place. I have been very satisfied, and I think everyone should be, with the tenor of the debate. The issue has been, and will for the next 2 hours, put at issue, and I wish we had more debates such as this in the Senate. This is very high class.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

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

The PRESIDING OFFICER. The Senator from Texas has 6 minutes 20 seconds.

Mr. GRAMM. And Senator DORGAN?

The PRESIDING OFFICER. The Senator from North Dakota has 11½ minutes.

Mr. GRAMM. I am going to yield 3 minutes 20 seconds to my colleague from Arizona, and then I would like Senator DORGAN to use his time and then I will conclude.

Mr. KYL. Mr. President, I agree with the Senator from Nevada, except for some recent comments made by the Senator from North Dakota when he talked about a comedic approach and a bait-and-switch approach and asked the question: Why would we repeal the death tax and then reinstate it? The Senator knows full well why that was done. We did not do it. Those on his side of the aisle were responsible for that.

The American people need to understand the reason is that, under the rule under which the Tax Reform Act of 1991 was taken up, we could only act for a 10-year period after which our actions were sunsetted. We didn't want that. We wanted to make the death tax repeal permanent, but it was not possible because of opposition from the other side. That is the answer to the question posed by the Senator from North Dakota.

When he asked us, why did you repeal the death tax and then allow it to be reinstated, the answer is: We did not; you did. Now you have a chance to fix it.

We all have a chance now to repeal the death tax permanently. This is the time for people to stand up. Do we really want it repealed? Do we want it repealed permanently? Or were we just kidding when this was done last year?

A lot of Democrats and a lot of Republicans voted, not in a dark room but in this Chamber, a year ago to repeal the death tax. They wanted it repealed permanently. Only because of a parliamentary rule was that not possible. Now it is possible. This is our chance, and the only real repeal is the Gramm-Kyl repeal.

The amendment of the Senator from North Dakota that we will be voting on in just a moment is fatally flawed because, while it makes an unlimited exemption, you have to walk through a gate—in order to get that unlimited exemption—that is closed. Very few, if any, small businesses or farms will be able to qualify. How do we know this? Because the Senator from North Dakota uses the very same qualifying language that is in the existing law.

From the IRS itself we have the numbers of people who qualify out of the over 100,000 estate tax filers. Only a little over 1,000 qualified, even in the year with the largest number. In the first year in 1999, it was 173 people. In that year, 173 estates would get this wonderful relief proposed by the Senator from North Dakota. In 1998, it was 899 people. In the biggest year, 1,400 people would qualify. Of those, IRS is winning two-thirds of the cases with respect to the valuation of the assets.

This is an amendment which has great promise and zero production. As the Senator from Missouri said, you can't make a flat tire roll just by making it bigger. The Dorgan amendment

should be defeated because it cannot provide relief to anybody.

Mr. President, I ask unanimous consent to have printed in the RECORD a paper on interest deductions.

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

QUALIFIED FAMILY-OWNED BUSINESS INTEREST DEDUCTION

Under section 2057, certain ''qualified heirs'' may make an election to deduct the value of certain family-owned business interest from the gross estate. Currently this deduction is $1.3 million. That means if the fair market value of the estate is $10 million, subject to a 50 percent death tax, the QFOBI would reduce the taxable portion of the estate to $8.7 million subject to the same 50 percent tax.

There is a period of up to 12 years in which the IRS can disqualify a QFOBI and impose estate tax plus accrued interest, from the date of death until the recapture event becomes due and owing immediately.

In general, QFOBI's problems can be simply stated. It is unfair (and impractical) for Congress to draw an artificial line as to who will or will not be subject to the death tax.

In other words, QFOBI attempts to draw a line so that some small businesses and farms qualify for a complete exemption from the death tax but others will not be able to avail themselves of any death tax relief. In many cases, those businesses that can spend the most money on death tax planning will be more likely to choose this exemption (that is, in truth, simply a giant loophole).

SUMMARY OF QFOBI

1. To qualify (and stay qualified) for this deduction is difficult.

The decedent was a citizen or resident of the United States at the date of death.

The business interests are includible in the gross estate.

The business interests must have passed to or been acquired by a qualified heir from the decedent.

The adjusted value of the qualified family-owned business interests must exceed 50% of the value of the adjusted gross estate (considered the most complicated requirement of Section 2057 in comments by Professors Roger A. McEowen and Neil E. Hart)

The business interest must be in a trade or business that has its principal place of business in the United States.

The business interest was owned by the decedent during 5 of the 8 years before the decedent's death.

For 5 of the 8 years before the decedent's death, there was material participation by the decedent in the business.

2. To qualify for the deduction, the ''business interest'' must be either an interest as a proprietor in an entity which:

At least 50 percent of the entity is owned by the decedent or members of the decedent's family;

At least 70 percent of the entity is owned by members of two families, and at least 30 percent is owned by the decedent or members of the decedent's family; or

At least 90 percent of the entity is owned by members of three families, and at least 30 percent is owned by the decedent or members of the decedent's family.

However, there are additional limitations to the general rules regarding a ''qualified family-owned business interest'':

(QFOBI) shall not include the following:

Any interest in a trade or business if its principal place of business is located outside the United States.

Any interest in an entity if the stock or debt of the entity (or a controlled group of which the entity is a member) was readily tradable on an established securities market or secondary market at any time within 3 years of the date of the decedent's death.

Any interest in a trade or business (excluding banks and domestic building and loan associations) if more than 35 percent of its adjusted ordinary gross income for the taxable year that includes the date of the decedent's death would qualify as personal holding company income if such trade or business was a corporation.

The portion of an interest in a trade or business that is attributable to:

Cash and/or marketable securities in excess of the reasonably expected day-to-day working capital needs, and

Any other assets (other than assets held in the active conduct of a bank or domestic building and loan) that produce or are held for the production of personal holding company income and most types of foreign personal holding company income.

3. To be a ''qualified heir'':

A person is a ''qualified heir'' of property if he or she is a member of the decedent's family and acquired or received the interest form the decedent.

The qualified heir must continue to materially participate in the family business for next 10 years.

4. To ''materially participate''

The existence of material participation is a factual determination (in other words open to aggressive challenges by IRS and almost certain litigation), and the types of activities and financial risks that will support a finding of material participation will vary with the mode of ownership. No single factor is determinative of the presence of material participation, but physical work and participation in management decisions are the principal factors to be considered. Passively collecting rents, salaries, draws, dividends, or other income from the trade or business does not constitute material participation. Neither does merely advancing capital and reviewing business plans and financial reports each business year.

5. Forfeiture of QFOBI status and 10-year Recapture Period:

Section 2057 imposes an additional estate tax when there is a taxable event. A taxable event occurs if, within 10 years of the decedent's death and before the qualified heir's death, one of the following events occurs:

The qualified heir disposes of any portion of his or her interest in the qualified family-owned business, other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h);

The qualified heir ceases to meet material participation requirements (i.e., if neither the qualified heir nor any member of his or her family has materially participated in the trade or business for at least 10 year period;

The principal place of business of the qualified family-owned business ceases to be located in the United States (This includes bankruptcy or foreclosure!!!);

The qualified heir loses United States citizenship and neither a qualified trust was created nor was a security arrangement made.

As under section 2032A, the 10-year recapture period may be extended for a period of up to 2 years if the qualified heir does not begin to use the property for a period of up to 2 years after the decedent's death.

6. Criticisms of QFOBI

Currently, we have a $1 million exemption that can not be combined with the $1.3 million QFOBI deduction. Confronted with all of QFOBI's complexities and pitfalls, taxpayers simply choose to submit themselves to it in order to obtain an additional $300,000 deduction. Less than three percent of eligible small businesses have used it (don't have cite.) IRS Economist Jacob Mikow documents in a letter that for filing year 2000 a total of 108,322 estate tax returns were filed. A mere, 1,470 of those returns made the QFOBI election.

Tax lien. For 10 years the IRS has a first position lien on all of the business/farm assets, which means when the family applies for an operating loan so it can ''materially participate'', the bank has to take a second position. A second position is considered an ''at risk'' loan and the family then has to pay 2 to 3 points higher on their operating loan every year for 10 years. This is probably the biggest impediment to facilitating liquidity during the consideration.

QFOBI does not exempt ''generation skipping tax'' (GST). So a decedent can utilize QFOBI to leave his family business/farm to his grandson (subject to all of the QFOBI constraints and limitations) and not pay the death taxes, but the decedent's estate would still have to pay GST tax of 50 percent. Effectively this prevents taxpayers from utilizing QFOBI to turn over the family business/farm to any one but their sons and daughters, who may not be the best suited for the job.

Ownership requirement is the last 5 out of 8 years prior to death. There is not an exception for normal course of business turn over, such as estates with heavy crops or livestock or inventory values. This severely complicates farm planning. For example, the life expectancy of a chicken is probably less then 8 years much less the life expectancy of a potato crop—So there is no ability to lose a chicken and to replace a chicken and to be able to substitute the ownership period.

Sales in the ordinary course of business create a recapture event as there is not a safe harbor on the sale of a crop-inventory or of livestock during the 10 material participation requirement. So if you sold a widget or a chicken or an ear of corn you would owe not only income tax but estate tax.

50 percent ownership requirement has a lookback period which includes gifts to spouses—so if you balanced an estate to get both unified credits you could lose the QFOBI.

Recapture provision for over 10 years can disproportionately hurt those businesses and farms that suffer during an economic downturn. For example, in year one, the business might be doing well, but seven years later must file for bankruptcy protection, despite the fact that it plans to reorganize and continue operations in the future. In that event, the QFOBI would terminate and the death tax, plus interest accrued for the past seven years would be due and owing immediately. That fact alone might prevent the company from successfully recovering from bankruptcy.

Cost, expense and uncertainty of setting up an QFOBI is very high and never ending. The tax code is complicated enough and we should work to reduce its complexity, not pursue winners and loser type death tax reform.

ABA and many other non partisan institutions have urged repeal of this provision and cautioned against its use, suggesting that it may border on the line of legal malpractice.

Look at how hard it had been for the opponents of repeal to devise workable QFOBI legislation. No bills have been introduced and we only today saw their proposal to try to convince the American people that we can fix the unfixable.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, let me repeat those facts very briefly because facts are persistent things. In 1999,

104,000 American families filed a death tax return, with 45,000 of them ended up paying a death tax. Only 889 qualified for the exemption that would be expanded by this amendment.

In the last 5 years, of the people who would have qualified for this and all the other exemptions, only 33 of them have been farmers and ranchers.

So as I said earlier, this amendment provides a political figleaf for Senators who are going to vote against a permanent repeal of the death tax and who are using this to cover themselves. It is going to provide political protection for more Senators than it is going to provide tax relief for farmers and ranchers in America. Some 40 Senators will get the figleaf of protection. Some 33 farmers and ranchers in 5 years have gotten relief from all of these provisions.

I think this is a clear choice. The Senator complains that the tax cut is temporary. Why? Because we did not have 60 votes; because the Democrats opposed the President's tax cut in overwhelming numbers. They had the ability to filibuster. The only way we could get the tax cut adopted was to use a procedure that required that the tax cut expire after 10 years. Now the Senator from North Dakota is attacking us for a provision that exists because the Democrats would have filibustered the tax cut.

When we voted, I assumed we meant to repeal the death tax. People said they did. Now we have come down to doing it. There is only one real repeal. That is the amendment I am going to offer with Senator KYL. We are going to raise a budget point of order against this amendment. It will require 60 votes to overcome it. The same point of order will be raised against our amendment. I urge those who voted for the tax cut to vote to sustain this point of order so we can have a real repeal, something for which they voted.

Second, I urge people who did not vote for the tax cut to look at the absurdity of having a situation where 11 years from now this death tax is going to come out of the grave and prey on family businesses and force people to sell off the life work of their family to give the Government a 55-percent tax on everything they have accumulated in their lives.

The National Federation of Independent Business is faxing me a letter right now opposing this amendment, saying it does not solve the problem. I will have that letter printed in the RECORD. I have the letter before me. I ask unanimous consent it be printed in the RECORD.

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

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
Washington, DC, June 12, 2002.

NFIB RELEASES STATEMENT ON DORGAN DEATH-TAX AMENDMENT

NFIB Senior Vice President Dan Danner today released the following statement about an amendment offered by U.S. Senator Byron Dorgan (N.D.) that would not provide a full and permanent death-tax repeal:

''Senator Dorgan's amendment does not meet the one requirement that NFIB members have demanded on this issue: a full repeal of this onerous tax. The only proposal on the table that will permanently and fully fix this problem is the Gramm-Kyl amendment.

''Senator Dorgan's approach operates on a false assumption—that small-business owners can easily plan for the death tax. History has proven that exemptions, half-measures and carve outs just do not help real-world small businesses. The existing 'small business' exemption that was enacted in 1997 has only helped 3 percent of those it was intended to help. Senator Dorgan's amendment, which is based on this same idea, will only bring us back to the same roadblocks again.''

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

Mr. KYL. Mr. President, if I can have the attention of the Senator from North Dakota, I ask unanimous consent to have printed in the RECORD a compilation of provisions of the so-called QFOBI tax provision that illustrate how that is calculated and administered.

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

SECTION 2057—QUALIFIED FAMILY-OWNED BUSINESS INTERESTS DEDUCTIONS

(Prepared by Sirote & Permutt, May 9, 2002)

I. ESTATES TO WHICH SECTION 2057 APPLIES

Section 2057 applies to an estate if:

1. The decedent, at the time of death, was a citizen or resident of the United States;

2. The executor makes an election and files an agreement consenting to the imposition of recapture tax;

3. The sum of the QFOBIs passing to qualified heirs, plus the amount of includible gifts of QFOBIs exceed 50 percent of the decedent's adjusted gross estate. In other words, the following numerator divided by the following denominator must exceed ½.

a. Numerator.

(i) Aggregate the value of all QFOBIs that are included in the decedent's gross estate and that are acquired by a ''qualified heir'' from, or passed to a ''qualified heir'' from, the decedent.

(a) A ''qualified heir'' is a ''member of the decedent's family'' and also includes any employee who has been active in the trade or business to which the family owned business interests relates for ten (10) years prior to decedent's death. (Note that this definition does not require that the employee be employed by the family business itself.)

(b) A ''member of the decedent's family'' includes (a) an ancestor of the decedent, (b) the spouse of the decedent, (c) lineal descendants of the decedent, the decedent's spouse, or the decedent's parents, or (d) the spouse of any descendant described in (c).

(ii) Add ''adjusted taxable gifts'' and annual exclusion gifts of QFOBIs given to family members, if such interests are continuously held by the family member (other than the decedent's spouse) between the date of the gift and the date of decedent's death.

(a) ''Adjusted taxable gifts'' are taxable gifts made by the decedent after 1976 that are includible in the decedent's gross estate.

(iii) Subtract the amount of gifts of QFOBIs included in the decedent's estate.

(iv) Subtract the cash or marketable securities that exceed the reasonably expected day-to-day working capital needs of the business.

(v) Subtract any personal holding company-type assets owned by the business.

(vi) Subtract any of the indebtedness of the decedent on property that is included in the decedent's gross estate, except

(a) qualified acquisition indebtedness for personal residences;

(b) debt if the proceeds were used to pay education or medical expenses of the decedent, the decedent's spouse, or the decedent's dependents; and

(c) debt up to $10,000 used for any purpose.

b. Denominator.

(i) Determine the value of the decedent's gross estate without regard to Section 2057.

(ii) Subtract any indebtedness of decedent on property that is included in the decedent's gross estate.

(iii) Add the amount of adjusted taxable gifts and annual exclusion gifts of QFOBIs given to family members if such interests are continuously held by the family member from the date of the gift to the date of death.

(iv) Subtract gifts of QFOBIs included in the decedent's gross estate.

(v) Add other gifts not included in c above and made by the decedent to the decedent's spouse within 10 years of decedent's death.

(vi) Add the amount of other gifts not included under c or e above made by the decedent within 3 years of death. In other words, add gifts covered by the annual gift tax exclusion and any other non-taxable gifts made by decedent within 3 years of death.

(vii) Subtract the amount of gifts otherwise includible in the decedent's gross estate.

c. The numerator divided by the denominator must exceed ½ in order for Section 2057 to apply.

4. Material Participation Exists

a. The decedent of a ''member of the decedent's family'' must have owned the qualified business interests and have ''materially participated'' in the operation of the business to which such interests relate for 5 of the 8 years prior to decedent's death.

b. ''Material participation'' is determined on a factual case-by-case basis that examines the type of activities in which that person was involved, the financial risks associated with these activities, and the mode of ownership of the property itself.

c. A ''member of the decedent's family'' includes (a) an ancestor of the decedent, (b) the spouse of the decedent, (c) lineal descendants of the decedent, the decedent's spouse, or the decedent's parents, or (d) the spouse of any descendent in (c).

d. If the decedent becomes disabled or starts receiving social security benefits, the 8 year period is the 8 years immediately preceding the date of disability or the date of the receipt of the first social security check.

II. ADDITIONAL TAX IMPOSED IF DECEDENTS HEIRS CEASE TO MATERIALLY PARTICIPATE IN THE QUALIFIED FAMILY-OWNED BUSINESS OR DISPOSE OF THEIR INTEREST THEREIN

1. Section 2057 imposes an additional estate tax if, within 10 years after the date of the decedent's death, any one of certain recapture events occurs, as follows: (1) an heir receiving a QFOBI does not continue to materially participate in the business for 5 or more years of any 8 year period in the 10 years following the decedent's death; (2) the qualified heir disposes of his or her interest to anyone other than other than members of his or her family or through a qualified conservation contribution; (3) the qualified heir loses United States citizenship and does not hold his or her interest through a domestic trust having at least one United States trustee, or (4) the principal place of business ceases to be located in the United States. With respect to a qualified heir, ''material participation'' will be met if the qualified

heir is a surviving spouse, minor child, student or disabled heir who actively manages the business. Furthermore, a qualified heir will not be treated as disposing of an interest by reason of ceasing to be engaged in a trade or business so long as the QFOBI interest is used in a trade or business by any member of the qualified heir's family.

2. This additional estate tax is equal to the applicable percentage of the adjusted tax difference attribute to the QFOBI, plus interest at the underpayment rate for the period beginning when the estate tax liability was originally due and ending on the date the additional estate tax is due. The adjusted tax difference attributable to the QFOBI is calculated as the difference between the estate tax which would have been due but for the election to deduct the family owned business interest under 2057 and the actual estate tax paid. The applicable percentage is determined with reference to the year in which the recapture event occurred, as follows:

	Applicable Percentage
Number of years after date of death:	
1 through 6	100
7	80
8	60
9	40
10	20

a. The additional estate tax is a personal liability of each qualified heir to the extent of the portion of additional tax that is imposed with respect to his or her interest in the QFOBI.

b. For example, Brother and Sister each inherited 50 percent of the qualified family-owned business from their mother. Their mother's estate saved $400,000 in estate tax using 2057. Brother did not materially participate in the business, but Sister did, thereby meeting the material participation test to qualify under 2057. During year 8, Sister sold her interest in the business to someone other than a member of her family, causing a recapture event to occur. Of the $400,000 tax savings, 60 percent or $240,000 must be recaptured with interest. Brother and Sister each owes half of the additional estate tax due.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are now told that this circumstance of having an estate tax repeal, engineered by my colleague from Texas and others last year, that steps up a repeal over 10 years, repeals the estate tax, then brings it back into force in 2011, is something that the Democrats made them do.

It reminds me of Flip Wilson; remember that? ''The Devil made me do it.''

The reason we have this comical circumstance of a bill last year, proposed by my colleagues over there, that intends to repeal on a graduated basis the estate tax to a final repeal in 2010, and then bring it back into force in 2011, is not because someone on this side of the aisle made them do it. It is because their numbers didn't add up and they knew they didn't add up. That is why it exists.

After that bill was passed, people were asking the question: What kind of a Congress passes a piece of legislation that says, oh, by the way, there is only 1 year in which you can die in the next decade or so and be exempt from the estate tax; that is, 2010? If it is 2009, you are taxable. If it is 2011, you are taxable. Now we hear this old, ''The devil made us do it.'' That doesn't quite fit.

C. Northcote Parkinson wrote Parkinson's law that I studied when I was in graduate school. It is a fascinating set of laws.

He said at one point that in every organization there is at least one person who is invariably 100 percent wrong. He said someone like that can be valuable because then you will always know who will give you the wrong advice.

I am not going to suggest anything about my colleagues with that except to say this: There are occasions on the floor of the Senate when the advice we receive is just flat wrong.

This question of trying to help businesses and farms that are owned by families to be passed on to the descendants—to the kids—to be able to continue operating them is an interesting one.

The only way we are going to immediately repeal the estate tax on passage of a family farm or business to the kids upon the parents' death is if we pass the amendment I offered today. That is the only circumstance in which that is going to happen, on January 1, 2003.

My colleague from Texas will offer his proposal which will make it happen over the next 7 years, but not now.

It is interesting. My colleague from Illinois talked about who the beneficiaries are. After all, we say no husband and wife with assets of less than $8 million will ever pay an estate tax. That is in my amendment. And no family business passed on to kids will pay an estate tax at all if the kids continue to run it. That is in my amendment. The question is, Who will benefit by defeating my amendment and embracing the proposal by my colleagues from Texas and Arizona? Who will benefit?

My colleague from Texas has no doubt heard me from time to time refer to Bob Wills and the Texas Playboys, the famous Texas band in the 1930s. In the lyrics in their song, the little guy picks the cotton and the big guy gets the honey; the little honeybee sucks the blossom and the big bee gets the honey.

This is about honey and money. And it is about the way it always works somehow on the floor of the Senate.

Guess who benefits. It is not in most cases folks at the bottom of the economic ladder, or even in the middle of the economic ladder, who are the beneficiaries. It somehow always seems to me that the proposals here—especially this type of proposal—offer the circumstance where we say, Let us provide a tax cut for the wealthiest Americans.

What are our priorities? Are our priorities education, strengthening America's schools, investing in Social Security? Are our priorities strengthening Medicare? Are they providing a tax cut for middle-income taxpayers. Are our priorities providing a tax cut and deduction for being able to send your kid to college or providing health care benefits for you and your workers and your business? Are those our priorities? No.

My colleagues say that is not a priority of ours. Those priorities must take a backseat to the priority of providing estate tax relief for the very wealthiest in America.

This isn't about being opposed to those who are wealthy. In my proposal in this amendment, there is a very substantial estate tax exemption of $8 million. If you are trying to pass a family business or farm on to the kids who are going to run it, you are not going to pay an estate tax. That repeal is effective next January 1.

My colleagues say: No. We support this issue of helping farms and businesses, but we support helping them 7 years from now. We have used that as the pole-vaulting contest to get to the point where we can repeal the estate tax, but it is not so important to us that we believe on January 1 of next year businesses and farms passed on to the kids ought to have the estate tax repealed.

It is not that important to them. It is important to me. And I believe very much that we ought to pass this amendment. We voted on this amendment last year. Times have changed, as you know. Things are quite different. My amendment last year got 43 votes.

Last year, just prior to this time, we were on the floor of the Senate, and we had estimated budget surpluses as far as the eye could see. We had people on the floor of the Senate saying: We will have budget surpluses year after year. Let us provide very large tax cuts.

Some of us said: Maybe we ought not do that. Maybe we ought to be a bit conservative. What if something happens?

Guess what happened. In a matter of 7 or 8 months we ran into a recession, and then we had a war. The result is that our economy faltered. These big surpluses turned into big deficits.

But it didn't mean a thing to those who are marching towards estate tax repeal. They are back here on the floor of the Senate as if nothing happened. It is just as if they have missed the last year and our priority remains to try to lift the burden of taxes from those who are at the top end of the income ladder in this country. If you have $1 billion, our priority remains that we believe in tax cuts for you, and we are here to fight for you.

Is there anybody here who is willing to fight for the people at the bottom of the economic ladder? Is anybody proposing a tax cut this afternoon for middle-income taxpayers trying to send there kids to school? I don't think so. That is not the priority.

That is why I hope we will pass our amendment. This amendment says, yes, let us provide dramatic increases in the exemption for the estate tax, and let us exempt the tax in the transfer of the family farms and businesses to the kids who want to run them; but let us not give up the opportunity for a couple hundred billion dollars in the

second 10 years that might be used to help America's kids and schools, help strengthen Social Security, help strengthen Medicare, and do the things that will also make this a better country.

I hope my colleagues will understand that the only way to address this issue of family farms and businesses that we have heard so much about is this amendment.

One final point: My colleagues have talked about the family-owned business deduction not working. It is interesting to me. In fact, they repealed it in law last year. They said, let us repeal the family-owned business deduction. That was their bill last year. They did it in 2004, which is a complete contradiction. If it didn't work, why wouldn't you repeal it immediately? If it does work, why do you repeal it in 2004? It does work, and they know it. They simply allege that it doesn't work so they can try to defeat this amendment and provide relief for the people with the highest incomes at a time when this country is in debt and is going deeper in debt. Their proposal doesn't have as a priority to help on the other things that are important—health care, Social Security, education, and much more. We will get to those things by casting some sensible votes this afternoon on this amendment.

Support this amendment, oppose the Gramm amendment, and do the right thing.

I yield the remainder of the time.

The PRESIDING OFFICER. All time has expired.

Mr. GRAMM. Mr. President, as provided for in the unanimous consent agreement, I make a point of order under section 311 of the Budget Act against the pending Dorgan amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''no.''

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

The yeas and nays resulted—yeas 44, nays 54, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—44

Akaka	Biden	Breaux
Bayh	Boxer	Byrd
Cantwell	Harkin	Mikulski
Carnahan	Hollings	Nelson (FL)
Collins	Inouye	Reed
Conrad	Jeffords	Reid
Corzine	Johnson	Rockefeller
Daschle	Kennedy	Sarbanes
Dayton	Kerry	Schumer
Dodd	Kohl	Snowe
Dorgan	Landrieu	Specter
Durbin	Leahy	Stabenow
Edwards	Levin	Torricelli
Feinstein	Lieberman	Wellstone
Graham	McCain	

NAYS—54

Allard	Ensign	Miller
Allen	Enzi	Murkowski
Baucus	Feingold	Murray
Bennett	Fitzgerald	Nelson (NE)
Bingaman	Frist	Nickles
Bond	Gramm	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Carper	Hutchinson	Smith (OR)
Chafee	Hutchison	Stevens
Cleland	Inhofe	Thomas
Clinton	Kyl	Thompson
Cochran	Lincoln	Thurmond
Craig	Lott	Voinovich
DeWine	Lugar	Warner
Domenici	McConnell	Wyden

NOT VOTING—2

Crapo	Helms

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The majority leader is recognized.

Mr. DASCHLE. Mr. President, I appreciate the work that is being done. In the interest of all colleagues, let me simply make sure that people understand that we have a debate on another amendment. Under the unanimous consent agreement, the debate can last up to 2 hours. It would be my expectation, after completion of the debate on the next amendment, the Gramm amendment, we will then vote on the Conrad amendment and the Gramm amendment back to back. It is then my hope that we can have a vote on a point of order that will take place either immediately or shortly thereafter.

In the meantime, we are still discussing the matter of stem cell research and cloning and a unanimous consent request there, as well as a hope that I have that we can move to terrorism insurance legislation. I just indicated to Senator LOTT that it would be my desire to move to the terrorism insurance legislation immediately following either the debate on stem cell or the debate on the estate tax legislation.

So it is my intention to ask unanimous consent to move forward on both of those issues. It is my understanding that some of my colleagues wish to have a little additional time. So before I propound a request on either one of those issues, we will certainly be happy to accommodate the request of our colleagues. But I want people to be on notice that it is our intention to file a unanimous consent request on terrorism insurance, as well as on the stem cell cloning debate. That is with an understanding that Senator LOTT just noted. I had been told there was some interest in filing cloture on the motion to proceed on defense. Senator LOTT has indicated to me that is not the case. So I will not propound these requests with that understanding.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, I have been working with the interested Senators on this issue of cloning, trying to see if we can get a unanimous consent agreement. We are continuing to do that.

With regard to the terrorism insurance bill, if we don't get an agreement on cloning, it is my hope that we can get an agreement to proceed with the terrorism issue. There are a couple of points that need to be clarified, and we are discussing those now. We will, hopefully, get an agreement on one, or perhaps both, of those issues. We will continue to work on that.

Mr. DASCHLE. Mr. President, I may have misspoke. I indicated there are going to be two votes at the end of two hours. That will complete the debate on the estate tax issue: the completion of the debate on the amendment now to be offered by Senator GRAMM, and then the vote on the amendment offered by Senator CONRAD. We will determine what the course of business will be subject to the discussions underway on both terrorism insurance and the stem cell cloning debate as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 3833

Mr. GRAMM. Mr. President, I send an amendment to the desk on behalf of myself, Senator KYL, Senator BROWNBACK, Senator NICKLES, and Senator HUTCHISON.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. KYL, Mr. BROWNBACK, Mr. NICKLES, and Mrs. HUTCHISON, proposes an amendment numbered 3833.

Mr. GRAMM. 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 as follows:

(Purpose: To permanently repeal the death tax)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Permanent Death Tax Repeal Act of 2002''.

SEC. 2. ESTATE TAX REPEAL MADE PERMANENT.

(a) IN GENERAL.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(1) in subsection (a) by striking ''shall not apply—'' and all that follows and inserting ''(other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.'', and

(2) in subsection (b) by striking '', estates, gifts, and transfers''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

Mr. GRAMM. Mr. President, I have sent to the desk the real repeal of the death tax. This amendment is identical to the language that was adopted in the House of Representatives last week.

Current law phases in the elimination of the death tax and then, due to the limitations of the Budget Act, the death tax rises up out of the grave in 2011 and starts destroying family businesses, family farms, and family dreams in 2011. What our amendment does is makes the repeal of the death tax permanent.

I want to touch on a couple of issues, and then I want to yield to some of my colleagues who want to speak.

I remind my colleagues that when we passed the tax bill, we had 58 votes. It would have taken 60 votes to have made the tax cut permanent by waiving the provisions of the Budget Act. We only had 58 votes. We have this anomaly that the death tax rises out of the grave because we only had 58 people who supported the tax cut.

I believe everybody who voted for that tax cut was committed to the principle that we were repealing the death tax. Today we have an opportunity—the first real opportunity—to achieve that goal.

I remind my colleagues that in the year that the repeal would go into effect, which would be 2011, we are projected by the latest Congressional Budget Office estimate to have a $450 billion surplus. Our Democrat colleagues say they would like to make it permanent, but we cannot afford it. I remind my colleagues, when it would go into effect, under current estimates, we would have a $450 billion surplus. What they are really saying is they want to spend the money rather than letting people keep their farm, keep their business, keep their dream.

We have heard throughout this debate Member after Member get up and say that this repeal will take money away from the Treasury and that they are very worried about the debt and the deficit. Not once, twice, three, four, or five times, but six times in the last 9 months we have increased spending many times more than would be required to pay for the repeal of the death tax.

In nonrequested, nonemergency funding in the emergency appropriations bill, items the President did not ask for, we spent four times as much as it would take to fund the repeal of the death tax next year.

In total, in the last 9 months, the same people who are saying we cannot afford to make this repeal permanent have voted for 15 times more spending next year than the cost of repealing the death tax. These are the same colleagues who have 100 different taxes that ought to be increased, 41 different tax cuts that ought to be taken back, but they do not have one single idea about how we could control spending.

In reality, this is a very simple debate. When you cut through to the bottom line, it is a debate about priorities. Those who are opposed to making the tax cut permanent are basically saying: We are willing to force people to sell their business and sell their farm, tax a family at the moment of death and take away the life work of their parents so that Government can spend more money. That is what this is about.

Are you willing to take away somebody's farm, somebody's business, somebody's dream so Government can go on spending as usual? I am not. This is a clear-cut issue, and it is a question of right and wrong. It is not right for people to work a lifetime, pay taxes on every dollar they earn, scrimp, save, sacrifice, plow that money into a business, plow it into a farm, work 12 or 14 hours a day, and then when they die their children have to sell their life's work to pay a tax on income that has already been taxed. It is fundamentally wrong. This is a moral issue, not just a tax issue or an economic issue.

I urge my colleagues to vote to make the death tax repeal permanent. If the people who voted for the tax cut and if the people who voted for the sense-of-the-Senate resolution earlier this year are saying we ought to make the death tax repeal permanent voted for this amendment, we would succeed.

I urge my colleagues to take away this tax on farms, ranches, businesses, and dreams by making the repeal of the death tax permanent.

I yield 5 minutes to the Senator from Texas, Mrs. HUTCHISON.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, I thank the senior Senator from Texas for sponsoring this amendment. The Senate has passed the death tax repeal. We are trying to make it permanent. In fact, it was a year ago this month that we passed the bill that would provide urgently needed tax relief for Americans, but now we want to finish this job and make it permanent so people can plan for their futures.

Why is it important to permanently repeal this tax? Because it punishes people for saving. Everyone pays taxes on the money they earn, but then we all have a choice: We can spend the money or we can save it. Some may choose to take a vacation or buy a new car. There is nothing wrong with that. That is their choice. It is their money. But others will invest it for retirement, plow it into their family farm or ranch, or invest it in the family business, creating new jobs and keeping our economy going.

All of these people want to pass their savings to their children. In the end, they have put off enjoying the money they worked hard to earn in order to build a more secure future for their children.

There is an old saying that the key to wealth is not how much you earn but how much you do not spend. These people chose savings over consumption. This is something we should encourage and support, but with the death tax, when they die, the Government takes up to 55 percent of what they saved. This is wrong, and Americans know it.

Three out of four voters would like to see the estate tax eliminated. This overwhelming support exists because the American people understand this tax is unfair, inefficient, and bad policy. More important, the people of our country seek the American dream of improving their lives and the lives of their children, and they know this tax works against that.

People who want to keep the death tax argue that it only affects a small percentage of the population, but they miss the point. It is not a matter of how many are affected but whether it is right or wrong, and the death tax is clearly wrong.

I told a story a few years ago about the family of David Langford of San Antonio. It is not a story; it is true. Mr. Langford's mother passed away in 1993 and, as a result, he faced a tax liability of more than $400,000 because two of the ranches that had been in their family for over five generations had, of course, increased in value.

They had been in the family for over 100 years.

One happens to be in the hill country of Texas, which Texans know is one of the most beautiful parts of our State and the prices have gone out of sight.

In order to pay the taxes and keep the ranches for his family, Mr. Langford had to sell his mother's house, his own house, and many personal assets, as well as move into a small condominium and borrow $190,000. But that was not the end. The Langfords spent 5 years trying to reach an agreement with the IRS that would bring down the fair market value of the properties. They settled with the IRS for $415,000. The Langfords had spent $70,000 in attorney's fees associated with dealing with the IRS.

So in 2001, to cover the costs, Mr. Langford had to sell the condo and one of the farms in McMullen County, a ranch that had been in his family for five generations.

Now the Langfords wonder if they will be able to pass the Kendall County property, the other farm which has been in the family for seven generations, to his children. He jokes that if he dies in 2010 his family can keep the ranch, but they will not be able to keep it if he lives past 2010.

This is not a joke. This is a situation families across America will face. We must eliminate the death tax so that regular people, such as David Langford, can pass on their treasures from their families to their children. I think his family has more than paid their fair

share to the U.S. Government, having to sell a farm that had been in the family for over 100 years.

Then there is Debbie Gillan, who struggled to keep her family's ranch after her uncle and father passed away, and now she wants to try to keep it for her two sons.

Afton Pumps employs 60 people in Houston, TX. It is a small family-owned business, but it does not generate enough cash to cover the potential death tax liability to make it to the next generation. In fact, it is said that less than 50 percent of family businesses can survive the second generation, and less than 20 percent the third generation.

I ask the Senator from Texas if I could have an additional 2 minutes?

Mr. GRAMM. I yield the Senator an additional 2 minutes.

The PRESIDING OFFICER. The Senator has an additional 2 minutes.

Mrs. HUTCHISON. If we are going to eliminate these family-owned businesses, it does not affect only the family, it also affects the people who work at places such as Afton Pumps because if they have to sell to pay for death taxes or they have to sell the property, there is a good chance those jobs are going to be eliminated, assuming they can sell it at all.

In fact, one of the really sad things is the death tax is really a tax on asset-heavy, low-producing properties because many times these heavy assets have to be sold. They have to be sold at fire sale prices so the true value is not gained from the property, and then one has to come up with the money to pay the inheritance tax. It really is not a fair tax. It affects a lot of regular people, people in a situation where something was purchased at very low cost, but they have built it or their families have built it. They have a right to keep it. It was earned with the hard labor of their family, and they should be able to pass it to their children.

I think this tax really came into being as extra income in time of war, but it was never repealed because the Government got hungry for more and more social programs. This is not a fair tax and we need to eliminate it so the people of our country can plan for their children's futures, so they will not have to do crazy things to try to protect property or businesses or assets that have been in their families for generations. This is not the American way.

I yield the floor.

Mr. REED. Mr. President, I yield myself 10 minutes of the opposition time.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 10 minutes.

Mr. REED. Mr. President, this is a very auspicious moment in our history, not just this debate in the Senate but the fact that we are in the midst of a war with extraordinary demands, fiscal demands as well as demands of patriotism, on the country.

Yesterday we raised the debt limit. We are in a situation where there are efforts to fund worthy programs that are supported on both sides. First, of course, is national security, homeland defense, but also an educational proposal that the President championed. Yet at this time, we are considering the total repeal of the estate tax.

A great deal of the discussion is rhetorical. I think it is useful to point out some of the facts with respect to the estate tax. First, no estate less than $1 million is taxed at all today, which excludes the vast majority of Americans. In fact, if most Americans are asked what they are worried about at the end of their days, it is not the estate tax. It is paying for long-term care. It is affording a nursing home without having to sell their home or dig deeply into their savings. That is what most Americans worry about. They are not worried about the estate tax. Ninety-eight percent of estates pay no estate taxes at all.

In 1999, fewer than 49,000 out of 2.3 million estates—that is only 2.1 percent—paid any estate taxes whatsoever. This percentage is projected to drop as the exemption rises from $650,000 in 1999 to $3.5 million in the year 2009. Now, the estate tax repeal will benefit some Americans, very few Americans, and the wealthiest Americans. Estates larger than $5 million paid half of all estate taxes, and if we look at the 467 largest estates, worth at least $20 million, they paid nearly one-quarter of the estate taxes paid. So this is a benefit that will not be fairly shared by all Americans. It will be significantly shared by very wealthy Americans.

Now it should be pointed out, too, that no estate tax is paid if a spouse survives. That spouse does not have to pay estate taxes. Currently, as I indicated, an individual can pass along up to $1 million without estate taxes, and that increases to $3.5 million in the year 2009, and a couple can pass along twice that amount because of the spousal rules.

Furthermore, only a small fraction of taxable estates consisting primarily of family-owned small businesses or farm assets pay estate taxes. This is a topic that receives a lot of rhetorical attention, but the reality is this: In 1999, only 1.4 percent of taxable estates were farm estates, and only 1.1 percent were small businesses. There are already special provisions that are provided for these farms and for these small businesses, such as allowing additional sums to be bequeathed tax free and also deferring payments on taxes for up to 14 years.

Farm estates in 1999 pay only 0.7 percent of all Federal estate taxes collected, and so this is not a crisis of sweeping proportions that is engulfing every farm in America—only very few farms, very wealthy estates. Even among these family-owned farms and small businesses that might actually pay estate taxes, there is scant evidence the tax has a real impact on their operations; that, in fact, they have to sell the farm to pay the taxes or sell the small business to pay the taxes.

One thing that is important to note, a great deal of an estate is made up of unrealized capital gains. The deceased bought property 50 years ago very inexpensively. Today that property is worth a great deal. Under the current system, the heirs get that property with a stepped-up basis and so if they choose to sell the property after they have paid the estate tax or after they have been exempt from the estate tax, they really pay no capital gains whatsoever because significant portions of the property are unrealized capital gains on which no capital gains tax has ever been assessed against the property.

There is another argument that is made by proponents, and that argument is the fact that repealing of capital gains will stimulate economic growth in America, will increase savings, will increase our overall growth. A new report from the Joint Economic Committee and the Democratic staff points out that these claims are exaggerated at best.

Repeal would affect very few families and have very little impact on total capital accumulation in the United States. The tax is very small itself, relative to family net worth. The gross value of taxable estates comprised only 0.3 percent of the total net worth of the household sector, and the estate tax itself claimed less than 0.06 percent. That is what the estate tax claims in terms of the household sector of America. Repeal would have a small, uncertain effect on individuals' private saving. There is no real indication that saving will increase. In fact, it is likely or possible that consumption could increase as people took estimated estate tax payments and decided they were not due any longer under the proposed regime, they would be spent.

It is unclear whether this proposal will increase national saving. Without increased national saving, we will not have the kind of economic growth we want.

This repeal, if enacted, will dramatically and definitely affect the revenues going not just to the Federal Government but to State governments. The Joint Committee on Taxation estimates permanent repeal would cost, in 2012 alone, $56 billion. Others suggest that estimate is rather conservative. There would also be comparable losses at the State level. At a time when we are seeing a deficit situation in the United States, that deficit will be compounded by the loss of the estate tax. It will result in a decrease in public and national saving. As a result, we will not be stimulating the kind of growth we want, for many reasons, including the fact that the purported savings from compliance costs might not be realized either, since most estates, most investors, most people with property will continue, regardless of the estate tax, to plan for the disposition of their assets and engage legal

counsel. The notion that we will save and streamline the cost of providing for the future is not substantiated by the reality of what people do every day.

Now, can we afford to repeal the estate tax? I don't think we can, particularly in a situation where we are seeing the cost likely in the second decade to balloon to $750 billion.

We are considering in the next few weeks legislation both sides support. First, a pharmaceutical benefit for seniors. Will that cost billions of dollars? Yes, it will. Where will that money come from? Right now, it is coming from the Social Security fund and Federal debt if we propose it and pass it. This will make our proposals much more difficult to enact and fund. It is easier to enact than to fund a pharmaceutical benefit. The Department of Defense is proposing a missile defense system supported by both sides. They are reluctant to tell us what the life cycle cost will be over 20 years. Why? Because those costs are likely to be in the hundreds of billions of dollars. Where do we get that money? We are in a deficit now. We will be in a worse situation if we pass the permanent repeal of the estate tax.

We have to recognize that each day we wake up, we encounter a new threat to our national security. Two days ago, the FBI announced they seized a terrorist who was plotting to detonate a radioactive device in the United States, causing us to ask fundamental questions: Are all of our university laboratories with isotopes fully protected? Are all of our reactors, academic and utility reactors, fully protected against theft? That is not an inconsequential cost, but it is a cost we cannot avoid. If we pass this, we will be in a more difficult position to meet those responsibilities.

I urge we reject this approach and adopt the approach suggested by Senator CONRAD that raises the exemption level, making it quite clear and obvious we are not going to penalize those smaller estates, we are not going to penalize the proverbial and somewhat, in many cases, elusive family farms that are threatened by this estate tax. I hope we can do that. I hope we reject this proposal and adopt the Conrad proposal.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. 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. DODD. 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. DODD. Mr. President, I rise in opposition to the Gramm amendment, total repeal of the estate tax.

Just yesterday, the Senate responded to the President's request to increase the debt ceiling by $450 billion dollars. We are no longer retiring debt and reducing our indebtedness, we are increasing it. The surplus is gone. The President's own budget advisors project deficits for the foreseeable future. And yet, the President is calling on the Congress to permanently repeal a particular tax.

The cost of repealing the estate tax is not inconsiderable. The cost is $99 billion over the next 10 years. In the decade after, the repeal would cost $740 billion. How are we going to pay for this? How is this massive new cost going to be paid for? Are we going to run deeper deficits? Are we going to take it out of the Social Security trust fund? And if so is it wise to drain this fund at the precise time that the baby boom generation is expected to reach retirement age?

There is a war in case anyone has not noticed. It is going to cost money to wage it. And yet we are told that we must repeal the estate tax for the good of the country.

Every day we are getting reports that there will be cut backs on essential services. In places like DC, South Dakota, and many other States children's school days have been shortened. Summer school classes are being cancelled and after school programs are being cancelled. And yet there are those that think that the most important thing we can do as a country, an absolute priority that should prevail over all other priorities, is permanently repealing a tax that is payed by billionaires and multimillionaires.

At a time when we are tying to combat terrorism and we are struggling to educate our children and provide senior citizens with security in their retirement, when we are trying to maintain budget discipline that is so vitally important to our countries long term economic growth. People want to give, they do not want to take from their country at a time like this.

Rarely do Members of the Senate find themselves so short of anything to say. I find myself dumbfound by this suggestion that we totally repeal the estate tax. At other times I might have understood the motivation. Just a year ago, we were talking about close to $6 trillion in surplus over the next 10 years, and if this proposal were brought before the Senate I might have disagreed or objected to it, but perhaps a case could be made with $6 trillion of surplus, the days of a national debt behind us, annual deficits no longer a debate, no longer an issue. With $6 trillion of accumulated surplus, there might be room within that surplus for $740 billion of tax expenditures.

In light of everything that has occurred in the last year, I am truly dumbfounded that we would suggest today that this would even be a close vote. That we would be talking about removing from the wealth of our Nation over the next 20 years close to $800 billion to satisfy a tiny fraction—I mean a tiny fraction—of the American public in light of everything else that has occurred, is truly dumbfounding.

My State, the State that Senator LIEBERMAN and I represent, is often referred to as one of the most affluent States in America on a per capita income basis. One might think in this particular case that I was probably the recipient of a large volume of mail or e-mails, conversations, asking me to vote for the total repeal of an estate tax.

In light of the fact that the people who will benefit the most, the largest number of people as a percentage of the people, would come from the State I represent—I represent 3.5 million people in the State of Connecticut. Out of 3.5 million people whom I represent in the State of Connecticut, 980 people would actually have gross estates that would subject them to the estate tax as it is presently written. My colleagues are certainly aware, I hope the American public is, that we have essentially reformed the estate tax in this country to the point that it only now touches a very tiny percentage of the American public.

So here in one of the most affluent States in the United States on a per capita basis—the State I represent—with a population of 3.5 million people—there are only 980 estates that have gross incomes that would subject them to this tax.

When you factor in the exemptions—for spouses, who do not pay estate tax, for family-owned farms and businesses—the number in Connecticut comes down to 73—73. You start out with 980, but if you take in the exemptions that we have written in we are talking about 73 estates, in the wealthiest State in the Union. And the pricetag, over 20 years, is almost $800 billion.

Maybe people find the word ''dumbfounding'' to be a little harsh, but I do not know what other word you could use than that one, when you consider how much wealth they are going to remove when we need so much. Here we are, a year after the accumulation of great surpluses, already talking about a deficit this year in the neighborhood of $100 to $120 billion, maybe more before we are done.

Right now no one argues with those numbers. That is this year. The President has already announced there will be deficits in every year of his Presidency over the next 3. In fact, many suggest that deficits will now continue for at least 10 years.

So here we are back where we were at the beginning of the 1990s, building up that national debt with annual deficits. In the midst of all of that, 9–11, where we must now respond, as has been said so often by every Member of this Chamber, by the President and others, the world has changed for us fundamentally. It will never be the same again because of what happened on that date.

We are taking steps now, investing resources to make our country stronger, to see to it that we have better protections here at home and abroad. It is an expensive undertaking to do so. In the midst of this expensive undertaking—while simultaneously we also want to invest in the educational needs of our Nation, provide for prescription drug benefits, do what we can to make sure Social Security and Medicare will be there when people need them, invest in the transportation infrastructure which is critically important, a farm bill which we were told was absolutely essential, you go down the list of the things we know we need to invest in to make this country strong and viable—along comes a proposal that will take 3,500 estates in this country and allow them to get a tax break at the expense of everyone else in America. And the cost is roughly $99 billion in the first 10 years or so, and after that, according to the estimates I have seen, $740 billion. Add the two and the price tag is in the $800 billion range. I find it interesting that moments ago we had an opportunity to pass an amendment that would have provided relief to small family farms and businesses for a price tag that is substantially less than a full repeal, and yet many of the Senators who argue that they would like to provide estate tax relief to families and businesses voted no on the amendment.

I do not know how we can go home to our constituencies at a time like this, when we are worried about whether or not we are going to have an intelligence agency, a domestic policing operation, and a reorganization of Government. We are debating in these very hours how we are going to do that, knowing full well it will cost us dearly to do that right—seeing that we have defense structures, seeing that first responders have what they need, God forbid we have another tragedy like we did on September 11. And in the face of all that, I have to explain why it is we are going to provide a total repeal of a proposal—offered by Teddy Roosevelt, by the way. This was not an idea that came out of Franklin Roosevelt, it came out of his cousin, Theodore Roosevelt, the great Republican Progressive President, who argued an estate tax was not only a viable and intelligent revenue source but also had some social benefits.

I don't think it ought to go without mention that some of the wealthiest people in this country are arguing strongly against the Gramm amendment, strongly against the total repeal. People such as Warren Buffett, one of the brightest financial minds in this country, argued strongly against this. John Kluge, who built one of the great fortunes in this country, who was a wonderful genius, argued against this particular proposal. You go down the list. The Gates family argued against this proposal.

I have received five letters—five, out of 3.5 million people in my state, some of the most affluent constituents who are represented in this body at all—saying we ought to totally repeal the estate tax. Even the wealthiest people in this country, who would be the beneficiaries of this, are asking us not to do this. This is fiscally unwise. It is going to cost us dearly.

I was elected to this body 21 years ago. I remember what it was like in the early 1980s. I remember what David Stockman said after he left office. David Stockman, for those who have forgotten who he was, was the Director of the Office of Management and Budget under Ronald Reagan. He argued for significant tax cuts in the early 1980s. They passed, of course. We all know what economic havoc was caused during the 1980s when we had mounting deficits and a national debt that almost quadrupled in the space of 10 years. David Stockman, to his credit, wrote a book called ''The Triumph Of Politics.'' I don't have it with me today, but I urge the younger generation to read it. Remember the admonition, if you want to avoid repeating mistakes, read a little bit about previous mistakes, study history. David Stockman recites chapter and verse about the mistakes made with a proposal we couldn't afford.

Pat Moynihan, then-chairman of the Finance Committee, argued for years that what was done was basically to manufacture a deficit. I suspect this is more about doing that than it is about providing tax relief; more about manufacturing a deficit, regardless of the consequences of that. Then, when people pay higher interest rates on their home mortgage rates, student loan rates, car payment rates, and everything else you can think of where an interest rate is involved, then that is considered irrelevant. If we can build up enough of a deficit, then we will not be able to invest in education, in health care. Forget about arguing whether or not we ought to do it, we will not be able to afford to do it.

I suspect that may be the motivation here and not providing a tax break for 980 of my constituents under the best of circumstances. I am told there are actually 73 estates, when you get through with all the exemptions, 73 estates that would actually be affected by this proposal.

I join with those who urge our colleagues today that, if we are reorganizing our Government differently to respond to what has happened here in the last year, if we have seen our surplus evaporate because of events that have occurred, investments we have had to make, if we must think differently about everything else we are doing, should we not pause and think differently about this? We should take steps to protect the family farms and small businesses from an estate tax that overreached, but just a few moments ago an amendment that would have done that was defeated. But what we are talking about now are just a handful of estates that would be asked to make contributions to our estate tax revenues. I urge Members to pause and think carefully here before committing our country to this kind of financial obligation, which we will spend years trying to recover from, in my view.

In the 1990s, of course, when we came up with a balanced budget proposal, there were those who predicted dire consequences. We saw a nation eliminate the national debt, eliminate the deficits. A lot of people can claim responsibility for participating in that result: certainly the private sector, the technology sector particularly; certainly Alan Greenspan, the Federal Reserve Chairman who managed the Federal Reserve Bank with such brilliance; certainly President Clinton for being the Chief Executive Officer of the country and promoting a balanced budget approach that carried the thinnest of margins in both this Chamber and the other.

Nonetheless, we found ourselves with a financial footing that people only dreamed about a decade earlier. What a great gift was given to this new administration. In fact, the President himself talked about it when he gave his State of the Union Message. In his first State of the Union Message, he spoke about why we are going to be doing the things we can do, it was because we had accumulated a sufficient surplus in this country. What a wonderful legacy it was going to be to invest in the things we needed to do.

Now, because the recession lasted longer, because of 9–11, obviously, because of an unwise tax cut last year that went into place, we now find ourselves in a situation where we are going to have deficits every year of this administration's duration, and we are going to compound that by taking $840 billion off the table over the next 20 years at a time when we could be investing that money to make this a stronger and better country—just to take care of a small handful of people.

What I would like to know is why are we not here talking about a tax cut that would say to working families, if you are sending your kid to college you ought to get some breaks on doing that, to make it easier for you to invest in your son's or daughter's educational future? Why aren't we talking about some relief there? Why aren't we talking about some relief from the FICA taxes for people? Here we are down here spending 6 hours debating whether or not 3,500 estates nationally, are going to get total repeal of an estate tax.

I think it is unwise. I don't think it is warranted at all.

I will end where I started. I am dumbfounded that this Chamber would even consider this proposal in light of the challenges, the risk, and the dangers we face as a nation—that we would make this kind of a judgment at a time when we are going to need all the resources we can provide for the well-being of our own people.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, while the Senator from Connecticut is here, let me respond to the concern, or his expression that he is dumbfounded that we would even be considering this amendment.

We passed this repeal already. I know the Senator from Connecticut didn't vote for it but a majority of us did—Democrats and Republicans. It passed in the House of Representatives, and the President signed it. This is not something extraordinarily odd that we are doing. This has already passed.

The problem, as the Senator knows, is that under the rule in which it was considered, everything we did in the tax reform bill sunsets at the end of 10 years. As a result, the repeal of the estate tax comes in 10 years. The question for those of us who helped pass this legislation—the majority in the House and Senate, and the President—is, Did we really mean to repeal the estate tax?

What I understand the Senator to be saying when he says he is dumbfounded is that at a time when he says we need the money, we would be making permanent that which we intended to make permanent but wouldn't make it permanent before.

I suppose it is a legitimate question, if he is saying we should revisit what we did before. I take it that is what he means. He just voted, as did the Senator from Rhode Island, who spoke earlier, for an amendment that costs more than the Gramm-Kyl amendment. The Dorgan amendment, according to the Joint Tax Committee's calculation, costs $110 billion in the 10 years, which is substantially higher than the Gramm-Kyl legislation.

I am a little confused about the point with respect to fiscal demand. There are fiscal demands. The ones mentioned by the Senator from Rhode Island—drug benefits, missile defense, and so on—are all in the Bush budget. Those are things we are paying for; they are provided for in the budget.

The budget was established on the basis that we had repealed the estate tax. The question was, Would it be made permanent? It is not as if great circumstances have changed. We do have the war on terror, that is true. I don't think any of us is going to deny that if we need to fund the war on terror, we will. We have already passed a supplemental appropriations bill to do exactly that.

It is odd to argue that the 1 percent of Federal revenues that are collected by the estate tax are critical to the functioning of the U.S. Government in light of the trillions of dollars that we spend—that somehow or other we can't get along without this so-called estate tax.

That is the real question. I think Senator GRAMM was right earlier when he said what it really boils down to is a philosophical debate between those who do not want to allow people to keep their own money but believe the Federal Government needs that money, on the one hand, and those of us who believe this is an unfair tax and the Federal Government can get along without the money.

There is another point. I have made it before. Most of us appreciate the fact that when we cut taxes, in the long run it actually improves the fiscal picture for the Government because more taxes are generated by a more vital economy. I cited yesterday the economists who made the case that reducing taxes will allow more job creation, more capital formation, and a better economy. In fact, there would be about $40 billion of growth in the economy if we were able to repeal the tax today.

The other point made was that very few estates pay the tax, that it is only for the rich.

This morning I read—and I will just briefly reiterate—who it is who pays the tax. Estates don't pay the tax, people pay the tax. Who are these people? This isn't the opinion of the Senator from Arizona, this is the IRS. They have the statistics on who actually pays.

In the most recent report entitled ''Statistics Of Income Bulletins, Summer of 1999''—pages 72–76, if you want to look it up—here is what the IRS says. Here is who pays. It is divided between males and females. The largest group of filers of estate tax—27.7 percent—were men, administrators, upper management, and business owners. You could assume that. But the second biggest group—12.3 percent of filers—were schoolteachers, librarians, and guidance counselors. These are these filthy rich people from whom we have to take money—school guidance counselors, schoolteachers, and librarians.

How about the female estate tax filers? The largest number—14.3 percent—were educators.

If I were a member of the teachers union, I would be down here supporting the Gramm-Kyl amendment to make repeal of the death tax permanent because the largest group of women who file estate taxes are educators. These are the people who actually pay the estate tax. The first person who accumulated the wealth is dead. He hasn't paid the estate tax. His heirs paid the estate tax. Who are these people? Among women, the second largest group, of 9.6 percent, are in clerical and administrative support occupations.

When you put it all together, here is what the IRS says: A significant number of estate tax filers were scientists. We really ought to penalize those scientists. They do not do us any good. Salespeople, airline pilots, military officers, and mechanics. The last category I can understand—entertainers. Of course, we get a lot of money from entertainers. And we should. I don't know why they should be penalized any more than anyone else.

Scientists, sales people, airline pilots, military officers, mechanics, teachers, guidance counselors, and librarians are the people who pay the estate tax.

Maybe their dad was fortunate in life to be able to work hard, save money, and accumulate some wealth. But their dad's dream probably was that they would have a better opportunity in life than he did. He probably sacrificed a lot to be able to leave them some money.

These are the people we are penalizing. We are not penalizing, by and large, some fat cat out on a yacht somewhere. According to the IRS, we are penalizing schoolteachers, airline pilots, and guidance counselors. That is whom we are penalizing.

The Senator from Rhode Island made a point on which I really want to focus. He was absolutely half right. Unrealized capital gains, the appreciation in value of an asset which is not taxed as income, because you don't sell the property and, therefore, have to file an income tax return—you bought some stock, and over the years you keep it, and it gains in value, significantly unrealized capital gains. Until you sell it, you don't pay any tax.

Under the current law, a billionaire got rich by investing in some stock. He never sold any of it. It acquired great value. He dies. His wife inherits that. The way it works today is, because there is an exemption for spouses, she pays no estate tax on it. The next day, she sells it. Do you know what her capital gains tax is? Zero. Do you know why? Under current law, there is what we call a step-up in basis. That property acquires an original basis as if it were the day of death rather than 20 years ago when the dead person bought the asset. When it is sold, there is no gain because the value begins with this much higher value—the stepped-up basis. If you sell it the next day, there is essentially a 1-day gain on it. In other words, there is virtually no capital gains tax. That is the current law.

That is what opponents are defending. That is why I say the Senator from Rhode Island was right. This is wrong. But does the proposal of the Senator from North Dakota, which we will vote on next, do anything about that? No. Does the existing law, if we don't make it permanent, do anything about that? No. It is the Gramm-Kyl amendment that fixes that problem.

This is what isn't understood by many of our colleagues. We don't simply repeal the death tax. We substitute for the death tax the capital gains tax. And we eliminate the step-up in basis, except for an amount which would be equivalent to the exemption today, which is about $5.6 million. Nobody would pay a capital gains tax who would also be exempt from the estate tax.

But except for that amount of stepped-up basis, there is no step-up in basis. If the person who died and bought the stock years ago bought it for, let us say, $1,000, that is the original basis. Let us say it is now worth $1 billion. All right. Subtract $1,000 from

$1 billion, and that is the gain. That is on what they pay the capital gains tax. This is the proper way to tax unrealized capital gains. That is why our proposal really does not cost that much more, if you calculate it properly, than the existing law.

When you eliminate the death tax and replace it with a capital gains tax, you have substituted good tax policy for the current bad tax policy.

Death should not be a taxable event. We do not plan on that. We do not like that. It is not something that we cause to happen. It is like having your house burn down and collecting an insurance payment. We don't treat that as ordinary income because we realize you did not want your house to burn down. Even though you got an insurance payment for it, you should not have to pay that tax on that as ordinary income.

It should be the same with what your father leaves you when he dies. You should not pay a death tax on that. What you should do is, when you sell that property, pay a capital gains tax on it, going back to its original value. That is how you tax unrealized capital gains.

Now, just two final points.

The Senator from Connecticut said only a small percentage of people are affected. That is not really true. There is truly a very large percentage of people affected, even though the number of people who actually pay the estate tax is relatively small.

Let's take the average small business. I don't know what the size of the average small business is, but let's say it employs 50 people, just to use a number. Let's say you have an average family of four, plus other indirect beneficiaries, and so on. So instead of saying one person pays the estate tax, it affects all of the members of the family, and it affects all of the people in the business. There are twice as many people adversely affected as to who actually pays the tax. And in addition to the tax collected by the Government, an almost equal amount of money is paid by people to lawyers and accountants and for insurance to try to minimize their estate tax liability. So it is actually twice as much as people believe it is.

I wonder. The bill that we considered before this bill had to do with hate crimes. Proponents of changing the hate crimes law acknowledged it affected a very few number of people. But the effect on them was significant, they said, and it was unfair that they would be treated as they were treated and, therefore, we needed to do something about this. In other words, this is a minority of people who are treated unfairly, and we need to have the Federal Government step in and do something about that.

So, on the one hand, my colleagues on the Democratic side of the aisle are very concerned about a very small number of people, but when we bring to the floor the question of the death tax and its unfairness: Oh, we don't need to worry about that; that only affects a few people. Well, when something is unfair, and seriously wrong, it doesn't matter how many people it affects; we need to do something about it.

The interesting thing to me is that 60 percent—this is a Gallup poll, and there are some polls that go up to 80 percent—at least 60 percent of the American people agree the death tax should be repealed—not reduced, not have the exclusions made larger, but should be repealed. And the interesting thing to me about that number is two-thirds of those people believe it should be repealed even though it will never have any affect on them.

In other words, they recognize it is not a large percentage of people who are adversely affected by the death tax directly, but they recognize it is unfair.

To me, that says more about the American people than just about anything I can think of, when they say: Even though you have more wealth than I do, it is not fair for the Government to take half of it from your kids when you die. Therefore, even though it doesn't help me any, I am going to stand up for your right to be treated fairly. And I support the permanent repeal of the death tax.

To me, that is a very good indication of the fact that the American people have a sense of fairness. And even though they are not directly benefitted by something, they are willing to support the elimination of that unfairness.

Final point. The suggestion we have already taken care of the small businesses and family farmers and, therefore, we don't need to permanently repeal the death tax. We have been through that in debate earlier today. We have not taken care of the small businesses and family farmers. Unfortunately, as I said, something like two one-hundredths of 1 percent of taxpayers have ever qualified for the exclusion that would take care of them under this provision. And even then, the IRS is going to come after you. And the IRS wins two-thirds of the cases that are brought. It is not a fact that small businesses and farms have been taken care of and excluded from the impact of the estate tax.

So who pays? Average Americans because the wealthier person, remember, died. And the question is, Is it fair to make them pay?

Do we need the money? The things that have been discussed are in the budget. We can always find more things to spend money on. The question is, Should you leave money in the hands of Americans who can build our economy, create jobs and wealth, or should we make the decisions for them by spending the money here in the Government?

I think it boils down to that, and when we have this vote, we are going to be asking one simple question: For those who voted for the bill last year to repeal the estate tax, did they mean it or not? If they meant what they said, they will vote for the Gramm-Kyl amendment, which is the real repeal. It makes the repeal of 1 year into a permanent repeal. That is what the American taxpayers and American people thought we did. It is what we intended to do. And today it is what we can do.

I urge my colleagues to support the Gramm-Kyl amendment.

I now yield 5 minutes to my colleague from the State of Arkansas.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I compliment my colleague from Arizona for his outstanding leadership on this issue. And he has been the leader on this.

I was struck by one statement the Senator from Arizona made in which he said the American people, according to all the polls—and we all know this—overwhelmingly support the elimination of the death tax, even though most of them realize they will never be impacted by it. It does say a lot about the American people. It also says an awful lot about the unfairness of this tax; that is, the underlying tax.

That is the basic issue at stake in the debate we are having. Is this the way we want to tax or not? It is not about whether or not we are going to lose money for the Federal Treasury or not. We may or may not. It is not about whether we can reduce the number of people impacted by this unfair tax by expanding exclusions and lowering rates.

It is fundamentally about, Is this the right kind of tax to impose on the American people? The American people realize and recognize it is unfair for a person, a small businessperson, a farmer, for any American to work decade after decade, saving and investing, making decisions that reward their family, building something for the future, building something for future generations—someone, a businessman, a farmer, an individual paying property taxes, paying sales taxes, paying income taxes, year after year, and decade after decade—and then, at the point of death, at the event of death, you see the Federal Government reach into the grave and take half of everything that person worked for. I think the American people, rightly, have concluded that is unfair.

As the Senator from Arizona also pointed out, the decision about the unfairness and about the need to eliminate this tax was already made. It was made by this body. It was made by the House. It was made by the President over a year ago—a year ago June 7. The decision was: It is unfair. Let's repeal it. Let's eliminate it.

Because of arcane Senate rules, it could not be permanently eliminated. We could not do that last year. But we can do that now. The decision then that it was the right thing to do to eliminate it—that was made last year—we need now to say we really meant that.

It has already been very rightly pointed out that this is not a tax that

affects only a few. It is not just a few fat cats we are talking about. We are talking about literally millions of Americans.

According to the Treasury Department, more than 120,000 individuals filed death tax returns in the year 2000 alone. But that does not tell near the story because not only are there employees and family members who are impacted, but it is also the case that about twice as many people sell their businesses or sell their property early, before they die, so the death tax is not going to be a burden on their family. So instead of 120,000 individuals, you literally have doubled that, and suddenly you are talking about half a million people, plus their families and their employees who are impacted. This is not a tax that just touches a few people.

In addition, even more Americans are forced to pay this tax, not to the Federal Government, but to lawyers, to accountants, and to life insurance agents. Privately held businesses get involved in estate planning because if they don't, all they have worked for will be eliminated. To ignore the death tax statute is suicide for a family business.

Frankly, while the death tax is a terribly ineffective way to redistribute wealth, it is a very effective way to create and maintain an industry geared at avoidance.

This tax generates very little real income for the Federal Treasury. My colleague has already pointed out that the Gramm-Kyl amendment, because of the way it handles untaxed capital gains and the way it changes the step-up provisions in current law, any impact upon Federal revenues will be far more minimal than that which has been estimated.

In addition, the death tax is a very inefficient way of gaining Federal revenue, for 65 cents of every dollar gained is paid out in collection enforcement costs. Other studies have found not only are thousands of dollars going to attorneys and accountants and financial agents, but the average minority-owned business will spend nearly $28,000 a year on life insurance premiums to prepare for the death tax, and $9,000 on death tax planning.

Frankly, the 1.5 percent of Federal income that currently is generated by the death tax is so small that it would, to a great extent, offset the cost of administering and collecting and enforcing the tax.

Beyond all of that, I return to the point with which I began. There are the practicalities that it generates little income, and a whole avoidance industry has developed because of the estate tax.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. KYL. I yield the Senator 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HUTCHINSON. Beyond the practicalities, the underlying issue is, is it fair? Is it right? A bigger exemption does not solve the basic unfairness. A greater exclusion, lowering rates, none of that really deals with the underlying issue. It is an unfair tax. It taxes success. It taxes accomplishment. It taxes that which is the American dream. For that reason, we need to get rid of it.

We don't need a mirage for the American people. We need it to be real. We can make it real by supporting the Gramm-Kyl amendment.

I thank my colleague for the time and the opportunity to speak in favor of his amendment.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. CLINTON. Mr. President, I have a great deal of respect for my colleagues who are arguing this point with extraordinary vigor and zeal. I have no doubt they absolutely believe that the wealth tax is wrong and should be abolished.

We ought to take a step back and put this debate into a bit of a reality check again, since there has been a lot said on the floor which may be good argument points, good advocacy positions, but is not necessarily connected to the reality that we face today as we are about to vote on this decision.

I don't usually come to the floor and quote the Wall Street Journal, but I will today because if one were to look for a source that probably views this issue more favorably to the position of my colleagues, they probably couldn't find a publication that would be more inclined to support it. Certainly the editorial pages have done so, and there are columnists and others who make the argument.

I will enter into the RECORD a column that was written by one of the Wall Street Journal's leading writers, a gentleman by the name of Alan Murray, no friend of taxation, who wrote an article, dated May 28, 2002, entitled ''Senate Needs Reality Check Before Refunding Estate Tax.''

If one reads this, they will get a better context than the sort of disembodied one that occurs on the floor of the Senate where abstractions and generalities can be made for the sake of argument without really looking at what it is we are being asked to vote on.

Mr. Murray starts by saying:

> Marie Antoinette had nothing over the U.S. Senate. In its rush to permanently eliminate the estate tax, the nation's ''deliberative body'' has apparently forgotten to deliberate on the surging social trends of our time.

Mr. Murray goes on to make the following point:

> The last two decades have led to a concentration of wealth and income among the fortunate few in this country that hasn't been seen since the gilded age.

When was the estate tax first proposed and who proposed it? President Theodore Roosevelt, himself a product of the gilded age, who understood intuitively that our country, founded on principles of equality, could not afford to see vast disparities in wealth occur. Therefore, President Roosevelt, a Republican, proposed the estate tax, because he recognized the threat that greater and greater accumulation of wealth that separated the few from the many posed to our Nation.

Mr. Murray goes on to say that ''the 10 most highly compensated corporate chief executives earned a total of $3.5 million in 1981,'' 21 years ago. You take the 10 top CEOs in America. Were they doing a good job in 1981? They were doing a good job. But now 21 years later, the 10 most highly compensated CEOs in our country make $155 million, almost 45 times the 1981 figure. Are they doing a job 45 times better than they did 20 years ago? The argument would be hard to make.

Secondly, we are currently in a situation where our market, the engine of economic growth, has been shaken by revelations about the behavior and conduct among these same highly paid corporate executives. We know, just to take one example, Mr. Skilling, the former CEO of Enron, would benefit to the tune of $55 million if the estate tax were repealed. How would that be paid for because the money is not fungible? If you do away with the estate tax, then you will have to eliminate or cut something. There are a lot of things that probably could be looked at to be cut. How about the Social Security tax payments of Americans? It would take 30,000 Americans earning $30,000 a year, paying their taxes, to make up for the $55 million that Mr. Skilling would benefit. I don't think that passes the fairness test. I don't think that is really the kind of choice we should be making in this body.

Third, as Mr. Murray points out, every single day we are told our Nation is at war. I believe that. I represent New York. We were attacked when America was attacked. I have spent more time than I ever wish to recall working and being with the victims of that horrific attack.

In the past, whenever our country has been at war, we have been called upon to sacrifice. Particularly, the affluent have been called upon to sacrifice because, as Theodore Roosevelt pointed out, you are so fortunate to live in America; there is not a place better devised in the entire history of the world to be successful, to become rich. And the rich, God bless all of us, they actually take more advantage of our system than anybody else. They are really lucky, fortunate, blessed to be in this country.

The inheritance tax was created to finance the wars of the 19th century. The notion of repealing it, when we are under constant threat, when we have to spend billions of dollars to protect ourselves in ways we never had to think about before, strikes me as bizarre. We have voted on the floor of the Senate

for billions of dollars to protect our borders, our ports, our airports, our food, to be prepared against bioterrorism. I went to the White House this morning for the President's signing of the bioterrorism bill. It costs money to get the vaccines and do everything we need to do to protect ourselves and our children.

The idea that, instead of calling upon the most fortunate among us, we would at this point in our Nation's history, rather than reform, repeal the estate tax flies in the face of what we have historically done. Why aren't we on the floor of the Senate asking that we close the loophole for the corporations that take advantage of the good times of being in our Nation and move their headquarters offshore so they don't have to pay any taxes? Unlike everybody else who works for a living, they want to avoid taxation. Yet they are more than happy to take advantage of our country's protection, security, and markets.

What is wrong with this picture? Well, I agreed with Mr. Murray that we have to look at this and inject some reality into it. I have not even gotten to the budget deficit. Last year we had a budget surplus, and I listened to the debate and, honest to goodness, you can take transcripts from 1981 and put them right next to transcripts from 2002; it is the same rhetoric: slash the taxes and you will see more revenues coming in. That is what we were told in 1981. And in 12 years we quadrupled the debt of our Nation. Last year we were told again to slash taxes and we will have even greater surpluses. Now we are back into deficits, we are spending the Social Security surplus, and we are spending the Medicare trust fund surplus.

It is pretty hard to explain how we are in debt and in deficit and we want to make it even worse, which of course shifts the burden not on the rich but on everybody else. If we were going to be talking about repealing taxes, there are taxes that affect far more Americans and really have an impact on the kind of lives that Americans lead. We could make the expanded childcare tax credit permanent. We could make the new 10-percent tax bracket permanent. We could pass the college tuition tax deductibility, which would be a huge benefit for most Americans—particularly middle-income Americans.

Instead, we are debating the wealth tax. It is hard to understand why we are having this debate, except, with all due respect, my colleagues believe it is absolutely the most important issue we can be discussing at this time.

Now, to be sure, the uncertainty posed by the tax cuts that were passed last year is a problem. But the reason they were passed in the form that they were passed is because the numbers would not work any other way and we were hoping to defy the laws of arithmetic.

Many of us believe that raising the taxable limit is a good idea. We believe that reform is significantly possible without repeal. Responsible, affordable reform could save money, as well as continue both the principle and reality of providing a check on the kind of estates that Theodore Roosevelt and his relative Franklin Roosevelt warned us about.

If one looks at all of the issues that we are confronting right now, I just hope we are going to take a deep breath and stop and say: Circumstances have changed since last spring. We don't have a surplus anymore. We are back into deficits. We are bleeding red ink. We have been attacked on our own shores. We have to fund our defense. We have to make sure our men and women in uniform, who are fighting for us in Afghanistan and elsewhere, are given every single piece of equipment and new technology that they deserve. We have to make sure our frontline soldiers, our police officers, our firefighters, the first responders, get the resources they need.

And then we have longer term issues. We have all kinds of infrastructure problems we have to deal with that an individual cannot pay for on his or her own. We have to make sure our bridges and tunnels are safe.

In a few weeks, we are going to debate what to do with nuclear waste. There is going to be a big issue about the safety of transporting it on our barges, along our waterways, on our railcars, and on our trucks. I am getting letters from rural parts of my State saying their bridges are not in good shape. So how can we do that?

In our cities, our sewer systems and our wastewater treatment systems are not up to the kind of standards they should for ordinary treatment of waste and the provision of clean water, and now we have to worry about terrorism. So there is a list of pressing needs that will make us safer and stronger in the future. Repealing the estate tax is not on that list.

Let me also say a few words about who it actually affects. I know my colleague from Connecticut was on the floor because he looked at the same statistics that are available to all of us. As he pointed out, he has 73 filers who were affected by the estate tax. We hear a lot about what happens to family farms, and I looked for any evidence I could find, and I know the Farm Bureau was asked to provide such evidence of any farm, anywhere, that had been lost because of estate taxes.

Neil Harl, an Iowa State University economist, conducted that search and is quoted in an article in the New York Times last year. He said it is a myth. Since most farms in New York are worth less than a million dollars, even under the current law they are not going to have to pay estate taxes; and when we reform it and raise the limits, they certainly are not going to do so.

I talked to one farmer and he said: I dream for the chance to have a farm worth enough that anybody would think I had to pay the estate tax.

There is a lot of mythology and ideology that is being discussed in terms of the repeal of the estate tax, but I guess it really does come down to what are our priorities. If our priority is eliminating billions of dollars of tax obligations from the very richest people, then this is the vote for us. But if it is to protect our Nation's fiscal condition and get back on a path of fiscal responsibility, get back to where we are paying down our debt, not increasing the debt limit as was voted for yesterday, getting out of deficits, putting the money back into the Social Security trust fund, making sure we are prepared for the retirement of the baby boomers, dealing with health care, prescription drug benefits, the needs that both underinsured and uninsured people face to ensure they have health care when they need it, paying for that prescription drug benefit we promised our seniors, making sure we continue to fund our education policy so that we have the qualified teachers in every classroom, we have the equipment and the resources that every schoolchild deserves to have, then this vote is not for us.

There are a lot of priorities at which we have to be looking. Repealing the estate tax would cost about $100 billion this decade, but in the next decade when people like me are starting to retire, then we are looking at a cost of $740 billion. It is hard to imagine from where the money to provide for Social Security and Medicare will come.

The Jeff Skillings of the world and the other corporate executives who have a lot of money to start with—much more than any limit on the estate tax that we could imagine—why, they would be laughing all the way to the bank.

I know a lot of Americans think they fall under the estate tax, and I give credit to the repealers who have turned Teddy Roosevelt on his head, have ignored the manifesto signed by several hundred of our wealthiest Americans, people such as William Gates, David Rockefeller, George Soros. They all said: Don't repeal it; reform it, but don't repeal it; it is bad for our country. I heard Warren Buffett, one of America's richest businessmen, say: It is bad for my family. I had to go out and earn my money the old-fashioned way. I do not want the kind of idle rich that has never been part of the American scene. That is something we did not want to have, and we turned away from it.

The truth is, we do not have a death tax in America. There is no such thing as a death tax. People do not pay taxes at death. We have an estate tax, which is really a wealth tax that is based on people having a certain level of assets.

Currently, it is $1 million. Many of us want to increase it significantly. At the present time, it affects less than 2 percent of the estates in our country. If we raised it to $3 million for an individual and $6 million for a couple and then in 2009 took it to $3.5 million for

an individual and $7 million for a couple, we would have three-tenths of 1 percent of estates subjected to any tax.

I also support setting a maximum rate of 50 percent. Then we really would be aiming at the Gateses and the Soroses and the Rockefellers and the people who have inherited a lot of wealth with an estate tax, and they still would have tens of millions of dollars.

Mr. President, I thank my colleagues for the opportunity to speak. I ask unanimous consent that the Wall Street Journal and New York Times articles to which I referred be printed in the RECORD.

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

[From the Wall Street Journal, May 28, 2002]

SENATE NEEDS REALITY CHECK BEFORE REFUNDING ESTATE TAX

(By Alan Murray)

Marie Antoinette had nothing over the U.S. Senate. In its rush to permanently eliminate the estate tax, the nation's ''deliberative body'' has apparently forgotten to deliberate on the surging social trends of our time.

So let me provide a refresher course:

(1) The past two decades have led to a concentration of wealth and income among the fortunate few in this country that hasn't been seen since the gilded age. Kevin Phillips, whose new book ''Wealth and Democracy'' puts all this in a historical context that should chill the spines of senators preparing to vote ''yes,'' notes that the top 10 most highly compensated corporate chief executives earned a total of $3.5 million in 1981. That rose to $155 million in 2001—almost 45 times the 1981 figure.

(2) The nation is now experiencing a crisis of confidence in these same highly paid corporate executives. Americans tolerated sky-high CEO pay because they thought it reflected the market value of talented managers—just as Michael Jordan's pay reflected his draw at the box office. But recently, the public has gotten graphic evidence that, in some cases at least, CEO compensation had more to do with greed, deception and even downright fraud. The proliferation of stock options, which accounts for most of the huge increase, was supposed to align the interests of corporate managers with those of the shareholders. It did, it seems, but in the wrong direction. Instead of working to make shareholders rich, some executives were manipulating their shareholders in order to make themselves rich.

(3) The nation is at war. And in this country, wars always have been times of sacrifice, particularly among the affluent. The inheritance tax was created to finance the wars of the 19th century. The notion of singling it out for elimination in the midst of the current effort goes against more than 150 years of American history.

Notice that I haven't mentioned the budget deficit. That's because on this score, at least, the Senate deserves some credit. They are talking about singling out the estate tax, at a cost of $99 billion from 2002 to 2012, in order to avoid the whopping $373 billion price tag of the House bill that would make all the provision in the president's tax cut permanent.

But in making this choice, the Senate should justify it. Why deepen the deficit to pay for permanent repeal of the estate tax, if you aren't willing to pay for permanent repeal of marriage tax relief ($16 billion), a permanent extension of the new 10% tax bracket ($79 billion), an expanded child tax credit ($35 billion), or various forms of assistance to people trying to pay the high cost of higher education ($5 billion)? All those tax cuts go to ordinary Americans struggling to raise families and educate their kids.

The Senate's answer? Let them eat cake.

This is not a partisan matter. If estate-tax repeal didn't have substantial support among Democratic Senators, it wouldn't have a chance, given the need for 60 votes to overcome a filibuster. There are already eight or nine Democrats, including Senate Finance Committee Chairman Max Baucus, who have indicated their support. Estate-tax lobbying groups are working fervently over the holiday to win a few more.

Also, this isn't an ideological matter. The House Republicans are the ideologues; they'll vote for any tax cut that comes down the pike. Senators, in their pragmatism, bear the burden of explaining why they have chosen this tax cut above all others.

To be sure, the estate tax cut enacted by Congress last year is, in its current form, an atrocity. It would repeal the tax for one year at the end of the decade, and then, to satisfy Senate budget rules, reinstate it in 2011. This would lead to some ghoulish estate planning, creating an incentive for heirs to keep dad alive until 2010, and then pull the plug by New Year's Eve.

But that is hardly a good argument for permanent repeal. Nor is the oft-heard refrain that this helps farmers and small-business people who want to keep their enterprises in the family. Those folks account for less than 10% of total estate-tax revenue, and could be accommodated with measures falling far short of total repeal.

The only good news here is that Senate Majority Leader Tom Daschle still has a good chance of holding enough of the Democrats to keep the measure from getting 60 votes. If he succeeds, he'll be accused, again, of obstructionism. But this time, he'll be saving Senators of both parties from excessive catering to big campaign contributors, and from putting themselves squarely on the wrong side of history.

[From the New York Times]

FOCUS ON FARMS MASKS ESTATES TAX CONFUSION

(By David Cay Johnston)

WELLSBURG, IOWA.—Harlyn Riekena worried that his success would cost him when he died. Thirty-seven years ago he quit teaching to farm and over the years bought more and more of the rich black soil here in central Iowa. Now he and his wife, Karen, own 950 gently rolling acres planted in soybeans and corn.

The farmland alone is worth more than $2.5 million, and so Mr. Riekena, 61, fretted that estate taxes would take a big chunk of his three grown daughters' inheritance.

That might seem a reasonable assumption, what with all the talk in Washington about the need to repeal the estate tax to save the family farm. ''To keep farms in the family, we are going to get rid of the death tax,'' President Bush vowed a month ago; he and many others have made the point repeatedly.

But in fact the Riekenas will owe nothing in estate taxes. Almost no working farmers do, according to data from an Internal Revenue Service analysis of 1999 returns that has not yet been published.

Neil Harl, an Iowa State University economist whose tax advice has made him a household name among Midwest farmers, said he had searched far and wide but had never found a farm lost because of estate taxes. ''It's a myth,'' he said.

Even one of the leading advocates for repeal of estate taxes, the American Farm Bureau Federation, said it could not cite a single example of a farm lost because of estate taxes.

The estate tax does, of course, have a bite. But the reality of that bite is different from the mythology, in which family farmers have become icons for the campaign to abolish the tax. In fact, the overwhelming majority of beneficiaries are the heirs of people who made their fortunes through their businesses and investments in securities and real estate.

The effort to end the estate tax—which critics call the death tax—gained ground when the House of Representatives voted Wednesday to reduce the tax and then abolish it in 2011. The bill faces an uncertain fate in the Senate.

The estate tax is central in the debate over taxes, not only because the sums involved are huge but also because to both sides it is a touchstone of national values. To those seeking to abolish it, the estate tax is a penalty for success, an abomination that blocks the deeply human desire to leave a life's work as a legacy for the children. It is also a complicated burden that enriches the lawyers, accountants and life insurance companies that help people reduce their tax bills.

To its supporters, on the other hand, the estate tax is a symbol of American equality, a mechanism to democratize society and to encourage economic success based on merit rather than birthright.

Yet for all the passion in the debate, the estate tax does not always seem broadly understood.

While 17 percent of Americans in a recent Gallup survey think they will owe estate taxes, in fact only the richest 2 percent of Americans do. That amounted to 49,870 Americans in 1999. And nearly half the estate tax is paid by the 3,000 or so people who each year leave taxable estates of more than $5 million.

In fact, the primary beneficiaries of the move to abolish the estate tax look less like the Riekenas and more like Frank A. Blethen, a Seattle newspaper publisher whose family owns eight newspapers worth perhaps a billion dollars.

''Being ever bloodthirsty, the I.R.S. will start with the highest value it can on my estate,'' said Mr. Blethen, the 55-year-old patriarch of the publishing family. The figures for his share will probably be several hundred million dollars, more than half of which would go to the government. Mr. Blethen is trying to avoid almost all those taxes through a plan also used by other wealthy families, but if he does not succeed his sons' interest in the business will be wiped out, he said.

Estate taxes are paid by few Americans because they are not assessed on the first $1.35 million of net worth left by a couple. Amounts above this are taxed at rates that begin at 43 percent and rise to 55 percent on amounts greater than $3 million. As the Riekenas and the Blethens have learned, there are many legal ways to reduce the value of one's wealth for estate tax purposes. So even for the largest estates, the tax averages 25 percent.

Family farmers are often cited as victims. As Senator Charles E. Grassley, an Iowa hog farmer and chairman of the Senate Finance Committee, put it, ''The product of a life's work leaches away like seeds in poor soil.''

Yet tax return data show that very few farmers pay estate taxes. Only 6,216 taxable estates in 1999 included any agricultural land and equipment, the I.R.S. report shows. The average value of these farm assets was $440,000, only about a third of the amount that any married couple could leave untaxed to heirs. What is more, a farm couple can pass $4.1 million untaxed, so long as the heirs continue farming for 10 years.

In Iowa, the average farm has a net worth of $1.2 million. Loyd A. Brown, president of Hertz Farm Management in Iowa, which runs more than 400 farms in 10 states, said that while he didn't know of anyone who had lost a farm because of the estate tax, he thought Congress should either eliminate the tax or increase the amount that could be inherited untaxed.

Just 1,222 estates in 1999 had enough in farm assets to make the farm property alone subject to estate taxes. But these farm assets amounted to one-tenth of these estates, suggesting that the tax applies mostly to gentleman farmers and ranchers, rather than to working farmers like the Riekenas, whose fortunes are tied up in their farms.

As the Riekenas were surprised to discover, avoiding the estate tax was easy. Their lawyer developed a simple plan that involved making gifts to their daughters and buying life insurance to offset any estate taxes that might be due if the parents died before most of the farm had been turned over to their daughters.

There is a real cost, of course—payments to the lawyer and for the insurance. And in any case the paucity of affected farmers does not end the debate. Patricia A. Wolff, the Farm Bureau's chief lobbyist, said the organization made estate tax repeal its top priority because, while it has not surveyed its members, she was confident ''the majority of farmers and ranchers believe that death taxes are wrong and that it is wrong to tax people twice on what they earn.''

But Mr. Riekena and all two dozen other farmers interviewed across central Iowa—every one a Republican—said that while they favored increasing the amount that could be passed to heirs untaxed, they did not support the repeal proposed by President Bush and other leaders of his party. A few snickered or laughed when asked whether the estate tax should be repealed to save the family farm.

But Senator Grassley himself opposes the estate tax, in large part because he thinks that while a decision to keep or sell an asset is an appropriate trigger for a tax, death should not be.

He added another reason: ''I do not think that the function of government is to redistribute wealth.''

Indeed, that seems to be the fault line in the debate: should the government play Robin Hood with estates?

''If you worked hard and put your money away, you paid tax on it as you went along, so it's yours and you should be able to pass it on to your children without the government penalizing you,'' said R. Elaine Gunland, who grows grapes in Fresno, Calif., and whose family may owe estate taxes when she dies.

Mr. Blethen, the fourth-generation publisher of a newspaper started in 1896 with $3,000, says he speaks for many others in supporting repeal of the tax in the name of preserving family businesses.

''I firmly believe that family-owned businesses are the heart and soul of the country,'' said Mr. Blethen, who has created a Web site called deathtax.com.

Mr. Blethen says the estate tax benefits publicly traded companies at the expense of family-owned businesses. The reason is that the public companies can often buy family businesses at a discount because the owners did not raise the cash to pay estate taxes and must sell quickly at fire sale prices.

Mr. Blethen said some of the seven smaller papers his family bought in Washington and Maine came from families that had not planned carefully for the estate tax and decided it was easier to cash out.

''If you like corporate culture, and think America needs more of it, then you love the estate tax,'' Mr. Blethen said. ''I think this march toward corporatism is not healthy and we lost innovation, jobs and charitable giving.''

Mr. Blethen said the estate tax also discouraged major new investments in family businesses late in the life of the primary owner because such investments consumed cash that might be needed at any time to pay estate taxes.

He said the estate tax also ''forces you into irresponsible gift making'' to heirs. He felt compelled to give half the future growth of his fortune to his two sons when they were not yet kindergartners even though he had no way of telling whether the boys would turn out to be industrious, as they did, or scalawags.

Despite his fierce opposition to the estate tax, Mr. Blethen does not support President Bush's current plan to repeal the tax because it would also exempt from capital gains taxes the profits on assets passed to heirs when those assets are sold. ''That's not fair,'' Mr. Blethen said.

He said Mr. Bush's proposal would have the perverse effect of encouraging the sale of family-owned businesses, because heirs would see death as their chance to sell tax-free and to diversify their portfolios, instead of continuing to bear the risks of holding a single enterprise.

Mr. Blethen thinks that rather than taxing an estate, taxes should apply when a business is sold. ''YOu want to defer those capital gains and let them grow so large that the family will keep the business to avoid the capital gains taxes,'' he said.

The debate does not divide neatly among rich and poor. Since February more than 800 wealthy Americans have joined in a public appeal to keep the estate tax. They argue that repealing the tax would further enrich the wealthiest Americans and hurt struggling families. They also argue that financial success should be based on merit rather than on inheritance.

Warren E. Buffett, George Soros, Paul Newman and William H. Gates Sr., father of Microsoft's chairman, William H. Gates III, are among the most prominent in that group, which also includes many people with holdings of just a million dollars.

Mr. Buffett said the estate tax fosters economic growth by encouraging Americans to rise based on merit, not inheritance. ''If you take the C.E.O.'s of the Fortune 500,'' he said in an interview, ''and put in the eldest son of every one of those who ran the place in 1975, the American economy would not run as well as letting the Jack Welches, who started out with nothing, rise to the top of General Electric.''

Back in central Iowa, Mr. Riekena had another reason. He said Washington was focused on the wrong issue when it came to saving family farms.

''For most farmers around here, the estate tax is not high in their minds,'' Mr. Riekena said. ''What we need are better crop prices.''

Mrs. CLINTON. Mr. President, rather than one day raising the debt limit without any plan to get us out of debt, except continuing to believe in the god of supply-side economics, which did not work so well 20 years ago, and instead of repealing the wealth tax without any plan for dealing with our problems, like a war and Social Security and other significant issues we confront, I hope we will opt for the more responsible way of reforming the estate tax and make it clear that the reality check in this body demonstrates clearly we cannot afford it. It would be the wrong decision, and we have other priorities that we need to get about the business of addressing. I thank the Chair. I yield the floor.

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

Mr. KYL. Mr. President, before yielding, I ask unanimous consent to have printed in the RECORD two editorials from the Wall Street Journal, dated June 10, 2002, and February 22, 2001, both of which demonstrate support for the permanent repeal of the death tax.

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

[From the Wall Street Journal, June 10, 2002]

THE DEATH TAX SENATORS

We are about to find out how many of the 12 Senate Democrats who voted for tax cuts last year really meant it. They'll get the chance to provide their sincerity when the Senate takes up a vote to make repeal of the death tax permanent, perhaps this month. Last Thursday, 41 of their Democratic counterparts in the House joined the 256–171 vote to make this punitive tax disappear forever.

Majority Leader Tom Daschle first tried to forestall a Senate vote, because he knows a clear majority favors passage there too. But he was forced to give in recently in return for some concessions on the energy bill. So now he's trying to hold off Senate passage with a filibuster that requires 60 votes before it can get to President Bush's desk. Supporters of permanent repeal figure they have at least 58 votes, and Mr. Daschle has been twisting arms to block what is the will of many even within his own party.

Almost every Republican voted for repeal the first time around, though Vim Jeffords has since sold his vote for dairy subsidies. Liberal Rhode Island Republican Lincoln Chafee, is also in doubt, as is John McCain, who voted against President Bush's original tax cut and moves further let by the month; maybe the Arizonan should consider truth-in-advertising and jump to Team Daschle.

The complete gang of 12 Democrats who voted for the tax cut last year is listed in the table nearby. Six are up for re-election this November, and to their credit three of those running have already said they'll vote for repeal. It's probably no coincidence that all three are running in conservative states carried by Mr. Bush in 2000 and all of them face more than token competition this year.

Two others running in November, New Jersey's Bob Torricelli and Louisiana's Mary Landrieu, have already flip-flopped and announced intentions to vote against permanent repeal. Their excuse is that things are different now that the country is facing budget deficits and wartime expenses. But it's far more likely that they've changed because their re-election opposition has since all but collapsed. Mr. Torricelli was especially fond of just about any tax cut in his taxophobic state, until Justice declined to indict him for accepting illegal gifts and he concluded the New Jersey GOP couldn't muster serious opposition.

One vote still in the balance is Missouri's Jean Carnahan. She faces a strong challenge this fall from Republican Jim Talent, who has made the death tax a central issue in his campaign. She's doing a remarkable dodge and weave, claiming to favor repeal for small businesses and farms but she is undecided on the repeal that passed the House. Sounds to us as if she's waiting for orders from Mr. Daschle; if he doesn't need her for his filibuster, he'll give her a pass to vote yes and remove the issue for November.

One virtue of this death-tax debate is that is reveals what's really at stake in this November's Senate races. If Mr. Daschle retains

his Democratic majority, further tax cutting is dead. But if Republicans pick up a mere one seat, for a 50–50 split, they'll be able to organize the Senate with the help of Vice President Cheney's vote and tax-cutting becomes possible again.

Mr. Daschle gave his Bush-state Democrats a tax-cut pass last year, but the perversity of Senate budget rules meant the tax cuts end after 10 years. This is crazy tax policy, since it increases uncertainty and would amount to the largest tax increase in history in 2010 if the law isn't changed.

It is absolutely insane in the case of the estate-tax repeal; the death tax declines slowly over the next seven years, disappears entirely in 2009, but then snaps back to its confiscatory 55% pre-Bush rate on January 1, 2010. So forget about rational estate planning. Far from the tax on the uberrich that Dems claim it is, only 5,200 of the 116,500 tax returns filed in 1999 were for estates worth more than $5 million. In any case, the main argument for repealing the death tax isn't economic, but moral. It's unjust for the government to double tax away, at death, the fruits of a life of work and thrift.

The death-tax repeal vote is also about truth in politics. A year ago these Senators voted to repeal the death tax, but only with a wink and an asterisk that it would all come back after 10 years. No wonder voters are cynical about politicians. The next death tax vote will separate the cynical from the sincere.

THE GANG OF 12

A dozen Democratic Senators voted last year for the temporary repeal of the death tax.

Against

John Breaux (La.)
*Mary Landrieu (La.)
*Robert Torricelli (N.J.)

For

*Max Baucus (Mont.)
*Max Cleland (Ga.)
Dianne Feinstein (Calif.)
*Tim Johnson (S.D.)
Herb Kohl (Wis.)
Blanche Lincoln (Ark.)
Ben Nelson (Neb.)
Zell Miller (Ga.)

Undecided

*Jean Carnahan (Mo.)

*Up for re-election this year

[From the Wall Street Journal, Feb. 22, 2001]

A TAX ON VIRTUE

Maybe you have to be a billionaire to appreciate the argument for keeping the estate tax.

A newspaper ad signed by Bill Gates Sr., George Soros, David Rockefeller and more than 200 other money-bags has just warned that repealing the estate tax ''would have a devastating impact on public charities.'' We live in strange times indeed when the ethical case for keeping a tax rests upon a collection of fat cats talking about the things they will do to avoid paying it.

Of course, they don't really have an economic argument. Anyone who looks at the numbers knows that the death tax amounts to only about 1% of all federal revenues. But that figure doesn't begin to get at the actual and opportunity costs involved in collecting it. When the Joint Committee on Taxation looked into the issue two years back, it found these costs staggering: punishing savings, encouraging consumption and costing almost as much in compliance as it takes in.

What about the moral argument? Everyone knows about sin taxes—taxes on cigarettes, alcohol, etc. Well, a death tax is a tax on virtue. It's tax on those who've worked hard, saved well and in most cases have already paid taxes on their wealth at least once and probably twice.

It is also responsible for a whole tax-avoidance industry, which takes in millions itself from the 200 well-heeled individuals in Sunday's ad. Put simply, if you really are rich enough you can have your cake and pass it along to your heirs too. But if you can't afford to pay the legions of estate lawyers, trust fund accountants and life insurance underwriters, your heirs will be forced to sell off what you've worked so hard to build up to pay off the IRS man waiting outside your funeral for his take.

So if the death tax really isn't all that significant for the government, why the opposition to getting rid of it? the answer is that the death tax was never about money. It is about envy and the corrosive philosophy it feeds. This is the philosophy Senator Tom Daschle invokes when he talks about Americans in terms of those whose tax cuts will let them buy a Lexus and those who supposedly will get no more than a muffler. The death tax is their favorite, the name of the game being to stoke the flames of resentment among the 98% of Americans who don't pay this tax against the 2% who do.

Their problem is that the public isn't buying. No matter how they are worded, polls show Americans instinctively understand there is something rotten about a government that would confiscate half of what you've worked hard to build up. This month a McLaughlin & Associates poll reported 88.5% of Americans saying the death tax is unfair, and nearly as many favoring its abolition. A Zogby/O'Leary report clocked in with 86% declaring the tax is unfair. A Portrait of America survey from last July even had 59% of Gore supporters wanting the tax killed. Given that the vast majority of Americans know that the death tax won't affect them personally, opposition to the tax is a pretty strong statement about ideas of fairness and morality.

Within the Bush Administration there are murmurs about giving up on abolishing the estate tax in the hopes of getting the President's other cuts through, and there have already been some defections in the GOP ranks. This would be a grave miscalculation. In his acceptance speech in Philadelphia in August, George W. Bush said that his own position was based on the ''principle'' that ''every family, every farmer and small businessperson should be free to pass on their life's work to those they love.'' In the next breath Mr. Bush stated that ''on principle'' he also couldn't see why anyone ''in America should have to pay more than a third of their income to the federal government.''

These are good, sturdy principles for President Bush to stand on. In the election one of the defining differences between George Bush and Al Gore was that the former understood you don't make poor people better off by making rich people poorer. You help poor people by giving them a stake in the system that makes rich people wealthy. In the past only the wealthiest Americans have really been in a position to give their children and grandchildren advantages by transferring wealth. But a booming stock market and the growth of 401k plans means that American families of even modest incomes might leave a legacy for their children. Billionaires might not understand this, but ordinary Americans clearly do.

Within this context the death tax should be seen for what it really is: the flag of convenience for the Beltway's class warfare brigade. They know all too well that if they can't sell envy on an inheritance tax, they can't sell it at all. The real danger for the President is a halfway measure that would deprive him of victory and foster a reputation as a tinkerer rather than a reformer. ''The only way to eliminate the unfairness of the death tax,'' says Rep. Jennifer Dunn, sponsor of last year's legislation, ''is to end it once and for all.''

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

Mr. NICKLES. Mr. President, let me make a couple comments before the Senator from New York leaves. We passed legislation recently to help the victims of terrorism, including New York City and Oklahoma City, and we reduced their estate tax. I think we exempted estates basically under $8 million and said if they have an estate over $8 million, it would be 18 to 20 percent which, in my opinion, is what the maximum death tax should be.

I heard my colleague say there is not a taxable event on death. I happen to disagree. If someone dies, it is a taxable event under current code. Some of us are trying to say a taxable event should not be when somebody dies, but when the assets are sold and sold voluntarily, that means the people initiated a transaction and know what the tax will be.

Current law is when someone dies, it is a taxable event. They tax the estate up to 50 percent. My colleagues want to exempt estates of $3 million or $4 million, maybe $7 million if it is a couple and they both die at the same time, but we want half of it after that. The Conrad amendment is not 50 percent, it is 55 percent, if you have a taxable estate between $10 million and $17 million.

Fifty-five percent is over half; 50 percent is half. That is a lot. Why should the Federal Government be entitled to take half of somebody's property if they happen to have an estate of $20 million?

How is it right to say to New York City and Oklahoma City—your tax rates should be 20 percent for victims, but everybody else has to pay 50 percent? If somebody has three or four restaurants or they have a very large ranch or a nice successful real estate business they are building and growing and their kids want to continue it and we fail to pass the Gramm amendment, we are basically saying that a tax $3 million is enough and maybe $7 million if combined. We are asking the Federal Government to come in and take half. This family exclusion proposal, which was not adopted earlier, would not work.

I am embarrassed for my colleagues to say they believe in free enterprise but free enterprise up to an estate of $3 million, and above that the Federal Government gets half; that the Federal Government should confiscate half the property because somebody passes away.

We are saying: No, let's not have a taxable event at death; rather, let's have a taxable event when the property is sold. And when the property is sold, you pay the 20 percent capital gains

tax. This eliminates lots of legal time and expenses trying to avoid this unnecessary tax.

Somebody said: What about the Rockefellers? They do not pay the taxes; they set up foundations. That is what Mr. Gates is doing. That is what the very wealthy people do. They do not pay this tax. The people who pay it are the people who have the farm, the ranch, the small business and somebody dies unexpectedly—I know because it happened to my dad—and Government comes in and says: We want half.

Unfortunately, if we adopt the Conrad amendment, the Government will continue taking half. I think it is unconscionable. We should reduce the rates, not just increase the exemption. This only applies to 1 or 2 percent. We should cut the rates to 20 percent, cut it to a voluntary transaction, cut it to a capital gain. Then we have solved the problem; we have eliminated the problem.

This is a terrible tax and it is unfair. We are making countless thousands of people not grow their business, not expand because they know they are going to be compiling problems for the future. Why build and expand if you are going to be giving half to the Government and maybe causing all kinds of litigation for your children? Why double, why build, why expand, why grow? I know many people who have worked hard to made enough to get along and live a comfortable life. This tax should not ruin these years of hard work.

We should change this tax, and do it by adopting the Gramm-Kyl-Nickles amendment. I encourage my colleagues to vote in favor of this amendment and oppose increasing the exemption and then sock it to them and have the Federal Government take half the estate if it happens to be over this deductible amount.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise today to support permanent repeal of the estate tax. Permanent repeal of the estate tax will help boost Montana's economy and will help boost America's economy, create jobs, and protect the heritage of our farmers and ranchers.

As chairman of the Senate Finance Committee, I was proud to help write last year's tax cut, which included a number of good changes to the estate tax, including increasing the unified tax credit and restructuring the rates.

Now it is time to go further. As the law currently stands, the estate tax will be fully repealed in 2010.

It will return to 2001 levels the next year, 2011. Let us use some common sense. Estate tax is a prime example of a tax that dampens efforts to create more jobs in Montana and across the country, and that is what this is all about, creating more jobs.

My State is a small business State, an agricultural State, a State of family-owned farms and ranches, a place where main street businesses are still family owned. It is important to Montanans to be able to pass on their businesses, their farms, their ranches, to their sons and to their daughters.

I support the Gramm-Kyl amendment to eliminate the sunset of the estate tax, to permanently repeal the estate tax, to free up money to help families, family-owned businesses, farms, and ranches. Permanent repeal of the estate tax will allow families to better plan particularly for the continuity of their estates.

Our family-owned businesses, farms, and ranches are the backbone of my State. I do not know another State that is a more small business State than mine. It is also the backbone of America, I might add—small business.

Family-owned businesses are our country's heritage, and it is up to us to protect that heritage. Full, permanent repeal is the right thing to do for our farmers, for our ranchers, for hard-working small business owners. It is the right thing to do for the Nation, and most certainly permanent repeal is the right thing to do for Montana.

I urge the Senate to support permanent repeal of the estate tax for this generation and generations to come.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, on the two previous amendments, we have afforded the authors of the amendments the ability to close the debate. We would like to preserve that right for ourselves in this debate on our amendment. So what I would like to do is to ask those on the other side who want to come and speak to do it, so we can take our remaining time to use at the end to close out the debate.

There is no rule that says it has to be done that way, but when we closed out the debate on the Dorgan amendment, he had the last 11 minutes. When we concluded the debate on the amendment of the senior Senator from North Dakota, he closed out that debate. So if we could do it that way, we would like to do it. It seems reasonable to us. If anybody objects, obviously we can talk about an alternative.

Mr. GRASSLEY. Mr. President, as you know, for as long as I have been in Congress, my belief is that no American family should be forced to pay over half of their savings, their business, or their family farm in taxes when they die. No taxpayer should be visited by the undertaker and the tax collector at the same time.

With the President's support we have helped those families we care about, this Senate voted by a wide majority to help those families who are being crushed under the expensive responsibilities of estate tax planning and estate taxes. I have heard the concerns of the people in Iowa and the American people, and this Congress voted to repeal the ''death tax.''

Now, the Democrat leadership wants to take that all away. Once again they want to take more then half of a family's assets because someone has died. The Democrat leaders just want to spend your money. Well, folks, that is not right. Death is not a taxable event.

We have the chance today to make death tax repeal permanent. We have heard from the brave men and women who fought World War II, they fought for democracy and then came home to help fuel the economy that created this wealth. They are dying by the thousands everyday, now they want the death tax to die forever. That means for the first time, American taxpayers, who are good Americans, who saved and invested in savings accounts and stocks and bonds will be treated equally with all other taxpayers. It means, that for the first time, American farm families and the owners of small businesses will not have to jump through hoops, hold their breath, and pray they did it right, subject to audit, in order to know they will not have to pay death tax.

Last year we repealed the death tax, effective for anyone dying after December 31, 2009. If not for budget constraints we would have repealed it sooner, but at least today we can vote to make the repeal permanent. We will be able to start a new decade with no death tax to burden the future generations. By repealing the death tax we will save thousands of family-owned businesses and in turn saving the jobs of hundreds of thousands of employees when family businesses are faced with death tax.

We have heard the American people, we have reformed and repealed the death tax. I urge all of my fellow Senators to repeal the sunset so death tax will be dead once and for all. Beware of all these Democratic amendments that try to once again make the law murky and complex. Keep it simple and fair—repeal the sunset. Make death tax repeal permanent.

Mr. SMITH of New Hampshire. Mr. President, the estate tax, better known as the ''death tax,'' is an onerous tax that should be eliminated. A recent poll revealed that 77 percent of the voters believe that the tax is unfair.

This tax is slowly destroying family businesses by slowing growth. And it is unfair that families who have worked their entire lives to build a successful family farm or business should be penalized.

Individuals who look forward to leaving something behind for their children should not be punished by confiscatory, anti-family taxes.

In fact, after years or even generations, children are often forced to sell the family farm or business just to pay the tax. This is both unfair and unconscionable.

However, not only is it the children who must suffer the loss of the family business, but the workers and their children who suffer when they lose their job because the business they've been working at is liquidated to pay the death tax.

But it doesn't stop there. The local community, particularly small towns, suffer as well because their customers can no longer afford to buy their products after having lost their job.

The estate tax is outdated, it raises little money, and it imposes a large cost on the economy.

In 1999 the estate tax generated about $24 billion. However, it is estimated that administrative costs to enforce the tax are over $36 billion.

A recent analysis by the Heritage Foundation found that the U.S. economy would average nearly $11 billion per year in additional output if this tax were abolished.

The National Association of Manufacturers states that 40 percent of it's members had spent more than $100,000 on attorney and consultant fees related to death tax planning. In addition 3 out of 5 members pay at least $25,000 a year to prepare for the death tax.

A 1998 study by the Joint Economic Committee found that if the death tax was repealed, as many as 240,000 jobs would be created and Americans would have an additional $24.4 billion in disposable personal income.

A February 2000 study by the National Association of Women Entrepreneurs found that the death tax has a negative impact on female entrepreneurs.

According to the study, business owners found that female entrepreneurs spent, on average, nearly $60,000 on death-tax planning.

So who pays the death tax?

We all do. We pay it through lower wages and fewer jobs. In high-unemployment regions or rural areas such as the North Country of New Hampshire and elsewhere, the death tax destroys badly needed jobs before they are created.

We pay it through the destruction of our communities. In hundreds of American towns, small family-owned businesses are struggling to survive against the competition provided by large corporate retailers.

Home Depot doesn't pay the death tax. The family-owned hardware store does. The death tax accelerates the transfer of wealth from the owners of small businesses to the owners of large, public corporations.

And we pay it through slower growth and less wealth. Study after study shows the death tax reduces savings, lowers investment, and restricts the capacity of the economy to grow. The death tax literally confiscates capital, the lifeblood of any economy. That means lower incomes and fewer opportunities for ourselves, as well as our children.

Death tax supporters argue we cannot afford to repeal this tax. All the evidence suggests just the opposite. We cannot afford to continue this destructive tax.

So who's left holding the bag, the middle-class.

This tax is unfair and it is anti-family. We must repeal this tax now. I strongly urge passage of this legislation.

The PRESIDING OFFICER. The Senator from North Dakota.

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

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

Mr. CONRAD. Mr. President, I yield 4 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first let me rise to disagree with my colleague, the chair of the Senate Finance Committee. In the State of Minnesota, in 1999, there were 636 families who paid the estate tax. If we pass the Conrad amendment, which says for a family we are targeting $7 million, we will have exactly 36 families left in our State who will be paying this tax.

We had the Dorgan amendment that said if someone is going to be a family farmer or have a small business, and they are going to pass it on, and one is going to take over the farm and the small business, they are exempt. That is what it is all about when it comes to fairness.

Instead, what we have is a proposal that I yesterday labeled win/win or lose/lose, dependent upon one's values and priorities. If one believes they should bleed the economy over the next 20 years to the tune of a trillion dollars, and all of those benefits will go to multimillionaires and billionaires, and at the same time have to raid the Social Security trust fund—we just raised the debt ceiling $450 billion, and some of my colleagues who voted against it are voting for eliminating this tax. So if they believe the benefits should go to the top of the top of the top, and in addition they want to bleed this economy to the tune of a trillion dollars over the next 20 years so we will not be able to live up to our Social Security obligations, we will take it out of the Social Security trust fund; we will not have the money for affordable prescription drug coverage; we will not make the investment in the health and skills and intellect and character of children; we will not invest in education; there will be nothing for affordable housing; we will not be able to do anything about deplorable conditions in nursing homes. If they believe this and believe there is nothing the Government can or should do, this is win/win.

I said it yesterday. This is lose/lose for the people of Minnesota. This is lose/lose for probably 99.99 percent of the population. This is lose/lose for people who believe we should have tax fairness, that we should target these breaks to small businesses and family farmers. This is lose/lose for people who believe there is a role Government can play when it comes to the improvement of people's lives and that we have an important challenge before us: Affordable prescription drugs, good education, investment in our schools, our children, making sure Social Security will be there for people. These are the priorities.

This proposal is very clear in what its ultimate goal is, which is above and beyond massive tax unfairness. It will so erode the revenue base and will prevent any initiative in these areas: Prescription drug coverage, education, health care coverage, affordable housing. By definition, it is fiscally irresponsible. So on both counts, it is a massive subsidy, an inverse relationship to need.

All together, 36 families in Minnesota will not be helped if we go forward with the Conrad proposal. If we had gone forward with the Dorgan proposal, every family in Minnesota but 36 families would be helped. This proposal is so skewed toward the top of the top of the top and at the same time undercuts our ability to make any of the investments we need to make to do better as a nation.

I hope my colleagues will vote against the Gramm proposal and will vote for the Conrad amendment.

I yield the floor.

Mrs. MURRAY. Mr. President, the estate tax is bad for businesses. It is bad for workers and new job creation. And it is bad for our communities who are watching their local, family-owned businesses get swallowed up by large corporations. Therefore, I wish I could have supported the estate tax repeal amendment debated today.

For the last 7 years, I have worked to address the problems with the estate tax. I introduced legislation in 1995 to reform the estate tax, and I voted for the 1997 tax bill that made it easier for family farms and small businesses to transfer their assets to the next generation. In 2000, I cosponsored legislation by Senator JON KYL and former Senator Bob Kerrey to repeal the estate tax. I voted for similar legislation later that year. I believe the Kyl-Kerrey bill made a critical contribution to the estate tax debate. It was a middle ground that essentially substituted an estate tax when an asset is transferred at death with a capital gains tax when an asset is sold. In my opinion, that is a fair approach.

For me, estate tax repeal is about protecting and creating jobs, strengthening locally owned businesses, and protecting the environment. When a business owner spends thousands of dollars each year on estate tax planning, that is less money the owner invests in employees and the business. When family businesses are sold, they are often purchased by large corporations, not by other locally owned businesses. When timber lots or farms are sold, there is a good chance that land will be eaten up by strip malls or other development, and not kept as open

space. For the reasons I just outlined, a vote for repeal would have been the easy road to travel today.

My constituents did not elect me to the Senate to take the easy road. They elected me to make tough decisions. As much as I believe the estate tax is a bad tax, I believe passionately that we have a responsibility to balance the government's books. Just as the estate tax hurts businesses and jobs, so does chronic deficit spending by the Federal Government.

During the last 2 days, some of my colleagues have argued for permanent estate tax repeal. Not one of them has told me how we will pay for it. Last year's tax cut blew open the budget while not making estate tax repeal a high priority. Our budget problems were made worse by the recession and September 11 terrorist attacks. Clearly, we are in a different place than we were 2 years ago.

The country deserves a debate on how we balance estate tax repeal—or other aspects of last year's tax law—with our other obligations. We must address our homeland security needs, whether it is strengthening airline and port security, improving operations at our borders, or making sure our troops in the field have the training and resources they need. Our constituents are also demanding action on issues that were important prior to September 11. Health care is a crucial issue for individuals and families, and to the businesses who support estate tax repeal. In addition, we cannot lose sight of long-term investments in education, job training and infrastructure. Given what is at stake, we do a disservice to the American people if we simply tell them they can have it all. We have to make choices, and last year the administration and Congress chose not to make estate tax repeal a priority.

While I could not support the estate tax repeal amendment offered by Senators GRAMM and KYL, neither could I support the amendments by my Democratic colleagues. While well intentioned, I believe the nation has moved beyond whether we should repeal the tax. To me, it is not a question of if, but when we repeal the tax and how we pay for it. The alternative amendments offered today would have taken us backwards.

Today is not the last time we will debate estate tax repeal. Between now and the next estate tax vote, I believe Congress and the administration need to reach agreement on a basic budget framework that makes room for estate tax repeal. Unless we repeal the estate tax in the context of a budget agreement, we will just be playing politics instead of making real progress

Mr. FEINGOLD. Mr. President, I strongly support permanent estate tax reform. Though I do not support completely repealing the estate tax for all estates, I do believe that we should significantly expand the unified credit to exempt the great majority of estates from taxation, and we should do so on a permanent basis. We should also include an indexing provision to ensure that the unified credit does not become obsolete and burdensome again, as happened over the past several decades.

But we should make these changes in a fiscally responsible manner. We should do so without adding to the already enormous budget deficits that were largely the result of the tax bill that was enacted last year.

Our budget position is poor, and it is getting worse. Last year, Congress passed a fiscally irresponsible tax cut that has shoved us back into the deficit ditch. Congress then added to our woes by passing an unfunded stimulus package filled with special interest tax breaks, a farm bill that unnecessarily benefits the largest and wealthiest producers, and just last week, following the action of the House of Representatives, the Senate passed a supplemental spending bill, also unfunded, and also apparently filled with special interest provisions of questionable value. Each of these actions will only further aggravate our budget problems.

Now, proponents of estate tax repeal are asking us to enact legislation that will add even more fuel to the deficit fires. Rather than offering a fiscally responsible measure, with provisions that offset the cost of repeal, the proponents are content to add to our budget deficits, and our already massive federal debt.

In effect, the proponents suggest that we should repeal the tax on the wealthiest estates, and let the Social Security trust funds pick up the tab.

I regret that this is also the case with some of the alternative proposals as well—proposals much closer to the kind of estate tax reform I support. The choices being presented to the Senate are not acceptable. As much as I would like to see a permanent solution to this question, I do not support raiding Social Security to achieve it.

When I was first elected in 1992, we faced an annual budget deficit of $340 billion, and projected deficits of roughly the same size for many years to come. Thanks to the fiscal restraint we demonstrated in the 1990s, and especially to the deficit reduction package we enacted in 1993, we saw a virtuous cycle of lower budget deficits and increased economic growth. The result was that we eliminated the budget deficits and actually began paying down some of the federal debt that was racked up during the 1980s.

We need to return to the fiscal restraint that worked so well during the 1990s. And first and foremost, that means paying our bills. The estate tax repeal is not funded. It digs our deep budget hole even deeper, and we should reject it.

Mrs. BOXER. Mr. President, the estate tax needs to be reformed, but it should not be repealed. Repealing the estate tax would benefit only the extremely wealthy at an exorbitant cost to the American people. We can help small businesses and family farmers by reforming the estate tax. That is the choice before us.

Let's start with a few facts. Ninety-eight of every 100 people who die face no estate tax whatsoever. Only the richest 2 percent of Americans do. Estates worth in excess of $5 million paid about 51 percent of the estate tax in 1998. This tax does not oppress the children of multi-millionaires, they still inherit millions. But it does provide us with funds for investment in the public good. It is completely appropriate that the wealthiest estates contribute some portion in taxes to help create opportunities for others to reach their full potential.

Repealing the estate tax would make the rich richer at a heavy cost to the rest of us. Between 2013 through 2022, permanent repeal of the estate tax would cost us $740 billion. That is $740 billion we could use for homeland defense, investments in education and infrastructure, and to provide the funds to save Social Security and Medicare.

It is true that a few small businesses and family farms are subject to the estate tax. But of the 2.3 million people who died in 1998, just 1,418 of those had more than half of their estates in a family-owned business or farm. We can and should exempt many of these families from the estate tax through responsible reform.

Furthermore, while the estate tax affects a relatively small number of wealthy Americans, it can have a detrimental effect on small businesses and families who live in areas that have high property values, such as Silicon Valley. Under current law, the first $675,000 of one's estate is exempted from Federal tax. In some parts of California, however, where median home prices exceed $500,000, moderate-income individuals must content with taxes paid only by the wealthiest residents in other regions.

I strongly support helping these families by reforming instead of repealing the estate tax. The reform I supported and that Senator DORGAN introduced would make estates of up of $4 million—and $8 million for couples—exempt from the estate tax. And it would permanently repeal the estate tax for family-owned farms and businesses. That is real reform that benefits those who need the help, not another giveaway to the richest among us.

Instead of focusing our efforts on making the very wealthy wealthier, we should be working on helping hard-working Americans and investing in meeting their needs.

Mr. KENNEDY. Mr. President, in January 2001, the Congressional Budget Office projected an on-budget surplus of $3 trillion over the decade. One year later, the projection is for a $242 billion on-budget deficit. The largest single reason for that stunning change is not the cost of the war on terrorism nor the recession, it is the $1.7 trillion cost of the President's tax cut. The administration's proposed budget this year would make the existing crisis far

worse, dramatically expanding the deficit to nearly $1.5 trillion. The Social Security trust fund would be used to cover an on-budget shortfall every year through fiscal year 2012.

Just yesterday, at the urging of the administration, we voted to raise the debt limit by $450 billion. That increase will only carry us until next spring. The Treasury Department has already said that we will have to raise the ceiling on government borrowing again early next year. Despite the overwhelming evidence, it seems that some of our colleagues across the aisle remain oblivious to the connection between the larger and larger tax cuts they espouse and the growing deficits that inevitably result.

Why, in this time of budgetary crisis—when the war on terrorism is making making new demands on our resources, and when the enormous cost of the retirement of the baby boom generation is looming just over the horizon—should we be considering another large tax cut for the wealthiest taxpayers? There is no good answer.

Permanent repeal of the estate tax is unaffordable. In the first year, full repeal will cost $56 billion. Over the decade beginning in 2012, the estimated revenue loss to the Treasury is $740 billion.

Permanent repeal of the estate tax is unfair. While it benefits only the wealthiest 2 percent of taxpayers, each year it will consume billions of dollars which are needed to finance Social Security and Medicare benefits for millions of retirees.

Permanent repeal of the estate tax is unnecessary. Currently, all estates under $1 million are exempt from the estate tax. That exemption will rise to $3.5 million under existing law. At that point, only the largest one-half of 1 percent of estates will be subject to the tax. Making that higher exemption level permanent will protect the vast majority of the family farms and family owned small businesses. Their estate tax will be zero.

Permanently repealing the estate tax, as our Republican colleagues proposed, would be the triumph of reckless ideology over fiscal prudence. It would jeopardize our ability to meet the Nation's most fundamental responsibilities in future years.

In the Bush administration's budget, in a section titled ''The Threat to the Budget from the Impending Demographic Transition,'' it states: ''In the years that follow [2008], the population over the age 62 will skyrocket, putting serious strains on the budget because of increased expenditures for Social Security and for the Government's health programs which serve the elderly—Medicare and increasingly Medicaid.''

The resources which will be lost to the Treasury by repeal of the estate tax are essential to financially strengthening Social Security and Medicare. Dedicating the revenue from the estate tax to the Social Security and Medicare trust funds would go a long way to securing those programs fro future generations of senior citizens. Over the next 75 years, revenue generated by the current estate tax would be equivalent to nearly 40 percent of the shortfall in the Social Security Trust Fund. Those dollars should go where they are needed most—to preserve the promise of Social Security for future generations of retirees.

While the advocates of permanent estate tax repeal are reluctant to admit it, this vote is really about the financial future of Social Security and Medicare. Repeal would be a windfall for the wealthiest few at the expense of our ability to keep Social Security and Medicare strong for all seniors. Do we choose to commit hundreds of billions of dollars to cover the cost of estate tax repeal or to maintain Social Security and Medicare for future retirees?

In the year 2000, nearly 40 million Americans received Social Security retirement benefits. With the retirement of the baby boomers, that number will steadily grow. By 2010, it will exceed 50 million. In comparison, fewer than fifty thousand of the largest estates paid any estate tax in 2000. That was just 2 percent of decedents. With the increase of the estate tax exemption to $3.5 million by 2009, the number of estates paying tax will be further reduced to about 10,000 a year. Just one-half of 1 percent of estates will be subject to the estate tax.

Which group needs our help more—the 50 million men and women counting on Social Security or the heirs of the 10,000 wealthy decedents with multi-million dollar estates? I believe the answer to that question should be clear to all.

Those who most passionately decry the ''unfairness'' of taxing multi-million dollar estates are strangely silent about the unfairness of jeopardizing the retirement benefits of low-wage workers or the unfairness of forcing elderly widows to choose between food and medicine. Which of these injustices should move the Senate to action?

Many bogus claims have been made to distract attention from the real fairness issue. Those advocating permanent repeal claim it is ''double taxation.'' In fact, a major portion of the assets in these multi-million dollar estates are unrealized capital gains which are never taxed. Those favoring repeal assert the Federal Government takes more than half of all the assets in these estates. This too is incorrect. The Congressional Research Service analyzed the Federal estate tax burden on estates that were subject to taxation in 1999 and determined that the effective rate was just 12.4 percent. On the largest estates, those over $20 million, the effective rate was 17.6 percent. These are certainly not unreasonable rates to ask the richest men and women in the Nation to pay.

There appears to be a consensus in the Chamber to permanently exempt estates up to $3.5 million from taxation. That feature is common to all the proposals. I support it. So, in essence the debate is whether the Federal Government should tax estates larger than $3.5 million. Do those who have been given the most—the heirs to these fortunes—have a special obligation to help the less fortunate members of the American community? That is the real fairness question before the Senate today.

Mr. MCCAIN. Mr. President, I rise today to speak on H.R. 8, the Death Tax Elimination Act. I want to take this opportunity to explain my opposition to making permanent the repeal of the Federal estate tax.

Last year, the Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107–16) repealed the Federal estate tax by 2010. It accomplished this by gradually raising the ''unified credit'' which is the amount of the estate exempt from taxation, from $675,000 in 2001, to $1 million in 2002; $1.5 million in 2004; $2 million in 2006; and $3.5 million in 2009 and finally repealed the estate tax by 2010. However, the estate tax will be reinstated in 2011 as it exists under current law. The Death Tax Elimination Act removes the sunset on repeal and makes the repeal of the estate tax permanent from 2010 onwards with no cap whatsoever.

I am concerned that repeal of the estate tax would provide massive benefits solely to the wealthiest and highest income taxpayers in the country. A Treasury Department study found that almost no estate tax has been paid by lower and middle-income taxpayers. But taxes have been paid on the estates of people who were in the highest 20 percent of the income distribution at the time of their death. It found that 91 percent of all estate taxes are paid by the estates of people whose annual income exceeded $190,000 around the time of their death.

During this time of increasing deficits, we should also be mindful of the very high cost of providing those benefits and our ability to pay for them. The Joint Committee on Taxation estimates that removing the 2010 sunset and making permanent the repeal of the estate tax would cost $99 billion between 2003 and 2012. But more than half of this cost or $56 billion would occur just in 2012. The long-term costs of permanent repeal are much larger. In the decade after 2012, permanent repeal would result in a revenue loss of $740 billion assuming that the cost which the Joint Tax Committee estimates for 2012 will remain the same after 2012, when measured as a share of the economy.

Another concern I have is that repeal of the estate tax will cause a significant decline in charitable giving. I fear that eliminating the estate and gift tax would remove an enormous tax incentive for the wealthy to make charitable gifts. The research on the effect of the estate tax on charitable giving has consistently shown that levying estate taxes increases the amount of charitable bequests. A recent study found

that eliminating the estate tax would reduce charitable bequests by about 12 percent overall.

Taking these issues into account, instead of repeal of the estate tax, I support increasing the ''unified credit'' to allow up to $5 million worth of assets to be exempt from taxation. I believe this cap is a reasonable amount. For example, according to data from the IRS, more than 93 percent of taxable estates in 1999 were valued at less than $5 million. Farm and family-owned business assets accounted for less than three percent of the total value of these estates in 1999. In most estates that are taxable and include a business or farm, the business or farm does not even constitute the majority of the estate. In fact, the American Farm Bureau Federation has acknowledged that it could not cite a single example of a farm having to be sold to pay estate taxes. These facts belie the argument that we must repeal the estate tax to save family businesses and farms to assure that they do not have to be liquidated to pay estate taxes.

Responsible estate tax reform, instead of outright repeal, would ensure that small and family-owned businesses and family farms will not be taxed out of business in the event of the death of an owner or when passed along to the owner's children. Responsible reform would alleviate individuals and businesses from being forced to spend time and money on estate planning.

Even some of the Nation's wealthiest taxpayers such as Warren Buffet, Chairman of Berkshire Hathaway, and Bill Gates, Sr., father of the billionaire Microsoft founder, have gone on record as opposing the effort to repeal the estate tax. And in calling for the inheritance tax in his 1906 State of the Union Address, President Theodore Roosevelt said, ''The man of great wealth owes a peculiar obligation to the State, because he derives special advantages from the mere existence of government.''

We have no idea what our financial or economic situation will be ten years from now. We may be at war. We may be in the process of putting Social Security on a sound financial footing. We may want to have the flexibility to provide significant tax relief for lower and middle-income taxpayers. Other unforeseen issues may arise. The point is that we must think beyond the horizon. Making the repeal of the estate tax permanent fails to take these new circumstances into account.

We will need resources to deal with national security, general government funding, the coming baby boom retirement and the rising costs of Social Security and Medicare, and responsible tax reform that benefit lower- and middle-income taxpayers. But we must fund these priorities within our constrained budget situation. Reforming the estate tax rather than committing ourselves to full repeal is the more sustainable and responsible approach.

Mrs. FEINSTEIN. Mr. President, I rise to address the Gramm/Kyl amendment to H.R. 8, the estate tax repeal bill.

I want to first say that I am philosophically opposed to the estate tax, and have long expressed my belief that it is an unfair tax that we should ultimately do away with.

In addition to threatening owners of small businesses and family farms, the estate tax acts to stifle investment in businesses, and is a disincentive for those who want to save so that they can pass assets on to their children and grandchildren. However, to vote in favor of repeal today, under our current circumstances, runs counter to another of my deep philosophical beliefs: fiscal responsibility.

Last year I voted to support the President's tax cut package, which provides $1.3 trillion in tax cuts over the next decade. My support for that bill was partially determined by the estate tax relief provisions included within it. When I voted in favor of that bill, we were projected to benefit from some $5.6 trillion in budget surpluses over the coming decade, enabling us to provide significant relief to American taxpayers while also protecting the Social Security trust fund and programs in health, education, and numerous other areas.

Needless to say, that outlook has changed dramatically in the past twelve months. The economic slowdown, combined with major new expenses associated with providing for homeland security and fighting the war on terror, have put a major strain on the federal budget, requiring Congress to exercise a degree of fiscal responsibility not seen during the late 1990's.

Despite the threat of a budget deficit of over $125 billion this year, and projected deficits stretching through the end of the decade, House Republicans have made clear their intent to push through a permanent extension of all of the tax cuts included in the President's bill last year. The first of those extensions, and the one that we are considering today, is a permanent repeal of the estate tax.

Yet there could not be a worse time to consider full repeal of the estate tax than right now. The latest estimates project full repeal of the estate tax will cost the federal government over $740 billion between 2011 and 2020. Although it is my hope that we will be able to permanently extend the repeal at an appropriate time before it is set to expire in 2010, we are in no position today to do that and cope with major outlays for defense and homeland security, as well as threats to funding for Social Security and Medicare.

Earlier today, I voted in support of Senator DORGAN's amendment as a good compromise on this issue, and because it goes a long way toward addressing one of my major concern with estate tax: that it puts family-owned businesses and farms at risk of sale or closure simply because heirs are forced to sell in order to pay the estate tax bill.

In addition to permanently extending an increased unified credit of $4 million per individual and $8 million per couple, Senator DORGAN's amendment provides relief to small business and family farm owners who suffer the most under current law by providing an unlimited exemption from the federal estate tax to small business owners and farmers. This would ensure that this tax no longer threatens anyone wishing to pass on a family-owned business to his or her heirs.

Under current law, the unified credit is set to increase to $3.5 million by 2009, but the Qualified Family Owned Business Interest exemption will expire in 2004, removing what few safeguards are in place to protect those whose assets are tied up in family-owned farms or businesses.

I am particularly concerned about protecting these businesses because of the relatively high value of California farm land. The value of an orange grove in Ventura, CA may be as high as $15,000 per acre due to local development pressures, compared with a price of $1,500–2,000 per acre for corn-growing land in a mid-western state.

As a result, even a medium-sized California farm of 400 to 500 acres may be liable for a hefty estate tax bill, especially when the value of farm buildings and other capital investments are factored in.

The estate tax may make it impossible for a family farm to be passed down from generation to generation. No one should be forced to sell the family farm just to pay the estate tax.

Small business owners are equally at risk, and those who own and operate capital-intensive businesses must bear an exceptional burden. While the issue of small business liability under the estate tax has often been represented as affecting a tiny minority of Americans, in fact there may be many small business owners who sell or transfer their businesses in expectation of their heirs having to pay the tax.

Additionally, the sale of family-owned businesses, particularly to larger conglomerates, threatens the jobs of thousands of Americans who are employed by those businesses. Even those businesses that can cover their tax liability may have to take on a large debt burden that threatens their competitiveness and delays efforts to expand or grow the business.

The Dorgan amendment would have resolved this problem by uncapping the Qualified Family Owned Business Interest exemption entirely, but it also would have raised the individual exemption to $4 million in 2010. By providing this much-needed relief, the amendment would have limited estate tax liability to a tiny fraction of wealthy Americans who have large holdings of marketable assets.

Regrettably, the Dorgan amendment did not pass, and we are faced with an unfortunate choice between full repeal

and the limited relief passed as a part of the President tax package last year.

I very much look forward to a time when the Senate can vote for full repeal of the estate tax with a clear conscience, knowing that a vote to repeal the estate tax is not a vote against fiscal responsibility. To vote for full repeal today would be to turn a blind eye to such responsibility, and to move forward guided only by the kind of irrational optimism that was so readily propounded only a year or two ago.

Mr. DASCHLE. One year ago, America had a projected budget surplus of 2.7 trillion dollars over the next 10 years.

The stock market was soaring.

The question before us was one that most leaders could only dream of: ''What should we do with our prosperity?''

At that time, the debate was focused on tax cuts, how much, for whom, and could we also provide for America's unmet needs?

Nine months ago yesterday, more than 3,000 innocent men and women lost their lives to terrorism.

In the months since, an anthrax attack and recent disclosures have revealed holes in our homeland security. The collapse of Enron has raised questions about our system of corporate governance and we are soon to begin perhaps the most dramatic restructuring of government in half a century.

All of this has occurred against the backdrop of massive demographic changes that will transform the face of our nation for decades to come.

In 2008, the first of the Baby Boomers will begin retiring. By 2015, 50 million seniors will be drawing benefits from Social Security. Prescription drugs are becoming a more and more vital part of American health care, and we need to find a way for Medicare to help pay for them.

At the same time we're facing a senior boom, we're also facing a youth boom. School enrollments are already at record levels, and will continue to rise every year for the next 8 years.

So here is where we are: The surplus is gone.

The Treasury is borrowing money and spending Social Security funds to pay for the daily functions of government.

We have just passed a bill to allow America to take on even greater debt. The baby boomers are preparing to retire.

More children than ever are moving through our schools.

Investors have had their confidence in American business shaken.

We are in the midst of confronting new—and previously unimaginable threats to our nation.

We are at war.

The question facing America is no longer, ''What should we do with our prosperity?'' The question now is: ''How do we protect our citizens, strengthen an ailing economy, prepare for the future, and win this war against terrorism?''

I believe history will judge this Congress by how well we answer that question.

And I believe every action we take should keep those four key goals in mind.

Today, we are debating, once again, what seems to be the Republican Party's only solution to all of these problems—more tax cuts.

Specifically, we are debating a permanent repeal of the estate tax, an idea that could not be more at odds with the priorities of the nation at this critical time.

It is bad public policy. It is unfair. It will undermine Social Security, depress American philanthropy, hurt state budgets, and make it more difficult to meet every other challenge we face.

And I want to be especially clear that there is a vast difference between fairly protecting family farms and small businesses on one hand, and blindly destroying our fiscal balance on the other.

Repealing the estate tax will cost $99 billion over the next decade, and $740 billion in the decade after that.

Most of that will come from the Social Security trust fund. If you look out over the next 75 years, the cost of repealing the estate tax will account for nearly 40 percent of the entire shortfall in the Social Security Trust Fund.

And who benefits? The wealthiest two percent of American estates. By 2009, it will be the wealthiest one half of one percent of all estates.

What we're talking about is diverting the Social Security contributions of millions of American workers to fund a massive tax cut for the most fortunate of the fortunate few.

And sometimes it's the fraudulent few.

Yesterday, Senator CONRAD had a chart here on the floor showing Jeffrey Skilling, a former CEO of Enron, stands to gain $55 million from the repeal of the estate tax. That $55 million will be composed of the Social Security contributions of 30,000 working Americans earning $30,000 a year.

We've been hearing a number of arguments in favor of estate tax repeal from our Republican colleagues, so let me just take a minute and address a couple of the issues they raise.

They argue that the estate tax forces the sale of family farms and businesses. Some agriculture organizations have said that it is important to repeal the estate tax, but when asked if they could cite when asked if they could cite a single example of a farm lost because of estate taxes, they couldn't name one, not one.

As Neil Harl, an Iowa State University economist who has studied the issue extensively, said simply, ''It's a myth.''

And here's why: in Iowa, the average farm is worth $1.2 million. In South Dakota it's just over $500,000. Family farms simply do not fall victim to the estate tax.

The same goes for family businesses. In the few cases where family businesses are subject to the estate tax, it is usually because that business is just one part of a larger estate.

But just to make sure that family farms and small businesses aren't hurt, we're proposing an alternative that will exempt virtually every family farm and small business from the estate tax.

Family farms and small businesses define us as a nation. We've never seen it demonstrated that they are being broken up by the estate tax, but, just in case, we're going to see to it that they never will be.

Others have argued that the estate tax is un-American, that it is a penalty for success. The history of the estate tax shows the exact opposite is true.

Not only does the estate tax encourage economic success based on merit rather than birthright—it is a demonstration that those who have done well by this nation have a special obligation to contribute to its continued success—and its defense.

In his 1906 State of the Union, President Theodore Roosevelt, a Republican, proposed the estate tax to help finance the war debts of the 19th century, saying, ''The man of great wealth owes a peculiar obligation to the State, because he derives special advantages from the mere existence of government.''

To single out the estate tax for elimination in the midst of this current war goes against the intent, and the history, of this policy.

Those arguments may be false. But there are some powerful and disturbing truths about making the estate tax repeal permanent.

In the short term, it costs $99 billion.

Just yesterday, we passed an increase in the debt limit in part so we could meet the new security demands we're facing in an increasingly uncertain and threatening world.

If giving a handful of multi-millionaires and billionaires another tax break requires a choice between more debt and less security—that should be a clear signal that the price is simply too high.

In the longer term, we will feel the full brunt of this repeal at exactly the time the baby boomers begin to retire. We know that, 10 years from now, we are going to need some fiscal flexibility to start paying the retirement benefits to the biggest retirement population that's ever passed through the system, and yet some want to succumb to fiscal irresponsibility at precisely the time we can least afford it.

We have all heard the old saying, ''When you find yourself in a hole, stop digging.''

Well, it is time for us to stop digging a deeper hole, and start getting serious about the problems we face.

Last March, a farmer named John Sumpton, from Frederick, SD, came to testify before the Senate Finance Committee.

''Mr Chairman,'' he said, ''I am not an expert on tax law, but I know about family farmers. They are my friends and neighbors. They are not worried about estate taxes, because, for the most part, they don't have to pay them. They are worried, however, about the prices they receive for their crops and livestock, about good public schools for their kids, about local community services, paying for prescription drugs, and being able to pay their bills in retirement. And, of course, they are always worried about the weather.''

He continued: ''I fear we may not be able to do the things we want and need for our communities if we repeal the federal estate tax. To me, it doesn't seem responsible to eliminate the estate tax for everyone, including billionaires, when they don't need the help. A more targeted approach that helps families better address this issue now, while retaining more resources for other needed public investments to improve our future, seems a more practical and appropriate course of action.''

John Sumpton is right.

And I hope the Senate will heed his sensible advice.

Mr. CONRAD. Mr. President, I yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I thank my colleague for yielding me this time.

As did a number of my colleagues in the Senate, I served as the Governor of my State before I was privileged to come to the Senate. As a Governor of my State, I was a supporter of tax cuts. We cut taxes for 7 years in a row. In fact, we eliminated the gift and inheritance tax altogether. While we cut taxes 7 years in a row, we also balanced the budget 8 years in a row. We also were able to slow the growth of debt in our State. We earned ourselves a AAA credit rating for the first time in Delaware history.

Others have spoken to the equity and the fairness of eliminating altogether the estate tax. I will leave those arguments to those who have already spoken. I simply want us to keep this in mind. There is an old theory called a theory of holes. It goes something like this: When you find yourself in a hole, stop digging.

To have voted yesterday to raise the debt ceiling by another $450 billion and then to turn around and cut taxes in a way that will only increase our indebtedness is a matter of concern to me and ought to be to all. Our Republican friends are right: We cannot simply be opposed to cutting taxes in ways that perhaps are unfair in this case and turn around and simply vote to increase spending.

I had a good long conversation with one of our Republican colleagues on the phone last night about this body and about our propensity to spend ever more money for defense, for homeland defense, more money for social programs, good social programs, and at the same time, voting to cut taxes. It does not add up. I do not know how to stop it.

I want to put down a marker today and say it is something that is not a sustainable policy, and one I hope we will not continue.

Mr. CONRAD. I yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from New Jersey.

Mr. CORZINE. Mr. President, I rise to speak strongly in opposition to the Gramm amendment. I am in the group of folks who believe we need reform, not repeal. There are some positive things we should do with respect to the estate tax. However, I find it terribly difficult knowing the meritocracy of America that I think provides opportunity to all, that we are voting to create something that is against the principles and buildup of aristocracy, contrary to at least the America I understand.

I believe that is why we have seen many people who have benefited so much from our society because they have been able to live in a free America where they had access and equal opportunity and a public educational system, infrastructure that worked positively for folks, that they feel very strongly there is a responsibility to give back by those who have been blessed with their lives.

Quite frankly, it is one of the things that helped in my own life. I think about the schoolteachers in the rural community in which I grew up who gave me the access to the American promise. I believe America is about meritocracy, not aristocracy. It is about community, and community-wide interests—not just the interest of the few.

We have heard the statistics about how narrow a slice of America benefits from this action. This is a period of sacrifice in America, when we are asking men and women to go overseas to protect us. We are asking others to sacrifice on our investments in education and our protections in the environment and all kinds of things that make sense in a choice situation, to go in a direction where the few are benefited to the exclusion of the many. This is very difficult.

I would be remiss if I did not bring it up in the context of something about which I deeply care; that is, protecting the integrity of our Social Security and Medicare systems. People will say there are other choices on spending. But we have a very clear choice where we provide for those who benefited the most from the American system to be able to use our Social Security funds and Medicare funds that we raise and directly expend it on something that, in a period of sacrifice, is hard to understand—why our priorities and why our choices are here.

This is a moral issue about priorities in this Nation, making sure we are funding special education.

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

Mr. REID. Mr. President, I ask unanimous consent the time for debate on this matter be extended 10 minutes equally divided.

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

Mr. CONRAD. Mr. President, I close debate on our side by pointing out that we are not making these decisions in a vacuum. We have to consider the fiscal condition of the country when we make any spending decision or any additional tax cuts.

The fact is, last year we were told we had trillions of dollars of surplus over the next 10 years. Now we see those surpluses are gone. They have evaporated. Instead, we are going to be running massive deficits—this year, a $320 billion deficit.

The Senator from Oklahoma said it would be unconscionable to keep this tax. I think it would be unconscionable to drive this country into deeper deficit and deeper debt. That is precisely what the amendment of our colleagues on the other side does. It is very clear the cost of estate tax repeal explodes in the second decade. Not only does it cost $100 billion in this decade, every penny of which is coming out of the Social Security trust fund, but in the second 10 years, it costs $740 billion right at the time the baby boomers start to retire, right at the time there will be unprecedented demands on Social Security and Medicare and, God forbid, on the needs of the defense of this Nation.

This is the most irresponsible amendment offered on the floor of the Senate this year. It would gut the fiscal condition of this country when we know it is already teetering.

Instead of repeal, we ought to reform this tax. Yes, the estate tax bites at too low a level. So I recommend in my amendment we give an exemption of $3 million for an individual, $6 million for a couple, beginning next year. For 2009 and thereafter, the exemption increases to $3.5 million for an individual, $7 million for a couple. This saves hundreds of billions in the second decade and saves huge amounts of money in this decade, as well. By 2009, only .3 of 1 percent of estates face any estate tax liability under my amendment.

In this decade, there is a big difference between these two approaches, the cost of the Republican proposal is $99.4 billion; the cost of my proposal is $12.6 billion.

Under my proposal only .3 percent of estates in this country are subject to tax. Not only is it a question of affordability, it is also a question of fairness. Again, my colleague from Oklahoma says it is unconscionable to ask the wealthiest among us to contribute to the fiscal health of the Nation. I don't think it is unreasonable.

President Theodore Roosevelt, one of the greatest Republican Presidents, did

not think it was unreasonable. President Abraham Lincoln, one of the greatest Republican Presidents did not think it was unreasonable. I think it is unreasonable to say to the American people that we ought to give Mr. Skilling, who ran Enron, a $55 million tax cut and finance it by asking 33,000 Americans, earning $30,000 a year, to put all of their Social Security taxes into the pot so we can give Mr. Skilling a $55 million tax cut.

I do not think that is fair. Not only do I not think it is fair, the American people do not think it is fair. In a poll released today by the Fair Estate Tax Coalition, they showed that 58 percent of the American people favor reform over repeal. Mr. President, 37 percent favor repeal, 58 percent favor reform.

It is very interesting; in this poll what they found, under Federal budget priorities, is the people of this country overwhelmingly say strengthening Medicare and Social Security is No. 1, 38 percent; increasing spending for education, 33 percent; giving seniors a prescription drug benefit, 29 percent; increasing funding for children's health, 18 percent; retiring the national debt, 16 percent; cutting taxes, 16 percent.

What tax cuts do they favor? And that is only 16 percent of the American people who say that is their priority; eliminating the estate tax is the bottom of the barrel. They prefer cutting taxes for moderate- to low-income Americans, eliminating the marriage penalty, a capital gains tax cut; dead last is eliminating the estate tax.

This is a fundamental question. Presidents Abraham Lincoln, Theodore Roosevelt, Woodrow Wilson, and Franklin Roosevelt supported inheritance taxes because without them this country would move further from democracy and closer to aristocracy.

This is a fundamental misunderstanding of the heritage of America. Meritocracy, not aristocracy; reform yes, repeal no.

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

The Senator from Texas.

Mr. GRAMM. How much time do we have, Mr. President?

The PRESIDING OFFICER. Twenty minutes, twenty-five seconds.

Mr. GRAMM. Why don't I take 10 minutes, and I will give my colleagues 10 minutes.

Let me just begin by sort of straightening a little history out. The death tax started in America through a Stamp Act on wills when we had an undeclared war with France. It was repealed right after the tensions with France ended but was reimposed during the Civil War. Abraham Lincoln did not impose a death tax because he wanted to take away people's inheritance in America. He imposed it, along with a lot of other taxes before we had an income tax, to try to save the Union. It too was repealed when the war was over.

We reimposed the death tax during the Spanish-American War, and repealed it when the war was over. Finally, it was imposed during World War I. We had a battle between the President and the Congress over the League Of Nations. It ended up not being repealed, and it still plagues us today. That is the history of the death tax.

Let me also say to my colleagues that this is an old issue and it is an old issue between the two great political parties. In 1981, when Ronald Reagan came to Washington, part of his tax cut was to raise the exemption—the amount of wealth in your business or your farm or your estate you could protect from taxes—from $175,000 to $600,000. The same arguments made by the same Democrats were made at that time. They said it was wrong to raise the exemption to $600,000. Had they prevailed 20 years ago, the exemption would be $175,000 today.

Ten years ago, Congressman GEPHARDT and Congressman WAXMAN proposed lowering the exemption—that is, the amount of your farm or your business or your estate that you could pass to your children without it being taxed—from $600,000 to $200,000.

Our colleagues basically admit this is a cancer on the economy—but they only want to take part of it out, not all of it out. The problem is, 10 years ago members of their party were trying to lower the deductible and raise the tax. We want to take the whole cancer out because we believe it will come back if we do not.

Finally, in 1997—which is not that long ago—32 Democrat Members of the Senate voted against raising the exemption to $1 million.

We have had a lot of talk today about rich folks and who is rich and who is not rich. Sometimes it is awfully hard to tell. But I do want to use this figure. Iowa is a farm State. They have 80,000 farms. It is estimated that 30,000 of those farms today are valuable enough that if the owner of the farm died, their children would have to pay a death tax. That is almost 40 percent of the farms in Iowa.

Look, there are some people who are bothered by the fact that some people become successful in America and make money. I am not one of them. If someone became very rich, started a business in College Station, had 200 employees, had $10 million worth of machines and plant and equipment and trucks, and they died—our Democrat colleagues say they are rich. But is America richer if we take $5.5 million from them, make them sell the business, sell the trucks, sell the equipment, make their children do all that to give the Government $5.5 million in taxes? Are we not better off leaving that $5.5 million at work in College Station than we are destroying that business and bringing it to Washington?

Sure, the family is rich. But is America richer or poorer by destroying it? Can we build up one family by tearing down another? I do not think so.

I mentioned earlier in the debate—I want to mention it again—I have been bequeathed only one thing in my life. My Great Uncle Bill, my grandmother's brother, died and left me in his will a cardboard suitcase. I am proud to say I still have it today. It had yellow sports clippings from the 1950s in it. If they had been baseball cards, I would be a rich man today.

If all my relatives I know of left me everything they own, I do not believe I would qualify to pay the estate tax.

So why do I feel so strongly about repealing the death tax? For the simplest of all reasons—it is wrong. It is wrong. It is not right, no matter whether somebody is Bill Gates or Dicky Flatt, who owns a print shop in Mexia, TX, and who never gets that blue ink off the end of his fingers. It is wrong, when they die, to make their children sell off their life's work to give Government 55 cents out of every dollar they have accumulated in their lives. They work, they save, they scrimp—Dicky Flatt gets up early in the morning, he works on Saturday. Everything he owns he plows back into that business. He sent his children to Texas A&M. They have come back into the business.

Dicky's daddy worked there, his momma worked there, he works there, his wife works there, his son works there, his son's daughter worked there, and they plow everything they can back into their business. I do not know what it is worth. But I know whom it belongs to. I know who built it.

How is it right, after they have done all that work, made all those sacrifices, scrimped and saved, lived far below the level they could live if they chose to spend their money—why is it right to take it away from them just because they earned it? That is what this issue is about. It is not about being rich versus being poor. It is about right versus wrong. It is wrong when people who pay taxes on every dollar they earn, who have plowed it back into their businesses or farms or estates, to destroy all that when they die.

Death should not be a taxable event. It is hard enough to face dying, without having to know that your children are going to lose what you have built.

Every day, people are spending billions of dollars to try to get around this tax. Talented people are retiring when they are 55 years old because they know the Government is going to take the fruits of their labor away from their children. People are selling off farms to try to plan their estates. They are shutting down businesses to divide up the assets ahead of time so they do not have to pay the taxes, and America is poorer for it.

We have heard a bunch of speeches from my colleagues. They believe what they believe. I believe what I believe. Who is to say who is right?

But I will say this. Over and over, we have heard people get up on the floor and say we can't afford this. I would just like to remind my colleagues that last Thursday—I hope I am not stretching their memory—last Thursday we

spent $14 billion the President did not ask for, for nonemergency matters. That is four times as much, over the next 2 years, as repealing the death tax permanently would cost. So the same people who say we cannot afford to make the repeal of the death tax permanent, they could afford to spend four times that much last Thursday on unrequested programs, but they cannot afford it today.

When we passed the farm bill, they could afford to spend seven times as much as it would cost next year to repeal the death tax, but they can't afford it today.

On the energy bill, they could spend more than enough to pay for it, but they can't afford it today.

When we added all those riders to the trade bill, they could spend more than it would cost next year to repeal the death tax, but they can't afford it today.

When they wrote this budget, they asked for $106 billion of new discretionary nondefense spending. We have heard all of this talk about the war and fighting the war. When they wrote this budget, they spent $106 billion more than the President asked for. Yet today they cannot afford to make the death tax repeal permanent.

It is a matter of priorities. It is a matter of what you think is of a higher order.

What my Democrat colleagues, with very few exceptions, have said indirectly, without saying it just flat out, is the following: They are willing to force people to sell off their businesses and farms to give the Government the money because they want to spend it. They think that is more important than leaving those businesses and farms intact.

I believe they are wrong. I believe the American people believe they are wrong. I think this is something that we need to do. I commend it to my colleagues.

I yield the remainder of our time to my colleague from Arizona. I thank him for his leadership on this issue.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I compliment the Senator from Texas for sponsoring this amendment and for making the arguments which I believe will result in this body finally voting to making permanent what we voted for just a year ago.

I want to remind my colleagues that 48 Republicans and 12 Democrats—56 of us in all—voted to repeal the death tax. There were two other Republican Senators who were not here but would have voted to do that. That is 58 of us. It passed in the House of Representatives. The President signed it into law.

By now we all know, however, that because of the rules under which we operate, all of the tax relief we provided sunset at the end of 10 years.

It is for that reason only that we have to come back and revisit this today. The good news is we have a chance today to make what we did before permanent.

I submit that unless Senators want to say to their constituents, ''I was just kidding when I voted to repeal the death tax,'' that those who voted to repeal it before are going to have to vote to repeal it again, and this time to make it permanent, or else we will perpetuate this hoax.

I have heard a lot of talk about meritrocracy and aristocracy. I would like to talk about the American dream.

I prefer to go back a couple of generations when immigrants came to this country. They brought the ethic of hard work and savings and investment. By the way, investment means job creation. We all know that. But they worked very hard because they wanted to be able to give their kids and their grandkids a better chance and more opportunity than they themselves had.

That is what this country is all about. That is why people have sacrificed a lot—as Senator GRAMM said, to be able to leave their kids something. That is the American dream.

When we talk about doing something for the rich, they are not listening to the debate. The rich man died. He is not rich anymore. He is not even alive anymore. He died. So who pays the death tax? His kids, usually. Who are they? Are they rich people?

I have said this before. Let me say it again. This is from the Internal Revenue Service. These are the official statistics of the IRS. They answer the question about who actually pays. They break it out by men and women. This, by the way, is their latest statistics, Statistics of Income Bulletin, Summer of 1999, pages 72–76.

The largest group are men: 27.7 percent were administrators, upper management, and business owners. That you would expect. That is only 27 percent.

Who is the next group? The second largest group of men, 12.3 percent, were schoolteachers, librarians, and guidance counselors—these filthy rich who deserve to be punished. Maybe their dad had accumulated a lot of wealth. These are not rich people. But their dad is maybe giving them an opportunity to invest some of that money, maybe, to start a small business of their own, or to do something more with it to create jobs and to help make this American dream come true.

How about women? As we know, the majority of small businesses in this country are owned by women. For females, the IRS statistics say that the largest group—14.1 percent—were educators and teachers. These are people who are paying the death tax. These are the women who are paying the death tax.

The next largest group—9.6—were in clerical and administrative support occupations.

If you want to analyze all of the occupations, a significant number of the estate tax filers were scientists, sales people, entertainers, airline pilots, military officers, and mechanics. These are the estate tax filers.

These are the people we want to punish. It is not fair. These people deserve to be treated just as fairly as anybody else in this country.

Again, according to the Internal Revenue Service, in 1999, 116,500 estate tax returns were filed; 60,700 of those—in other words, more than half—were filed by estates with values of less than $1 million. For estates valued between $1 million and $5 million, 50,600 were filed. That is just about all that is left. Above $5 million, there were only 5,200 of those estates.

Even combined, the millionaires filing do not exceed the nonmillionaires filing.

The vast bulk of these, in other words, are by people who do not have these multibillion-dollar kinds of patina, or even multimillion-dollar kinds of patina that people would like to create.

What kind of people are they? What is their money? The Senator from New York talked about the salaries of all of these rich entrepreneurs. They are paying income taxes on those salaries, I might add. We are talking about the estate tax, the death tax—not income tax.

I talked this morning about Brad Eiffert who with his dad owns the Boone County Lumber Company in Columbus, MO. He doesn't make very much in salary every year. They do not have any cash to speak of because they put all of their money back into the Boone County Lumber Company. They go to the bank and borrow money to buy lumber which they sell. They buy trucks and forklifts.

They do the same thing we do. We don't go out and buy a house with cash. We go get a mortgage loan from the bank.

For much of what they own they have borrowed the money. But they make enough money to pay themselves a salary to live on—the dad and the son—and to hire 30 people whose salaries they pay. That is 30 more families that benefit. When the dad dies, Brad is concerned that he doesn't have the cash around to pay half of the value of the estate. It is not his income that gets taxed. It is the value of the entire business; that is, all of the lumber inventory, trucks, forklifts, the warehouse, and the whole thing.

Take that whole value and he says: I don't have that much money to pay half of that to Uncle Sam when my dad dies. Where am I going to get it? I can't borrow. I am fully leveraged. I have done the financing. I will have to sell the business to pay the tax.

That is what this is all about. That is why it is so unfair.

Job creation—well, those jobs are gone. I suppose if you sell it to somebody else and the idea is to prevent the accumulation of wealth, you usually sell it to a large corporation. So instead of a family business, you have some large conglomerate that may let

people go and consolidate, or whatever. So much for the American dream. So much for consolidation of wealth.

How would you say this money ought to be taxed, somehow or other? My colleague from Texas already pointed out that income tax has been paid on it.

But I don't think what our colleagues realize is, we don't just repeal the estate tax, we substitute another tax for that, the capital gains tax, but with a big difference. Most of us agree that death should not be a taxable event. You did not have any choice in the matter, of the timing of it, how it happened, when it happened, and so on. You do have a choice over when you sell something or don't sell it, and you know what the tax consequences are.

So when your dad dies, instead of the kids having to pay a tax on half of the value of his estate, and having to sell assets to do it, and so on, under our proposal the estate passes to the heirs. They take the property. They do not pay the tax on death day. But when they sell any of it, they pay a tax. They pay a tax on the capital gains, and it is calculated on the basis of dad's purchase price. So that is how you pick up the revenue.

Mr. President, 60 percent of the American people realize this is unfair, and three-fourths of them say they favor its repeal, even though they would not benefit at all. They understand the unfairness of the existing tax.

We now have an opportunity to make permanent what we passed before, which is the repeal of the estate tax, and to substitute for us the very fair capital gains tax on the original basis of the property. That is what we have the opportunity to do. The House of Representatives has passed this measure. If we pass it today, it goes to the President, and he can sign it. He has asked us to send it to him so he can sign it, to end this unfair tax and replace it with a fair tax.

I urge my colleagues to vote against the Conrad amendment, to vote for the Gramm-Kyl amendment, and to have a fair tax in the United States.

The PRESIDING OFFICER. Time has expired.

AMENDMENT NO. 3831

Under the previous order, there are 5 minutes of debate evenly divided before a vote with respect to the Conrad amendment.

The Senator from Texas.

Mr. GRAMM. Mr. President, I will speak first because I think Senator CONRAD deserves the right to close out on his amendment.

I think this issue has been pretty well debated. I agree with the Democratic floor leader, Senator REID; I think it has been a good debate.

The Conrad amendment does not repeal the death tax. It improves current law by speeding up the process and making a nominal change in it, but it still leaves the structure of the system in place where we have a tax on death.

I believe it is fundamentally wrong, and I am unwilling to get into a debate about at what income level it is wrong. I have never accepted the thesis that what is right for one American is wrong for another American based on their income. Right is right and wrong is wrong where I come from.

I want to repeal the death tax. The Senator from North Dakota does not. That is what it all boils down to.

It has been said over and over, as many ways as you can say it, I still remain amazed that people who consistently vote for new spending never have money when it comes time to let people keep more of what they earn. But rather than reiterate all that, let me sum up and say we are going to have an opportunity, after we vote on Senator CONRAD's amendment, to repeal the death tax. There is only one real repeal, and that is the one I have offered with Senator KYL.

I urge my colleagues to vote against the Conrad amendment and to vote for the Gramm-Kyl amendment.

I believe we will get over 51 votes. As you know, because a point of order will be raised against the amendment, we will have to get 60. I don't know that we will get 60 votes today, but I believe we are taking a step toward repealing the death tax permanently. And I am confident that it will be repealed.

Mr. KOHL. Mr. President, I rise today to support the Conrad estate tax reform amendment and oppose the Gramm-Kyl estate tax repeal amendment. I want to compliment equally both sides in this debate, however. They have brought before the Senate a clear question about the direction of U.S. tax policy—a question that the Senate should address. Should the very richest families in this country be able to pass their entire fortunes onto the next generation tax free? In a time of re-emerging budget deficits, urgent homeland defense needs, and a slowly recovering economy, is a tax break exclusively for the very richest among us a good idea?

That is what this debate is about. Unfortunately, we have heard more about other issues then that very basic question of how we tax the rich and the not so rich in this country.

We have heard that the votes today are about repealing a tax on those who inherit that causes the break-up of family businesses or farms. It is not. The Conrad amendment raises the amount of an estate exempt from tax to $3.5 million, $7 million for a couple, by 2009. In Wisconsin, that will completely exempt all but 0.2 percent of estates from any taxes at all. So we are not arguing over estate taxes on the local dairy farm or the small business operating on Main Street. We all agree they should be totally exempt, and under all proposals we consider today, they are.

No, the question today is should we go further than exempting small businesses, medium-sized businesses, and most all farms—certainly all Wisconsin farms—from the estate tax? Should we enact a tax break for very richest families in this country—less than 1 percent of all estates in this country? Or should we save the hundreds of billions of dollars that that tax break will cost—and use it to defend our country better, pass tax breaks that help the middle class working family, or simply pay down our huge debt? I can think of many uses for billions of dollars better than passing a tax break that will benefit those that inherit $15 million but do nothing for those who inherit $15,000, $150,000, or even $1 milllion.

The choice is clear. It is time to reform the estate tax and exempt 99 percent of all families from any worry of taxes after death. It is not time—and I am not sure it ever will be—to give a multi-billion dollar break to a very small number of very rich families.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we should reform, not repeal, the estate tax because repeal is unaffordable, it is unfair, and it is unpopular.

First, on the question of affordability: The cost of eliminating the estate tax absolutely explodes in the second decade. It costs $100 billion in this 10-year period. It costs $740 billion in the second decade, right at the time the baby boomers retire, and when we know we already are in deep deficit and adding to the debt.

Just yesterday we added to the national debt by $450 billion. Our friends on the other side of the aisle would dig that hole much deeper.

My proposal is far more affordable. Instead of $99.4 billion in the next 10 years, $12.6 billion.

The elimination of the tax is unfair.

One example: Mr. Skilling, the former head of Enron, would get a $55 million tax cut, paid for by the Social Security taxes of 30,000 Americans earning $30,000 a year. That is not fair.

On the question of popularity, overwhelmingly, the American people say: Reform, not repeal. By 58 percent to 37 percent, they favor reform over repeal.

That is what my amendment does. It takes the exemption to $3 million for an individual and $6 million for a couple next year. In 2009, it goes to $3.5 million for an individual and $7 million for a couple. They would pay nothing.

That is fair. It is affordable. And it is what the American people want.

I urge my colleagues to support the Conrad amendment.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. All time is yielded back.

The Senator from Texas.

Mr. GRAMM. Mr. President, under the unanimous consent agreement, I raise a 311 budget point of order against the Conrad amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''no.''

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

The yeas and nays resulted—yeas 38, nays 60, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—38

Akaka	Dorgan	Levin
Bayh	Durbin	Lieberman
Biden	Edwards	Mikulski
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham	Reed
Breaux	Harkin	Reid
Byrd	Inouye	Rockefeller
Clinton	Jeffords	Sarbanes
Conrad	Johnson	Schumer
Corzine	Kennedy	Stabenow
Daschle	Kerry	Torricelli
Dayton	Kohl	Wellstone
Dodd	Leahy	

NAYS—60

Allard	Enzi	Miller
Allen	Feingold	Murkowski
Baucus	Fitzgerald	Murray
Bennett	Frist	Nelson (NE)
Bond	Gramm	Nickles
Brownback	Grassley	Roberts
Bunning	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Cantwell	Hollings	Smith (NH)
Carnahan	Hutchinson	Smith (OR)
Carper	Hutchison	Snowe
Chafee	Inhofe	Specter
Cleland	Kyl	Stevens
Cochran	Landrieu	Thomas
Collins	Lincoln	Thompson
Craig	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	Wyden

NOT VOTING—2

Crapo	Helms

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The majority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the previous agreement for 5 minutes to explain the amendment be vitiated.

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

Mr. DASCHLE. Mr. President, I ask unanimous consent that Senator CONRAD be recognized to make a point of order.

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

Mr. CONRAD. Mr. President, I raise a point of order that the pending amendment violates section 311(a)(2)(B) of the Congressional Budget Act of 1974.

Mr. GRAMM. I move to waive the point of order, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The majority leader.

Mr. DASCHLE. Mr. President, I announce to my colleagues this is the last vote of the day.

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

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

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

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—54

Allard	Fitzgerald	Nelson (FL)
Allen	Frist	Nelson (NE)
Baucus	Gramm	Nickles
Bayh	Grassley	Roberts
Bennett	Gregg	Santorum
Bond	Hagel	Sessions
Brownback	Hatch	Shelby
Bunning	Hutchinson	Smith (NH)
Burns	Hutchison	Smith (OR)
Campbell	Inhofe	Snowe
Cleland	Kyl	Specter
Cochran	Landrieu	Stevens
Collins	Lincoln	Thomas
Craig	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McConnell	Voinovich
Ensign	Miller	Warner
Enzi	Murkowski	Wyden

NAYS—44

Akaka	Dodd	Leahy
Biden	Dorgan	Levin
Bingaman	Durbin	Lieberman
Boxer	Edwards	McCain
Breaux	Feingold	Mikulski
Byrd	Feinstein	Murray
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Chafee	Inouye	Sarbanes
Clinton	Jeffords	Schumer
Conrad	Johnson	Stabenow
Corzine	Kennedy	Torricelli
Daschle	Kerry	Wellstone
Dayton	Kohl	

NOT VOTING—2

Crapo	Helms

The PRESIDING OFFICER. On this question, the yeas are 54, the nays are 44. 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. The amendment falls.

MEASURE RETURNED TO THE CALENDAR—H.R. 8

The PRESIDING OFFICER. Under the previous order, H.R. 8 is returned to the calendar.

Mr. WELLSTONE. Mr. President, today I opposed full repeal of the estate tax, but I supported a commonsense compromise to cap the estate tax exemption at a reasonable level for all families, and eliminate the tax completely for family farmers and small business owners.

Full repeal of the estate tax is hugely expensive, it will cost nearly a trillion dollars over the next 20 years, it is grossly unfair because it benefits only the tiny number of Americans who pay the estate tax under current law. In fact, in 1999 only 636 Minnesotans paid any estate tax what so ever. Only 36 of those estates were valued at $5 million or more. This is simply not a burden that falls on many families.

In contrast, many rely on Social Security. Over 740,000 Minnesotans currently receive Social Security. The vast majority of these are retired seniors, others are severely disabled. For many it is their only source of income. I find it outrageous that colleagues are proposing to use the Social Security surplus, which nearly a million Minnesotans rely upon, to give a massive tax break to the heirs of a handful of Americans.

Nationally, only 1.6 percent of all estates were made up with significant small business assets, and only 1.4 percent had significant farm assets. This means that virtually all the estate tax is paid by extremely wealthy people who do not own farms or small businesses. It also means that we could eliminate the estate tax for small businesses and farms and not engage in a massive raid on the Treasury.

Proponents of last year's massive tax cut portrayed the legislation as completely protecting small businesses and family farms from the estate tax. But as a cost saving gimmick, the law only does so for only one year.

Business owners were used as pawns last year, and they are again this year. Now they are frustrated trying to plan for their families' futures around this scheme and they shouldn't have to be.

I supported a commonsense compromise that would have capped the estate exemption at a reasonable level, $8 million for a married couple, lifting the burden of the estate tax from 98 percent of estates, but maintaining the tax for large, wealthy estates.

In addition, the Dorgan amendment would have totally exempted family-owned small business and farm assets from the estate tax if the family of the current owner wishes to continue to operate the business or farm. Because this relief would have been permanent, business owners can plan their affairs with confidence and security. And this complete repeal for businesses and farms would be effective next year, unlike the republican proposal where family business owners would have to wait until 2010.

In an ideal world I would have written the Dorgan amendment differently. I would strengthen the family-owned business provision to ensure than only smaller business and farms, with 200 employees or less would qualify for this exemption. But I voted for the Dorgan

amendment because it is still far better than full repeal. It retains the estate tax for the ultra-rich, but would protect small business owners and family farmers. And it would save hundreds of billions over the next 20 years compared to full repeal.

Let me also point out one final irony in this debate. I mentioned yesterday the bizarreness of colleagues voting against raising the debt limit, and then in the same day turning around and supporting a bill that would raise the national debt by hundreds of thousands more.

Today's irony is that this is supposed to be a debate about small businesses, but my friends on the other side are opposing the Dorgan amendment that gives permanent relief from the estate tax from small businesses and family farmers right now—compared to 7 years from now under the Gramm approach. Let me repeat that, my colleagues on the other side say they are for the small business owner. They say they are for the family farmer. Yet they are opposing immediate relief for small business owners and farmers. Why? To protect their tax breaks for billionaires.

Small businesses and farmers are the pawns in this debate. They have literally been used by those who want to give billionaires a tax break. I don't know if there is a single person in this body who would oppose giving permanent, targeted estate tax relief to small business owners and family farmers. I think it could pass 100 to 0. But it didn't because if the supporters of full repeal let the small business owner get relief then they lose this issue. And they won't get repeal for billionaires. And they would rather have the issue to campaign on, and they aren't going to let the little guy on Main Street get his tax break unless they can get it for the fat cat on Wall Street.

The Dorgan amendment should be an eye opener for small business owners and farmers. It betrays the real agenda behind full repeal of the estate tax. It's not about the little guy. It is not about the shopkeeper, the farmer, the contractor, the wholesaler. They are the hostages in this debate.

I will not jeopardize Social Security—which tens of millions of Americans rely upon for their retirement—to grant tax breaks to the heirs of multimillionaires and billionaires.

We cannot afford to give a few lucky Americans a tax free inheritance of hundreds of millions or billions of dollars and protect the tens of millions of Americans and over 740,000 Minnesotans who rely on Social Security.

But we can afford to shield small estates, small businesses, and family farms from the estate tax at the same time we safeguard the retirement security of all Minnesotans. That is what I voted to do.

UNANIMOUS CONSENT REQUEST

Mr. REID. Mr. President, I ask unanimous consent that on Friday, June 14, the Senate proceed concurrently, at a time to be determined by the majority leader after consultation with the Republican leader, to two bills relating to cloning, a bill to be introduced by Senators HATCH, FEINSTEIN, SPECTER, and others, and a bill to be introduced by Senator BROWNBACK. I further ask that Senator BROWNBACK or his designee be recognized to immediately offer a cloture motion on his bill, to be followed by Senator HATCH or his designee offering a cloture motion on his bill. I further ask unanimous consent that no amendments or motions to commit be in order to either bill and there be the following limitations for debate with respect to both bills: 3 hours equally divided between the two sponsors or their designees on Friday; 4 hours equally divided in the same fashion on Monday, June 17; 1 hour equally divided in the same fashion on Tuesday, June 18; that following the use or yielding back of time, on Tuesday, the Senate proceed to vote on the cloture motion on Senator BROWNBACK's bill and, notwithstanding the outcome of that vote, to be followed by an immediate cloture vote on Senator HATCH's bill; further, if cloture is invoked on either bill, the Senate then resume consideration under the provisions of rule XXII. Finally, I ask unanimous consent that, if cloture is not invoked on either bill, then each bill be placed back on the calendar.

The PRESIDING OFFICER. Is there objection? The Senator from Kansas.

Mr. BROWNBACK. Mr. President, reserving the right to object, I appreciate my colleague from Nevada bringing this forward. I hope we can work out a reasonable and prudent way to address what I consider to be a critical issue—many people consider to be a critical issue in front of the country. I say we still may be able to get to an agreement that would get ample time and opportunity for the Senate to speak on this timely legislation.

I therefore ask unanimous consent for the following modifications to this pending request. I ask unanimous consent that on Friday, June 14, the Senate proceed to the bill just mentioned, introduced by Senator KENNEDY, Senator HATCH, and others, and that Senator LANDRIEU, myself, and Senator HUTCHISON be permitted to offer up to four relevant amendments to the bill; further, I ask unanimous consent that these amendments be in order notwithstanding the provisions of rule XXII, and that no other amendments be in order to the bill.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. REID. I do not.

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBACK. Then I am afraid I must object and I do object.

The PRESIDING OFFICER. Objection is heard. The Senator from Nevada.

Mr. REID. Mr. President, I am, of course, disappointed. Many people worked long and hard to come up with this agreement. Senator DASCHLE, I believe, has fulfilled his commitment. As I understand it, the only dispute is to when the respective votes should occur, and I submit that shouldn't matter that much, but that is the unanimous consent agreement that was propounded. Senator DASCHLE has worked with others long and hard. Maybe later we can work something else out. At the present time, I think Senator DASCHLE has fulfilled his commitment.

UNANIMOUS CONSENT AGREEMENT—S. 2600

Mr. REID. I ask unanimous consent that at 10 a.m. tomorrow the Senate proceed to the consideration of Calendar No. 410, S. 2600, the terrorism insurance bill.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Reserving the right to object, I ultimately will not object, but I want to propose that the unanimous consent request be amended to read as follows: I ask unanimous consent that at a time determined by the majority leader, after consultation with the Republican leader, the Senate proceed to the consideration of Calendar No. 252, H.R. 3210, and it be considered under the following limitations, the only amendments in order be the following: A substitute amendment by Senator GRAMM and myself, the text of which will be printed in the RECORD upon the granting of the consent; three relevant first-degree amendments to the substitute to be offered by each leader or their designees, and that no motions to recommit be in order; I further ask unanimous consent that, following a vote on or in relation to the above-listed first-degree amendments and any debate time, there be a vote on or in relation to the substitute amendment; finally, I ask unanimous consent that when and if the bill is passed, the Senate then insist on its amendment and request a conference with the House on the disagreeing votes.

Mr. REID. Mr. President, it is my understanding——

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. REID. Mr. President, reserving the right to respond to the Chair, I would simply say this: We have been through this now for months. I have been down here on a number of occasions, trying to get something that we believe will expedite this very important legislation. We have tried one amendment on each side, two amendments on each side, three amendments on each side. I think we finally got to five amendments on each side. I think the best thing to do is just get to the bill. It is an important piece of legislation and if it is as important as the major industries believe it is, we are

going to complete this bill in a reasonable period of time. So I do not consent to the modification.

The PRESIDING OFFICER. Objection is heard. Is there objection to the request from the Senator from Nevada?

Mr. GRAMM. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I am not going to object. I just want to say we are bringing up a bill that was not reported by the committee of jurisdiction. There has been an effort underway by many of us to try to reach a bipartisan consensus, and it may very well be that this is the only route we can take. I happen to be one of the people around here who believes that we should have passed the bill last year. I was for a bill.

I would like to say today that this is a hard way to do it, and it is going to mean we are going to have to do a lot of amendments on the floor that we should have done in committee. I hope, therefore, that we are not going to find ourselves in a position where we are going to have an effort to cloture the bill.

If the bill had come out of committee, if there were some kind of consensus, then I think you could understand that, if people were raising extraneous amendments. But I am hoping we are going to have time for debate. I think there will be a real possibility that we will have to have maybe 10 or 12 or 15 real amendments on the subject, amendments on which we will have to work our will. I hope we will not have that process cut off with cloture.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Further reserving the right to object, let me add to what the Senator from Texas has said. Ultimately I will not object, either. But both of us believe that we have put together a proposal that should have been the base bill. I think I can speak for the Senator from Texas and myself: We have some direction from the administration now as to what kind of legislation they might ultimately sign. I have in my hand a letter addressed to the Republican leader, signed by the Secretary of the Treasury, the Director of the Office of Management and Budget, the Director of the National Economic Council, and the Council of Economic Advisers indicating that a bill that makes the victims of terrorist attacks a subject of punitive damages and that opens up this whole area for further predatory lawsuits will not be signed by the President. They will recommend to the President a veto.

I share the view of the Senator from Texas that the amendments to this bill certainly ought to be germane to the subject. The amendments that this Senator is going to offer will certainly be germane to the subject. Just so everybody will know what the Senator from Texas and I had put together, what we thought would be the best way to go as the best bill that will be available to everyone, I ask unanimous consent to have two things printed in the RECORD: First, the letter signed by the Secretary of the Treasury, dated June 10.

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

DEPARTMENT OF THE TREASURY,
Washington, DC, June 10, 2002.

Hon. TRENT LOTT,
Senate Republican Leader, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: The War on Terrorism must be fought on many fronts. From an economic perspective, we must minimize the risks and consequences associated with potential acts of terror. No measure is more important to mitigating the economic effects of terrorist events than the passage of terrorism insurance legislation.

Last November 1, the Administration publicly agreed to bipartisan legislation negotiated with Chairman Sarbanes, Chairman Dodd, Senator Gramm and Senator Enzi. While the House of Representatives quickly responded to this urgent need by passing appropriate legislation, the Senate did not act and has not passed any form of terrorism legislation in the intervening seven months.

The absence of federal legislation is having a palpable and severe effect on our economy and is costing America's workers their jobs. In the first quarter of this year, commercial real estate construction was down 20 percent. The disruption of terrorism coverage makes it more difficult to operate, acquire, or refinance property, leading to diminished bank lending for new construction projects and lower asset values for existing properties. The Bond Market Association has said that more than $7 billion worth of commercial real estate activity has been suspended or cancelled due to the lack of such insurance. Last week, Moody's Investors Service announced that 14 commercial mortgage-backed transactions could be downgraded due to a lack of such insurance.

Without such insurance, the economic impact of another terrorist attack would be much larger, including major bankruptcies, layoffs and loan defaults. While we are doing everything we can to stop another attack, we should minimize the widespread economic damage to our economy should such an event occur.

One important issue for the availability of terrorism insurance is the risk of unfair or excessive litigation against American companies following an attack. Many for-profit and charitable entities have been unable to obtain affordable and adequate insurance, in part because of the risk that they will be unfairly sued for the acts of international terrorists.

To address this risk at least two important provisions are essential. First, provisions for an exclusive federal cause of action and consolidation of all cases arising out of terrorist attacks, like those included in the Air Transportation Safety and System Stabilization Act, are necessary to provide for reasonable and expeditious litigation.

Second, the victims of terrorism should not have to pay punitive damages. Punitive damages are designed to punish criminal or near-criminal wrongdoing. Of course such sanctions are appropriate for terrorists. But American companies that are attacked by terrorists should not be subject to predatory lawsuits. The availability of punitive damages in terrorism cases would result in inequitable relief for injured parties, threaten bankruptcies for American companies and a loss of jobs for American workers.

It is also clear that the potential for massive damages imposed on companies that suffer from acts of terror would endanger our economic recovery from a terrorist attack. Indeed, the added risks and legal uncertainty hanging over the economy as a result of last September 11th are major factors inhibiting a business willingness to invest and to create jobs. It makes little economic sense to pass a terrorism insurance bill that leaves our economy exposed to such inappropriate and needless legal uncertainty.

The bipartisan public agreement reached between the Administration and Chairman Sarbanes, Chairman Dodd, Senator Gramm and Senator Enzi last fall provided these minimum safeguards. We would recommend that the President not sign any legislation that leaves the American economy and victims of terrorist acts subject to predatory lawsuits and punitive damages.

The American people and our economy have waited seven months since our public agreement on legislation. The process must move forward. Prompt action by the Senate on this vitally important legislation is needed now.

Sincerely,

PAUL H. O'NEILL,
Secretary of the Treasury.

MITCHELL E. DANIELS,
Director, Office of Management and Budget.

LAWRENCE LINDSEY,
Director, National Economic Council.

R. GLENN HUBBARD,
Director, Council of Economic Advisors.

Mr. MCCONNELL. We would like also to include the bill that Senator GRAMM and I had hoped would be the base bill that we took up, one that we are confident the President would have embraced and signed. I ask unanimous consent that be printed in the RECORD.

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

S. —

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 ''Terrorism Risk Insurance Act of 2002''.

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(2) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

(4) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and costs of future terrorist events, and therefore the size, finding, and allocation of the risk of loss caused by such acts of terrorism;

(5) a decision by property and casualty insurers to deal with such uncertainties, either by terminating property and casualty coverage for losses arising form terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity and

(6) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

(b) PURPOSE.—The purpose of this Act is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) CERTIFICATION.—The term ''act of terrorism'' means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be a violent act or an act that is dangerous to—

(I) human life;

(II) property; or

(III) infrastructure;

(ii) to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel described in paragraph (3)(A)(ii); and

(iii) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(B) LIMITATION.—No act or event shall be certified by the Secretary as an act of terrorism if—

(i) the act or event is committed in the course of a war declared by the Congress; or

(ii) losses resulting from the act or event, in the aggregate, do not exceed $5,000,000.

(C) DETERMINATION FINAL.—Any certification of, or determination not to certify, an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.

(2) BUSINESS INTERRUPTION COVERAGE.—The term ''business interruption coverage''—

(A) means coverage of losses for temporary relocation expenses and ongoing expenses, including ordinary wages, where—

(i) there is physical damage to the business premises of such magnitude that the business cannot open for business;

(ii) there is physical damage to other property that totally prevents customers or employees from gaining access to the business premises; or

(iii) the Federal, State, or local government shuts down an area due to physical or environmental damage, thereby preventing customers or employees from gaining access to the business premises; and

(B) does not include lost profits, other than in the case of a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632) and applicable regulations thereunder) in any case described in clause (i), (ii), or (iii) of subparagraph (A).

(3) INSURED LOSS.—The term ''insured loss''—

(A) means any loss resulting from an act of terrorism that is covered by primary property and casualty insurance, including business interruption coverage, issued by a participating insurance company, if such loss—

(i) occurs within the United States; or

(ii) occurs to an air carrier (as defined in section 40102 of title 49, United States Code) or to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; and

(B) excludes coverage under any life or health insurance.

(4) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(5) PARTICIPATING INSURANCE COMPANY.—The term ''participating insurance company'' means any insurance company, including any subsidiary or affiliate thereof—

(A) that—

(i) is licensed or admitted to engage in the business of providing primary insurance in any State, and was so licensed or admitted on September 11, 2001; or

(ii) is not licensed or admitted as described in clause (i), if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the NAIC, or any successor thereto;

(B) that receives direct premiums for any type of commercial property and casualty insurance coverage or that, not later than 21 days after the date of enactment of this Act, submits written notification to the Secretary of its intent to participate in the Program with regard to personal lines of property and casualty insurance; and

(C) that meets any other criteria that the Secretary may reasonably prescribe.

(6) PERSON.—The term ''person'' means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(7) PROGRAM.—The term ''Program'' means the Terrorism Insured Loss Shared Compensation Program established by this Act.

(8) PROPERTY AND CASUALTY INSURANCE.—The term ''property and casualty insurance''—

(A) means commercial lines of property and casualty insurance;

(B) includes personal lines of property and casualty insurance, if a notification is made in accordance with paragraph (5)(B); and

(C) does not include—

(i) Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); or

(ii) private mortgage insurance, as that term is defined in section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(10) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and each of the United States Virgin Islands.

(11) UNITED STATES.—The term ''United States'' means all States of the United States and includes the territorial seas of the United States.

SEC. 4. TERRORISM INSURED LOSS SHARED COMPENSATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—There is established in the Department of the Treasury the Terrorism Insured Loss Shared Compensation Program.

(2) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (e).

(b) CONDITIONS FOR FEDERAL PAYMENTS.—No payment may be made by the Secretary under subsection (e), unless—

(1) a person that suffers an insured loss, or a person acting on behalf of that person, files a claim with a participating insurance company;

(2) the participating insurance company provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program—

(A) in the case of any policy covering an insured loss that is issued on or after the date of enactment of this Act, in the policy, at the time of offer, purchase, and renewal of the policy; and

(B) in the case of any policy that is issued before the date of enactment of this Act, not later than 90 days after that date of enactment;

(3) the participating insurance company processes the claim for the insured loss in accordance with its standard business practices, and any reasonable procedures that the Secretary may prescribe; and

(4) the participating insurance company submits tot he Secretary, in accordance with such reasonable procedures as the Secretary may establish—

(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

(B) written verification and certification—

(i) of the underlying claim; and

(ii) of all payments made for insured losses; and

(C) certification of its compliance with the provisions of this subsection.

(c) MANDATORY PARTICIPATION; MANDATORY AVAILABILITY.—Each insurance company that meets the definition of a participating insurance company under section 3—

(1) shall participate in the Program;

(2) shall make available in all of its property and casualty insurance policies (in all of its participating lines), coverage for insured losses; and

(3) shall make available property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

(d) PARTICIPATION BY SELF INSURED ENTITIES.—

(1) DETERMINATION BY THE SECRETARY.—The Secretary may, in consultation with the NAIC, establish procedures to allow participation in the Program by municipalities and other governmental or quasi-governmental entities (and by any other entity, as the Secretary deems appropriate) operating through

self insurance arrangements that were in existence on September 11, 2001, but only if the Secretary makes a determination with regard to participation by any such entity before the occurrence of an act of terrorism in which the entity incurs an insured loss.

(2) PARTICIPATION.—If the Secretary makes a determination to allow an entity described in paragraph (1) to participate in the Program, all reports, conditions, requirements, and standards established by this Act for participating insurance companies shall apply to any such entity, as determined to be appropriate by the Secretary.

(e) SHARED INSURANCE LOSS COVERAGE.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—Subject to the cap on liability under paragraph (2) and the limitation under paragraph (6), the Federal share of compensation under the Program to be paid by the Secretary for insured losses resulting from an act of terrorism occurring during the period beginning on the date of the enactment of this Act and ending at midnight on December 31, 2003 shall be equal to 90 percent of that portion of the amount of aggregate insured losses that exceeds $10,000,000,000.

(B) EXTENSION PERIOD.—If the Program is extended in accordance with section 6, the Federal share of compensation under the Program to be paid by the Secretary for insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2004 and ending at midnight on December 31, 2004, shall be equal to 90 percent of that portion of the amount of aggregate insured losses that exceeds $20,000,000,000, subject to the cap on liability in paragraph (2) and the limitation under paragraph (6).

(C) PRO RATA SHARE.—If, during the period described in subparagraph (A) (or during the period described in subparagraph (B), if the Program is extended in accordance with section 6), the aggregate insured losses for that period exceed $10,000,000,000, the Secretary shall determine the pro rata share for each participating insurance company of the Federal share of compensation for insured losses calculated under subparagraph (A).

(2) CAP ON ANNUAL LIABILITY.—Notwithstanding paragraph (1), or any other provision of Federal or State law, if the aggregate insured losses exceed $100,000,000,000 during any period referred to in subparagraph (A) and (B) of paragraph (1)—

(A) the Secretary shall not make any payment under this Act for any portion of the amount of such losses that exceeds $100,000,000,000; and

(B) participating insurance companies shall not be liable for the payment of any portion of the amount that exceeds $100,000,000,000.

(3) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if estimated or actual aggregate insured losses exceed $100,000,000,000 in any period described in paragraph (1), and the Congress shall determine the procedures for and the source of any such excess payments.

(4) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) DETERMINATION FINAL.—Any determination of the Secretary under this subsection shall be final, and shall not be subject to judicial review.

(6) IN-FORCE REINSURANCE AGREEMENTS.—For policies covered by reinsurance contracts in force on the date of enactment of this Act, until the in-force reinsurance contract is renewed, amended, or has reached its 1-year anniversary date, any Federal share of compensation due to a participating insurance company for insured losses during the effective period of the Program shall be shared—

(A) with all reinsurance companies to which the participating insurance company has ceded some share of the insured loss pursuant to an in-force reinsurance contract; and

(B) in a manner that distributes the Federal share of compensation for insured losses between the participating insurance company and the reinsurance company or companies in the same proportion as the insured losses would have been distributed if the Program did not exist.

SEC. 5. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.

(a) GENERAL AUTHORITY.—The Secretary shall have the powers and authorities necessary to carry out the Program, including authority—

(1) to investigate and audit all claims under the Program; and

(2) to prescribe regulations and procedures to implement the Program.

(b) INTERIM RULES AND PROCEDURES.—The Secretary shall issue interim final rules or procedures specifying the manner in which—

(1) participating insurance companies may file, verify, and certify claims under the Program;

(2) the Secretary shall publish or otherwise publicly announce the applicable percentage of insured losses that is the responsibility of participating insurance companies and the percentage that is the responsibility of the Federal Government under the Program;

(3) the Federal share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual aggregate insured losses;

(4) the Secretary may, at any time, seek repayment from or reimburse any participating insurance company, based on estimates of insured losses under the Program, to effectuate the insured loss sharing provisions contained in section 4;

(5) each participating insurance company that incurs insured losses shall pay its pro rata share of insured losses, in accordance with section 4; and

(6) the Secretary will determine any final netting of payments for actual insured losses under the Program, including payments owed to the Federal Government from any participating insurance company and any Federal share of compensation for insured losses owed to any participating insurance company, to effectuate the insured loss sharing provisions contained in section 4.

(c) SUBROGATION RIGHTS.—The United States shall have the right of subrogation with respect to any payment made by the United States under the Program.

(d) CONTRACTS FOR SERVICES.—The Secretary may employ persons or contract for services as may be necessary to implement the Program.

(e) CIVIL PENALTIES.—The Secretary may assess civil money penalties for violations of this Act or any rule, regulation, or order issued by the Secretary under this Act relating to the submission of false or misleading information for purposes of the Program, or any failure to repay any amount required to be reimbursed under regulations or procedures described in section 5(b). The authority granted under this subsection shall continue during any period in which the Secretary's authority under section 6(d) is in effect.

SEC. 6. TERMINATION OF PROGRAM; DISCRETIONARY EXTENSION.

(a) TERMINATION OF PROGRAM.—

(1) IN GENERAL.—The Program shall terminate at midnight on December 31, 2003, unless the Secretary—

(A) determines, after considering the report and finding required by this section, that the program should be extended for one additional year, until midnight on December 31, 2004; and

(B) promptly notifies the Congress of such determination and the reasons therefor.

(2) DETERMINATION FINAL.—The determination of the Secretary under paragraph (2) shall be final, and shall not be subject to judicial review.

(3) TERMINATION AFTER EXTENSION.—If the program is extended under paragraph (1), the Program shall terminate at midnight on December 31, 2004.

(b) REPORT TO CONGRESS.—Not later than 9 months after the date of enactment of this Act the Secretary shall submit a report to Congress—

(1) regarding—

(A) the availability of insurance coverage for acts of terrorism;

(B) the affordability of such coverage, including the effect of such coverage on premiums; and

(C) the capacity of the insurance industry to absorb future losses resulting from acts of terrorism, taking into account the profitability of the insurance industry; and

(2) that considers—

(A) the impact of the program on each of the factors described in paragraph (1); and

(B) the probable impact on such factors and on the United States economy if the Program terminates at midnight on December 31, 2003.

(c) FINDING REQUIRED.—A determination under subsection (a) to extend the program shall be based on a finding by the Secretary that—

(1) widespread market uncertainties continue to disrupt the ability of insurance companies to price insurance coverage for losses resulting from acts of terrorism, thereby resulting in the continuing unavailability of affordable insurance for consumers; and

(2) extending the program for an additional year would likely encourage economic stabilization and facilitate a transition to a viable market for private terrorism risk insurance.

(d) CONTINUING AUTHORITY TO PAY OR ADJUST COMPENSATION.—following the termination of the Program under subsection (a), the Secretary may take such actions as may be necessary to ensure payment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program was in effect under this Act, in accordance with the provisions of section 4 and regulations promulgated thereunder.

(e) REPEAL; SAVINGS CLAUSE.—This act is repealed at midnight on the final termination date of the Program under section (a), except that such repeal shall not be construed—

(1) to prevent the Secretary from taking, or causing to be taken, such actions under subsection (d) of this section and sections 4(e)(4), 4(e)(5), 5(a)(1), 5(c), and (e) (as in effect on the day before the date of such repeal), and applicable regulations promulgated thereunder, during any period in which the authority of the Secretary under subsection (d) of this section is in effect; or

(2) to prevent the availability of funding under section 9(b) during any period in which authority of the Secretary under subsection (d) of this section is in effect.

(f) SENSE OF THE CONGRESS.—It is the sense of the Congress that he Secretary should make any determination under subsection (a) in sufficient time to enable participating insurance companies to include coverage for acts of terrorism in their policies for 2004.

(g) STUDY AND REPORT ON SCOPE OF THE PROGRAM.—

(1) STUDY.—The Secretary, after consultation with the NAIC, representatives of the

insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage.

(2) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

(h) REPORTS REGARDING TERRORISM RISK INSURANCE PREMIUMS.—

(1) REPORT TO THE NAIC.—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, each participating insurance company shall submit a report to the NAIC that states the premium rates charged by that participating insurance company during the preceding 6-month period for insured losses covered by the Program, and includes an explanation of and justification for those rates.

(2) REPORTS FORWARDED.—The NAIC shall promptly forward copies of each report submitted under paragraph (1) to the Secretary, the Secretary of commerce, the Chairman of the Federal trade Commission, and the Comptroller General of the United States.

(3) AGENCY REPORT TO CONGRESS.—

(A) IN GENERAL.—The Secretary, the Secretary of Commerce and the Chairman of the Federal Trade Commission shall submit joint reports to Congress and the Comptroller General of the United States summarizing and evaluating the reports forward under paragraph (2).

(B) TIMING.—The reports required under subparagraph (A) shall be submitted—

(i) 9 months after the date of enactment of this Act; and

(ii) 12 months after the date of submission of the first report under clause (i).

(4) GAO EVALUATION AND REPORT.—

(A) EVALUATION.—The Comptroller General of the United States shall evaluate each report submitted under paragraph (3), and upon request, the Secretary, the Secretary of Commerce, the Chairman of the Federal Trade Commission, and the NAIC shall provide to the Comptroller all documents, records, and any other information that the Comptroller deems necessary to carry out such evaluation.

(B) REPORT TO CONGRESS.—Not later than 90 days after receipt of each report submitted under paragraph (3), the Comptroller General of the United States shall submit to Congress a report of the evaluation required by subparagraph (A).

SEC. 7. PRESERVATION OF STATE LAW.

Nothing in this Act shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any participating insurance company or other person—

(1) except as specifically provided in this Act; and

(2) except that—

(A) the definition of the term ''act of terrorism'' in section 3 shall be the exclusive definition of that term for purposes of compensation for insured losses under this Act, and shall preempt any provision of State law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any type of insurance covered by this Act;

(B) during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002, rates for terrorism risk insurance covered by this Act and filed with any State shall not be subject to prior approval or a waiting period, under any law of a State that would otherwise be applicable, except that nothing in this Act affects the ability of any State to invalidate a rate as excessive, inadequate, or unfairly discriminatory; and

(C) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect, as provided in section 6 (including any period during which the authority of the Secretary under section 6(d) is in effect), books and records of any participating insurance company that are relevant to the Program shall be provided, or caused to be provided, to the Secretary or the designee of the Secretary, upon request by the Secretary or such designee, notwithstanding any provision of the laws of any State prohibiting or limiting such access.

SEC. 8. SENSE OF THE CONGRESS REGARDING CAPACITY BUILDING.

It is the sense of the Congress that the insurance industry should build capacity and aggregate risk to provide affordable property and casualty insurance coverage for terrorism risk.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS; PAYMENT AUTHORITY.

(a) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary for administrative expenses of the Program, to remain available until expended.

(b) PAYMENT AUTHORITY.—This Act constitutes payment authority in advance of appropriation Acts, and represents the obligation of the Federal Government to provide for the Federal share of compensation for insured losses under the Program.

SEC. 10. PROCEDURES FOR CIVIL ACTIONS.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for claims arising out of or resulting from an act of terrorism, which shall be the exclusive cause of action and remedy for such claims, except as provided in subsection (f).

(2) PREEMPTION OF STATE ACTIONS.—All State causes of action of any kind for claims arising out of or resulting from an act of terrorism that are otherwise available under State law, are hereby preempted, except as provided in subsection (f).

(b) GOVERNING LAW.—The substantive law for decision in an action described in subsection (a)(1) shall be derived from the law, including applicable choice of law principles, of the State in which the act of terrorism giving rise to the action occurred, except to the extent that—

(1) the law, including choice of law principles, of another State is determined to be applicable to the action by the district court hearing the action; or

(2) otherwise applicable State law (including that determined under paragraph (1), is inconsistent with or otherwise preempted by Federal law.

(c) FEDERAL JURISDICTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, not later than 90 days after the date of the occurrence of an act of terrorism, the Judicial Panel on Multidistrict Litigation shall assign a single Federal district court to conduct pretrial and trial proceedings in all pending and future civil actions for claims arising out of or resulting from that act of terrorism.

(2) SELECTION CRITERIA.—The Judicial Panel on Multidistrict Litigation shall select and assign the district court under paragraph (1) based on the convenience of the parties and the just and efficient conduct of the proceedings.

(3) JURISDICTION.—The district court assigned by the Judicial Panel on Multidistrict Litigation shall have original and exclusive jurisdiction over all actions under paragraph (1). For purposes of personal jurisdiction, the district court assigned by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the United States.

(4) TRANSFER OF CASES FILED IN OTHER FEDERAL COURTS.—Any civil action for claims arising out of or resulting from an act of terrorism that is filed in a Federal district court other than the Federal district court assigned by the Judicial Panel on Multidistrict Litigation under paragraph (1) shall be transferred to the Federal district court so assigned.

(5) REMOVAL OF CASES FILED IN STATE COURTS.—Any civil action for claims arising out of or resulting from an act of terrorism that is filed in a State court shall be removable to the Federal district court assigned by the Judicial Panel on Multidistrict litigation under paragraph (1).

(d) APPROVAL OF SETTLEMENTS.—Any settlement between the parties of a civil action described in this section for claims arising out of or resulting from an act of terrorism shall be subject to prior approval by the Secretary after consultation by the Secretary with the Attorney General.

(e) LIMITATION ON DAMAGES.—

(1) IN GENERAL.—Punitive or exemplary damages shall not be available for any losses in any action described in subsection (a)(1), including any settlement described in subsection (d), except where—

(A) punitive or exemplary damages are permitted by applicable State law; and

(B) the harm to the plaintiff was caused by a criminal act or course of conduct for which the defendant was convicted under Federal or State criminal law, including a conviction based on a guilty plea or plea of nolo contendere.

(2) PROTECTION OF TAXPAYER FUNDS.—Any amounts awarded in, or granted in settlement of, an action described in subsection (a)(1) that are attributable to punitive or exemplary damages allowable under paragraph (1) of this subsection shall not count as insured losses for purposes of this Act.

(f) CLAIMS AGAINST TERRORISTS.—Nothing in this section shall in any way be construed to limit the ability of any plaintiff to seek any form of recovery from any person, government, or other entity that was a participant in, or aider and abettor of, any act of terrorism.

(g) EFFECTIVE PERIOD.—This section shall apply only to actions described in subsection (a)(1) arising out of or resulting from acts of terrorism that occur during the effective period of the Program, including any applicable extension period.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Reserving the right to object, I will be brief and I will not object. I think we should go ahead and get an agreement to proceed on this bill because there has been a lot of effort over a long period of time to try to work out some substance, some process for considering it, the numbers of amendments that would be offered. Having been through all of that, I think it is time we just go forward. We could not get an agreement to limit amendments anyway. I believe there are going to be a lot of amendments that relate to the subject matter that will be offered and we will have a good debate.

I do want to make two observations. There was a bipartisan bill. There was a bill, I had the impression, that had been worked out with Senator SARBANES, I thought Senator DODD, and

Senator GRAMM at the committee level, although it was not reported out, that would have had some limits on liability, but all of a sudden it disappeared from the committee itself, went to some other venue, and it came up with the substance as it is now. I do not think that is the way business should be done around here, and every time it is done that way, which was the case, in my opinion, on the energy bill and on an agriculture bill, you get into a great big fracas and have a lot of trouble.

But I think the issue is important. I am sure there are very strong feelings for it and some against it.

But I emphasize the point that Senator MCCONNELL made a moment ago. We need this legislation passed because of the confidence it will provide to this sector of the economy. But it will not be signed into law without some limits on liabilities. We cannot and we will not—and the President will not—allow the plaintiff's lawyers of this country to get this kind of access to the Treasury of the United States of America. I think everybody needs to understand that.

We should do this. We are going forward. But in the end we are not going to have a bill without limits on liabilities.

With that, I withdraw my reservation.

Mr. DASCHLE. Mr. President, in the days and weeks following September 11, this Senate passed an unprecedented series of measures to help heal our wounded nation, protect America from future terrorist attacks, and bring to justice those who attacked us.

Those days were among the most difficult any of us has ever experienced in our public lives. They were also some of our proudest days as Senators—because we were united. Because we rose to a challenge that few of us could have imagined until then.

Today—nearly 9 months after the terrorist attacks we have not yet addressed the growing inability of many businesses to purchase adequate, affordable terrorism insurance.

Democrats have made repeated good-faith offers to reach a bipartisan solution to this difficult problem. This Senate could have passed a terrorism insurance bill months ago—and it could already be law. The only reason it is not is because a small group of Senators in the other party are determined to use terrorism re-insurance as cover to push through radical changes in our legal system that they know do not have sufficient support to pass on their own merits. They are holding terrorism insurance, and America's economic security, hostage to try to force through an agenda that has nothing to do with September 11th, or with the threat of future terrorist attacks.

Enough is enough. Last Friday, Senator DODD introduced a good, balanced terrorism insurance bill, S–2600. I am now calling up that bill to see where the votes fall. We need to stop playing politics with this critical issue.

I want to thank Senator DODD for the extraordinary patience and leadership he has demonstrated on this issue over so many months. I also want to thank a number of our other colleagues—especially Senator SARBANES, Senator SCHUMER and Senator REID—for their help in producing this bill, as well as their many efforts to reach a bipartisan agreement on this matter.

President Bush has asked the Senate repeatedly to pass terrorism insurance. So has the commercial real estate industry, the hotel industry, and many other industries employing tens of millions of Americans. Despite their requests, a small group of Republican Senators has refused to let any terrorism insurance bill pass unless it includes their extraneous plan to dramatically overhaul major parts of America's civil justice system.

At a time when we are hearing new warnings almost every day about the possibility, even the ''inevitability'' of more terrorist attacks—when our economy is struggling to shake off a recession, such political gamesmanship is inexcusable.

Before September 11th, terrorist attacks on America seemed unimaginable. Now, as a result of September 11th, such acts are becoming un-insurable.

Consider a few facts:

A recent survey by The Bond Market Association shows that lenders have placed on hold or canceled more than $7 billion in commercial mortgage loans because of ''the difficulty and expense'' of finding terrorism insurance coverage.

According to a recent study by Moody's, ''virtually all terrorism insurance policies have some major gap, including carve-outs for certain types of terrorism and 30 day cancellation clauses.'' These policy gaps pose significant risks to investors.

The lack of terrorism insurance for commercial real estate is also hurting ''commercial mortgage backed securities'' bonds that are backed entirely by mortgages on commercial buildings. Investors in this $270 billion market include pension funds, insurance companies and other institutions.

Moody's and Fitch recently placed 22 commercial mortgage backed securities transactions—backed by more than $9 billion in commercial real estate loans, on a ''watch list'' for possible downgrade. In every one of the 22 transactions on that list, terrorism insurance for the collateral was either inadequate—or due to expire by this Fall.

In addition, major hotel companies employing thousands of Americans have lost—or will soon lose—terrorism coverage. Businesses, museums, hospitals, gaming and sports facility owners, and builders all over the country are in similar straits.

While a few insurers have come together to offer very narrow coverage, their policies they provide generally exclude coverage for nuclear, biological and chemical attacks—the very threats the government warns us are most likely to be used by terrorists.

The growing gap in terrorism coverage threatens the stability of America's economy.

The plain fact is: private insurers, alone, cannot close this gap. The potential loss is simply too great for any one company or industry to absorb. The federal government must be a partner.

We've done it before. During World War II, the Government authorized a program, administered by private insurers, which insured property against ''enemy attack.'' We need a similar effort today. That is what this bill is about.

The Congress is working closely with the President to improve the physical security of our nation. We should be no less vigilant in defending America's economic security from the catastrophic losses associated with terrorism. We must pass a terrorism bill. We cannot afford to let this critical measure be held hostage any longer by a handful of Senators who want to use it to pass extraneous measures. The risks to America's economic security is too great.

The President has made that clear. The market is making it clear. We need to close the terrorism insurance gap now. No more delays. We urge our colleagues to join us.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, if I could just say a few words before my friend from Connecticut who worked so hard on this legislation makes a few remarks, the minority should understand that Senator DASCHLE has no intention of peremptorily moving to invoke cloture. I think there should be a reasonable time for people to offer amendments. I also say that we also have to work constructively on this legislation.

The fact is that we have as a result of what is facing this country lots of bills, not the least of which is the Defense authorization bill. We have to complete that before the July 4th recess. We are going to do that.

There is a lot of work to do. The majority leader has stated publicly that this legislation is important. Senator DODD has spent untold time trying to work out an agreement. If everybody believes it as important as they say it is, then we should be able to get a bill.

I respectfully say to my friend, the Republican leader, that they have a right to offer all kinds of amendments and any amendment they want to dealing with liability, lawyers, and other things. But I hope if they lose, they do not cause us to not have a bill.

This bill is important to the real estate industry, the developers, and the people in the construction business. We have hotels, businesses, shopping centers, and they have all come to all of us. They believe this is important.

We are going to have a debate. One of the principal participants in that debate will be the Presiding Officer, who was an insurance commissioner of the third or fourth largest State in United States. He certainly has had a view that a lot of us haven't had as to what insurance is all about. We look forward to the debate with the Senator from Florida, and the debate generally. I hope it is as constructive as the debate was on the estate tax. It was a good debate over the last 2 days. When we have debates like that, it makes this body look good. I think people look not at the result as much as how we are treating each other. Senators, we should be happy. I am happy with the result we had with the estate tax. But the debate was good. People had a chance to voice their opinions. I hope we do just as well on this important legislation on terrorism insurance.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank the distinguished majority whip, Senator REID, for propounding the unanimous consent request. I thank the distinguished Republican leader for agreeing to allow this to go forward, and my colleague from Texas, and colleague from Kentucky, who have had a longstanding interest in the subject matter, as many Members have, including the Presiding Officer. And other Members have come to me over time with various ideas and proposals to be included as part of the terrorism insurance package.

Let me say my good friend from Mississippi, the Republican leader, raised the issue about where we were. He is right. There was a time not so long ago—about 8 or 9 months ago—when we sat down and innocently thought that three or four Members sitting together could write something and then come to the floor, and people would say, You have done a lot of work, go ahead. As oftentimes happens, it is not unique. We thought we had put something together. We came to the floor and discovered that there were 97 other Members who had some ideas—not all 97 but a good many had other thoughts about which they felt strongly.

I don't regret the effort that my colleague from Texas and I made with Senator SARBANES of Maryland. Senator SCHUMER was involved I think to some degree in all of that, and others as well. We made a good faith effort. We thought it would work. It didn't.

December 20, I think, was the date when there was a unanimous consent request to bring the matter up. There was an objection expressed at that time. From then on, we have tried all sorts of ideas and variations that would get us to a unanimous consent where we would have a limited number of amendments to be brought up to try to focus on this bill. None of that worked.

We are now in a situation where we had a rule XIV on the bill on June 7, and this evening we avoided a cloture motion, for which I am grateful. That would have delayed consideration of this bill.

I am not going to debate the merits or demerits of the bill tonight. I see my colleague from Maryland, the chairman of the committee, is here. He may want to be heard on this as well.

But this is an important bill. It isn't because I think it is. It is important because you hear from almost every major metropolitan area in the country now that is feeling the real pinch of a slowdown as a result of the inability and an unwillingness, for obvious reasons, of banks to lend money to major real estate and construction projects without those projects having insurance on terrorism.

In the absence of getting that, which the industry is unwilling to write because they cannot figure out how to cost all of this—that is understandable as well from the business standpoint—a lot of these projects are not moving. Jobs are being lost, and the economy is feeling the effects of it.

That is a shorthand version of what is going on. It hasn't reached such proportion yet that it would stop any kind of economic growth. But it certainly, by every estimation, is having a negative impact on our economic recovery.

Now we have put together the proposal. I know there will be amendments offered. My hope is they will be relevant amendments so they don't use this vehicle to bring up all sorts of extraneous matters.

We will try to limit the debate to some degree on the bill we are proposing and the one which I suspect will finally be adopted. Even if some amendments are accepted, it will be substantially different from what the other body proposed.

Even if we complete our work here, there is a monumental amount of work to be done to reach agreement with the other body. If we hope to get that completed at some point between now and over the August break—I hope earlier—we are going to have to finish this bill fairly quickly.

I urge Members who have an interest to come over and be heard. If you can limit your time so we can have a good debate—I hope no one intends to filibuster on this bill. That would certainly be unwise, in my view.

We will try to produce a product that will get us to conference and further refinement, and resolve the issues so we can send it to the President of the United States for his signature; and, sort of cut this Gordian knot that sits out there as a real choke point, if you will, in the economic flow of our country. That is what this is at this point.

I thank again my colleagues for not objecting to the unanimous consent request that we go to this bill. That is a good sign. I know there is still a lot of difference. But I take that as an omen that we at least can bring up this matter and try to resolve these differences. I look forward to the debate tomorrow. I believe we will be here at 10 o'clock tomorrow to start debate on bill, and make opening statements, if they need to be made, and then engage in, hopefully, a healthy but brief debate and discussion on this important matter.

I see my colleague from Maryland here who may want to express some thoughts.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I will be very brief. I join my very able colleague from Connecticut in underscoring the importance of this legislation and the problem with which it seeks to deal. It is one that we have been wrestling with for a number of months.

I particularly commend the able Senator from Connecticut for his leadership on this issue. He has been indefatigable in focusing our attention on this matter and repeatedly insisting that we have to come to terms with this issue.

I am pleased that we are now going to be able to actually move tomorrow to the legislation and begin this important debate. I will defer my comments on the substance of this legislation until tomorrow, until that debate begins.

But Senator DODD has played a major role, an instrumental role, throughout and, obviously, has played a large part in bringing us to the point at which we are now, which offers us now the opportunity to finally address this issue.

I understand, under the consent agreement, it is a wide open consideration that lies ahead of us. I would urge my colleagues of the necessity to show some restraint as we try to do that because we are under, obviously, some very significant time pressures.

But I look forward to that debate and the opportunity to try to address this issue on its substance. We have heard, of course, a great deal from across the country about this matter.

I simply want to echo the able Senator from Connecticut in saying that I hope we can consider this matter in a very positive and constructive way. I know Members have different ideas on how we ought to go about it. We hope to be able to consider those in a reasonable and proper way and reach some conclusion, hopefully, in the near future.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

MARTIN AND GRACIA BURNHAM

Mr. BROWNBACK. Mr. President, I rise today to discuss a sad and incredibly important situation that happened last week involving citizens from my State.

The war on terrorism claimed another victim.

This past week brought about the sorrowful conclusion to a long and harrowing ordeal for three inspiring people, two of whom are from my home

state of Kansas. Gracia and Martin Burnham, and their fellow hostage, Filipino nurse Ediborah Yap, had endured more than a year in captivity at the brutal hands of the terrorist group *Abu Sayyaf that has had links to the al-Qaida organization*.

We all know the news reports, some of them almost by heart, of the attempted rescue by the Filipino military, who, based on the details that I have, demonstrated heroism and bravery in the encounter. And the heart-rending deaths of Martin and Ediborah and the wounding of Gracia. But today I want to remind all of us that while this may have been the end of their ordeal, it is not the end of their struggle, nor of ours.

The poet John Donne once wrote, ''No man is an island, entire of it selfe; any man's death diminishes me, because I am involved in Mankinde; and therefore never send to know for whom the bells tolls; it tolls for thee.''

September 11 was a wakeup call, but the bell still tolls. We must not let it go unanswered.

Some people have proclaimed that terrorism is simply a symptom of poverty and despair. That it is, if you can believe this, the logical response to a life of misery. I have one question then: Why kill those who are there to alleviate poverty, to lift despair, and to eliminate misery?

Terrorism is not a symptom of poverty, despair and misery. It is a cause. It is the root cause. These men and women do not just attack the concept of freedom and freedom-loving people everywhere, they terrorize their own people, they ravage their own country.

That is not logic, that is not strategy; that is evil. Yet, in the face of evil, people such as the Burnhams do not flinch. They have never flinched. When the governments have left, the missionaries are there. When the NGOs have left, the missionaries are there. When the charitable organizations have left, the missionaries are there.

There are some goals too great, some missions really just too precious, and so the missionaries are there. They keep going. They are always there. And they accept the sacrifices of their work in order to stay true to their calling. Even Gracia Burnham,on the day she arrived home to her children and her friends and family, seeing them for the first time in over 375 days, forcefully said, ''A very bad thing happened to Martin and I when we were taken hostage, but we want everyone to know that God was good to us every single day of our captivity.''

It is a statement emblematic of the strength, courage and, most of all, faith of both of them, and of all missionaries worldwide, who every day risk their lives to help others. In fact, the Burnham's story started out much like many others.

Martin first arrived in the Philippines in 1969 with his missionary parents. He returned to the United States after high school, met Gracia, graduated from Calvary Bible College and the Wichita Aviation Education Center, and then completed the New Tribes Mission training program, the New Tribes group out of Florida. Not surprisingly, he and Gracia then returned to the Philippines, remaining there ever since. In fact, their three children, Jeff, Mindy, and Zach, were all born in the Philippines.

And then, on May 27, 2001, while celebrating their 18th wedding anniversary, they were kidnapped.

It was not the marker of celebration they wanted—that of their love for each other and for God—but rather that of the beginning of this incredible, horrible journey.

The blame for the year of suffering that Martin, Gracia, and Ediborah Yap endured rests squarely upon the shoulders of the terrorist Abu Sayyaf Group. They were offered peaceful means to resolve this situation, multiple peaceful options. Yet this group insisted upon terror, murder, and rampage. They attacked Americans, and they attacked their own people. And they never hesitated to kill without compunction, without compassion, and without logic. Executing several prisoners, including another American that was taken hostage at the time as the Burnhams. Guillermo Sabero, a Californian, was beheaded by this same Abu Sayyaf Group.

Terrorists must understand every single U.S. citizen is important, that an attack on an American anywhere in the world is an attack on America itself.

Most of all, though, terrorists must understand—must be made to understand—that terrorism is never justifiable. Wanton violence that harms blameless men, women and children, unpredictable violence that strikes fear into innocent hearts and minds is not, and never will be justifiable.

As Philippines President Gloria Arroyo said, ''The fight against terrorism is our fight. It is the fight of all of mankind against evil.''

The bell tolls for all of us. Duty beckons all of us.

And the call is simple. We must continue to support the effort to eradicate the Abu Sayyaf Group and other terrorist organizations that threaten the security of the Philippines and other peaceful nations.

Already, U.S. assistance to the Philippines has produced results. Civil action and humanitarian projects are improving living conditions, and specialized training has resulted in a more capable military. Even Gracia Burnham noted, ''We especially want to thank the military men, the Fillipinos and the Americans, who risk, and even gave their lives, in order to rescue us.''

As seen by this rescue, the Abu Sayyaf Group is on the run, but it needs to be completely eliminated as a threat. I personally will continue to encourage any U.S. support requested by the Phillippine Government to assist them in their fight against terrorism and its causes, and to urge my colleagues to do so as well. After all, the struggle is not over, only this ordeal.

Just this morning, elements of the AFP, the Filipino military, were involved in a fierce battle with a group that calls itself the Pentagon. It is a splinter group from the Moro Islamic Liberation Front. This group has held a south Korean businessman captive since February 6, 2001. While defending their country from the scourge of terrorism, two Philipino soldiers were killed, and nine members of this extremist organization died. That was in this most recent firefight. More deaths, and for what?

Let me be clear. The deplorable actions of the Abu Sayyaf Group caused the deaths of Martin, Ediborah, and Guillermo. Let there be no equivocation on this point, the Abu Sayyaf Group is criminally culpable and must be brought to justice.

As we all know, terror begets terror, but justice produces justice. And a nation founded upon the rule of law has a special responsibility to share and enforce that vision.

This Friday, the Burnham family will be holding a memorial service for Martin, not to mourn, but to celebrate his life. Today, I ask all of us to do so, to celebrate Martin, to remember his family, and to recall our shared duty to ''provide for the common Defense'' and to ''define and punish . . . Offenses against the Law of Nations.''

These may seem to be the worst of times, but, like the Burnhams, we are a strong, resilient, and, most of all, hopeful people, and we will prevail.

As it says in the Beatitudes:

Blessed are the merciful, For they shall obtain mercy.
Blessed are the pure in heart, For they shall see God.
Blessed are the peacemaker, For they shall be called sons of God.
Blessed are those who are persecuted for righteousness' sake,
For theirs is the kingdom of heaven.

God bless you, Martin Burnham.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

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

Mr. LEAHY. Mr. President, I am delighted that the House of Representatives yesterday passed unanimously

the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002, S. 2431.

Last month, the Senate passed unanimously my legislation to provide death benefits to the families of 10 fallen heroes of September 11. I again thank Senators CAMPBELL, SCHUMER, CLINTON, BIDEN and FEINGOLD for cosponsoring our bipartisan measure. I commend Representatives MANZULLO and NADLER for their bipartisan leadership on the House companion bill, H.R. 3297, and I thank House Judiciary Committee Chairman SENSENBRENNER and Ranking Member CONYERS for their strong support as well.

Named for Chaplain Mychal Judge, who was killed while responding with the New York City Fire Department to the September 11 terrorist attacks on the World Trade Center, this legislation recognizes the invaluable service of police and fire chaplains in crisis situations by allowing for their eligibility in the Public Safety Officers' Benefit Program. Father Judge, who was gay, was survived by his two sisters who, under current law, are ineligible to receive payments through the PSOB Program. This is simply wrong and must be remedied.

Indeed, Father Judge is among 10 public safety officers who were killed on September 11, but who are ineligible for Federal death benefits because they died without a surviving spouse, child, or parent. This bill would retroactively correct this injustice by expanding the list of those who may receive public safety officer benefits to the beneficiaries named on the most recently executed life insurance policy of the deceased officer. This change would go into effect on September 11 of last year to make sure the families of Father Judge and the nine other fallen heroes receive their public safety officer benefits.

In addition, this bill would retroactively restructure the Public Safety Officers' Benefit Program to specifically include chaplains as members of the law enforcement and fire units they serve, and would make these chaplains eligible for the one-time $250,000 benefit available to public safety officers who have been permanently disabled as a result of injuries sustained in the line of duty, or to the survivors of officers who have died.

Finally, I applaud the National Association of Police Organization, the Fraternal Order of Police, and the American Federation of State, County and Municipal Employees for their strong support for this bill to honor public safety officers and their families.

This legislation provides much-needed relief for the survivors of the brave public servants who selflessly risk and sacrifice their own lives everyday so that others might live. I look forward to President Bush signing the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002 into law.

SOLUTION TO MTBE PROBLEM

Mr. SMITH of New Hampshire. Mr. President, by now, most everyone in the Nation has heard of the problems caused by MTBE (methyl tertiary butyl ether). I am very pleased that S. 950, the Federal Reformulated Fuels Act of 2002, reported by the Senate Committee on Environment and Public Works, has largely been incorporated into the Senate energy bill, S. 517, passed by the Senate on April 25, 2002. I would like to thank all those who worked with me to negotiate this comprehensive solution to the MTBE problem.

The legislative package provides Federal funding for cleanup of existing contamination and for prevention of future releases of MTBE, while preserving the environment and protecting the country from gasoline price spikes and fuel shortages. I would like to engage in a brief colloquy with the chairman of the committee so that we can provide an overview of the problems caused by MTBE and how this legislation solves these problems.

The problem that initially motivated the committee and the Senate to act on S. 950 and this issue in general is the existing MTBE contamination of water resources. Leaking underground storage tanks (USTs) are the major source of MTBE releases. Section 832 of this legislation authorizes $200 million from the Leaking Underground Storage Tank (LUST) Trust Fund for States to use for MTBE remediation. For this limited allocation of funds, the legislation waives the LUST requirement that the contamination be linked to an UST. Once in the environment, MTBE separates from other gasoline components and can quickly move far away from the source. Since MTBE contamination is difficult to trace, it is nearly impossible to establish a link between the contamination and a LUST.

In addition to cleaning up existing contamination, we must prevent future leaks from USTs because MTBE, in volumes much lower than current levels found in reformulated gasoline (RFG), may remain in gasoline for up to four years of enactment of this bill. To prevent future leaks, Section 832 of this legislation authorizes an additional $200 million from the LUST Trust Fund for States to use for activities to enforce existing UST regulations.

There is still more to learn about remediation of MTBE. Section 832 of this legislation authorizes $2 million for conducting bedrock bioremediation research and establishing an information clearinghouse. These authorized funds are intended to go to the Bedrock Bioremediation Center (BBC) at the University of New Hampshire. Currently, the BBC conducts research on bioremediation of various contaminants in fractured bedrock. This additional funding will allow the BBC to learn ways of cleaning up MTBE contamination in fractured bedrock and establish an information clearinghouse so that the newly developed remediation techniques may be shared across the nation. Once MTBE enters fractured bedrock, it is nearly impossible to remediate and equally as difficult to track. MTBE may contaminate wells that are many miles away from the original source. In simple terms, we can't get it out of bedrock and we can't tell where it will cause problems.

Mr. JEFFORDS. As the Senator from New Hampshire, the ranking member on the Environment and Public Works Committee, has pointed out, the committee acted to address existing contamination and to prevent future contamination. There are many sources of MTBE releases, including leaking underground storage tanks, motor vehicle accidents, fuel overfills, backyard mechanics and many more. With the numerous potential sources, the only way to ensure prevention of future contamination is to get MTBE out of gasoline. This legislation contains several provisions that work together to provide for quick reduction and eventual elimination of MTBE use in gasoline.

Section 834 eliminates the oxygen content requirement in Sections 211(k)(2) and 211(k)(3)(A) of the Clean Air Act. These provisions require RFG to contain two percent oxygen by weight. To satisfy this mandate, refiners must blend either fourteen percent MTBE or 5 percent ethanol into RFG. Elimination of the oxygen mandate will allow for a phase-down of the use of MTBE in RFG without requiring the use of ethanol in every gallon of RFG in certain non-attainment areas. But, RFG will still be required to meet all other statutory and regulatory requirements.

The elimination of the oxygen requirement also will allow refiners supplying RFG to the Northeast and many other States to use considerably less MTBE in RFG prior to the beginning of the phase out. MTBE is currently 3 percent of the national gasoline supply. Most of this is used in RFG areas, where MTBE volume in RFG is up to 15 percent.

The oxygen requirement is eliminated effective 270 days after enactment in order to provide time for EPA to put in place the anti-backsliding provisions included under Section 834 of this legislation.

Mr. SMITH of New Hampshire. In addition to elimination of the oxygen mandate, as the Senator from Vermont has indicated, this legislation requires EPA to make a determination about the adequacy of any pending RFG petition to waive the oxygen content requirements of section 211(k)(2)(B) for RFG. If EPA fails to act in the required time, the petition shall be deemed approved. Although this includes an opt-out or other request, EPA's failure to act results in automatic approval of the petition only to the extent that the oxygen content requirement for RFG would be waived. No other RFG requirements are affected. This provision only applies to petitions pending at the time of enactment of this provision.

The State of New Hampshire submitted to EPA a request to opt-out of the RFG program and set state fuel standards that are identical to the Federal RFG specifications, excluding the oxygen mandate. The EPA is instructed to interpret the New Hampshire RFG opt-out request as a request to eliminate the oxygen mandate. If the request is deemed adequate, either by EPA or by statute, the RFG sold and used in New Hampshire will not be required to adhere to the oxygen content requirement, effective immediately upon the adequacy determination.

The removal of the oxygenate requirement alone, however, is not enough to ensure the removal of MTBE from gasoline. Therefore, Section 833 of this legislation contains a provision that prohibits the blending of MTBE in gasoline within 4 years of enactment. The 4-year period is intended to allow fuel refiners to phase out the use of MTBE on a schedule that will not cause gasoline shortages or price spikes. The absence of a mandatory statutory phase down schedule is intended to give maximum flexibility to fuel refiners as they proceed to an MTBE-free gasoline supply.

The reference to use of MTBE in new section 211(c)(5)(A) of the Clean Air Act is meant to cover use by all persons. It includes all persons in the motor vehicle fuel production and distribution system, as well as ultimate consumer of the fuel and producers of MTBE. EPA's regulation may include appropriate provisions to implement this prohibition.

The findings listed in this section are intended to clarify that the elimination of the use of MTBE is intended to protect water quality. It is important to note that health concerns are not the main cause for Congressional action, based on information to date.

There is an allowance for de minimus amounts of MTBE to be present in gasoline because MTBE is sometimes produced in trace amounts during the gasoline production process. The Administrator will make a determination on what level is appropriate, but the legislation provides that it can be no more than .5 percent by volume.

Another provision gives States the authority to allow the use of MTBE in gasoline for sale and use within such State's borders. This provision is intended to allow a State to use MTBE should the State determine that other problems, such as increased air pollution, price spikes, or fuel supply shortages, outweigh any adverse impact MTBE may have on water quality. The regulations implementing this provision could allow production and distribution in other States for intended ultimate use in the notifying State, with appropriate safeguards to ensure that the fuel containing MTBE ultimately is only sold or used in the notifying State. Such rules, however, should not authorize production or use in a state that has banned MTBE and does not want it stored or handled there for fear of water supply contamination.

Section 833(d) is intended to hold harmless any legal recourse that the States may have during the on-going litigation over the efforts to impose or defend state MTBE bans or other legitimate actions to control or prohibit MTBE use or production.

Mr. JEFFORDS. The Senator has stated the essential point of this legislation and these provisions in the energy bill, that is the elimination of MTBE to protect water supplies. Its removal from the gasoline supply could encourage the replacement of fuel volumes with more toxic components, so section 834 of this legislation requires EPA to ensure maintenance of the toxics reduction over-compliance already achieved in RFG areas. EPA may comply with this requirement by amending the existing Mobile Source Air Toxics (MSAT) rule by updating the individual refinery RFG baselines from 1998–2000 to 1999–2000, and whatever other appropriate changes are necessary. We are advised by the Agency that any such changes should be minimal.

The MSAT rule currently makes a distinction between baseline volume, the average volume produced during the years 1998–2000, and incremental volume, or additional volume above baseline volume. These categories are treated differently under the rule and under this legislation. Under the rule, baseline volumes must adhere to new toxic reduction standards based on actual survey data from 1998–2000 and incremental volumes are held to the statutory or regulatory reduction, whichever apply. Under this legislation, the baseline volumes must adhere to the updated toxic reduction standard based on actual survey data from 1999–2000. Incremental volumes are treated the same as under the rule unless the actual toxics levels in any PADD exceed the average 1999–2000 levels. If there is an exceedance, EPA must revise the existing regulation to require incremental volumes of RFG, in addition to baseline volumes, to adhere to the updated individual refinery baselines.

The RFG program set statutory content and performance requirements. Through regulatory authority provided by the Clean Air Act, EPA chose, in 1993, to adopt performance standards for toxic air pollutants and volatile organic compounds (VOCs) rather than the prescriptive fuels formula allowed under Section 211(k)(3)(A). These performance standards required a 15 percent reduction in toxic air pollutants from baseline fuel starting in 1995 and maintained through 1999, and required a 21.5 percent reduction from baseline fuel beginning in 2000, as part of Phase II.

Motor vehicle emissions of toxics have been drastically reduced in RFG areas, though they are still a very substantial portion of the air toxics inventory in many areas. Over-compliance with the toxics reduction goals in the Clean Air Act has been largely due to the dilution effect of the oxygenates MTBE and ethanol, relatively toxic-free additives. RFG survey data suggest that refiners have achieved a 27 percent or higher reduction in toxic air pollutants from the 1990 baseline.

On March 29, 2001, EPA released a final strategy to further reduce air toxics emissions from motor fuels in an effort to comply with its responsibility under Section 202(l) of the Act. The strategy identified 21 mobile source air toxics (MSATs). It is intended to ensure that refiners continue over-compliance with RFG and anti-dumping requirements by maintaining their average 1998–2000 toxic emissions performance levels for baseline volumes of RFG and conventional gasoline. For incremental volumes, refiners must adhere to the regulatory standard of a 21.5 percent reduction. The MSAT rule is intended to ensure that toxics over-compliance is maintained regardless of whether any oxygenates are used. The MSAT rule commits EPA to revisiting additional fuel and vehicle MSATs controls in a 2004 rulemaking.

Section 834(b) supplements the air toxics provisions for RFG. Congress recognizes that EPA recently adopted regulations at 40 CFR part 80 Subpart J regarding air toxics performance of gasoline, including provisions for RFG. Congress intends that the regulations recently adopted by EPA are adequate to implement new section 211(k)(1)(B)(ii) and (iii), with the exception of the change in baseline year from 1998–2000 to 1999–2000 and any resulting baseline changes that may necessitate. The provisions in the current regulations for setting baselines, baseline adjustments, deficit carry-over, and the like should still all be appropriate under this new provision. While new baseline adjustments would not be allowed based solely on the new provision, prior baseline adjustments would not be affected, except as called for with the change in the baseline years. For example, the existence of a federal ban on MTBE would not automatically change any previously granted adjustments, and would not provide grounds for any new adjustments.

I would note that there is not wholehearted support for the MSAT rule at 40 CFR part 80 subpart J in Congress or in the States. The Northeast States for Coordinated Air Use Management has filed suit against the Agency claiming that this rule is inadequate to protect public health in the Northeast and inconsistent with the requirements in section 202(l) of the Clean Air Act. So, we have included a savings clause to be very clear that Congress has not blessed this rule through the inclusion of these anti-backsliding provisions.

Mr. SMITH of New Hampshire. Mr. President, the existing RFG regulations set separate standards for fuel sold in Northern and Southern RFG areas. Section 839 of the legislation we are discussing requires EPA to revise

existing RFG regulations to apply the stricter Southern requirements in all RFG areas nationwide. This will provide the Northern RFG States, including New Hampshire, with less-polluting Southern RFG. In addition, this provision will help to reduce the number of boutique fuels. This provision does not alter the Administrator's current ability to make volatile organic compound (VOC) adjustments for ethanol blends of RFG, like the existing adjustment given to Chicago and Milwaukee.

Mr. JEFFORDS. Because of that change and the other congressional actions on MTBE and renewable fuels, there are likely to be significant changes in the Nation's gasoline characteristics. Section 836 of this legislation requires EPA to study and report on the changes in emissions of air pollutants and changes in overall air quality due to the use of fuels and fuel additives resulting from this bill. This report will provide information to evaluate the success of the provisions of this legislation and should help identify problems that can be solved by statute or regulation before they are serious.

Section 211(c) of the CAA provides the Administrator with regulatory authority over fuels or fuel additives, if, in the judgment of the Administrator, the fuels or fuel additives or emission products cause or contribute to air pollution that may reasonably be anticipated to endanger the public health or welfare. This legislation adds authority to protect water quality, in addition to air quality. The bill requires the Administrator to exercise this regulatory authority to prohibit the use of MTBE. The bill also adds water quality as an environmental protection criterion in Title II of the act.

Mr. SMITH of New Hampshire. To address the inflexibility of the opt-in process for states that desire to use RFG to reduce emissions, section 837 of the Energy bill allows Governors of States within the Ozone Transport Region (OTR), to opt in any area to the RFG program. EPA must approve the request unless there is insufficient capacity to supply RFG to the area. Currently, only ozone nonattainment areas are allowed to opt in to the program. This legislation expands the program to include all areas within the OTR States. This will give those states, including New Hampshire, the opportunity to have one clean, MTBE-free RFG statewide. This provision is intended to provide cleaner fuel, address the boutique fuel problem, and help states achieve attainment.

The section addresses both the commencement and termination of the RFG requirements in areas in the OTR that opt-in to RFG under that provision. The provision on termination of the RFG program in these opt-in areas is not intended to change or modify in any way EPA's authority to adopt reasonable opt-out provisions under either section 211(k)(6)(A) or (B).

This section includes a provision that allows a temporary delay of the effective date of these requirements if there is insufficient capacity to supply gasoline to a State that chooses to opt in new areas to the RFG program. If EPA, in consultation with the Department of Energy, determines that expansion of the RFG program would result in insufficient supply of gasoline in the State, the effective date of the new opt-in areas may be delayed for a period of up to one year with the possibility of two more periods of up to one year each.

Mr. JEFFORDS. Section 838 of the legislation allows States to ask EPA to enforce any state-imposed fuel specifications that have been approved under processes established under Section 110 or Section 211(c)(4)(C) of the Clean Air Act. Effective and consistent enforcement of State and federal environmental laws is very important. States currently have very limited budgets for enforcement activities. To ensure full, faithful, and consistent enforcement of the state laws, this provision provides the ability for States to access additional federal resources for enforcement of state fuel specifications, once approved by EPA through the existing processes.

The section directs EPA to enforce certain state fuel controls or prohibitions in the same manner as if EPA had adopted the control or prohibition under section 211. This new provision is not intended to change in any way the requirements for approval of a State fuel control or prohibition in a SIP, including the requirement that it be enforceable by the state. It is also not intended to limit EPA's enforcement discretion. EPA would have the same discretion in enforcement matters with respect to these state fuel controls or prohibition as it would with a federal fuel control or prohibition adopted under section 211.

Mr. SMITH of New Hampshire. To avert air quality problems that might arise through increased use of ethanol, pursuant to the renewable fuels requirements, section 819(c) of the legislation allows States to eliminate the RVP waiver for gasohol if such waiver will increase air pollution in any area within the State. If a state determines the waiver will cause air quality problems, the State may submit notification, accompanied by supporting documentation, to EPA indicating that the stricter RVP limit must be applied to gasohol within the state. This provision will help new ethanol using states to control evaporative air pollution emissions from gasohol.

This section includes a provision that establishes a temporary delay of the effective date of these requirements if there is insufficient capacity to supply gasoline to a State that chooses to eliminate the ethanol RVP waiver. If EPA, after consultation with the Department of Energy, determines that elimination of such waiver would result in an insufficient supply of gasoline in the State, refiners may be allowed to retain the ethanol RVP waiver for a period of up to 1 year with the possibility of two more periods of up to 1 year each.

Mr. JEFFORDS. In order to prevent future problems similar to the MTBE debacle, Congress is expanding EPA's existing authority to regulate fuel additives. The current provisions of the Clean Air Act provide a process for EPA and authorized States to regulate fuels and additives in order to protect air quality. This legislation amends that process by allowing fuel and additive regulation in order to protect water quality, as well. If this authority already existed, EPA and the State of California might have been able to address the MTBE problem before it became acute without Congressional action.

There is also an additional prophylactic provision that requires EPA to study the health, air quality, and water quality effects of fuel additives and blend stocks that may be used as replacements for MTBE. The bill specifically lists ETBE, TAME, DIPE, TBA, ethanol, iso-octane, and alkylates as additives to be studied.

The existing law allows the Administrator to require fuel producers to conduct tests to determine the health and environmental effects of fuels and fuel additives. This provision mandates that the Administrator regularly require fuel and fuel additive manufacturers to conduct testing and supply information on the effects of those substances on public and environmental health.

Congress intends that the Administrator should use this authority to identify and assess any adverse public health, welfare, or environmental effects from the use of motor vehicle fuels or fuel additives or the combustion products of such fuels or fuel additives. The Administrator should use the authority to assess threats to both air pollution and water pollution in order to effectively exercise the authority in Section 211(c) as amended by this legislation.

The Blue Ribbon Panel on Oxygenates in Gasoline recommended that EPA and others accelerate ongoing research efforts into the inhalation and ingestion health effects, air emission transformation byproducts, and environmental behavior of all oxygenates and other components likely to increase in the absence of MTBE. This should include research on ethanol, alkylates, and aromatics, as well as on gasoline compositions containing those components.

Mr. SMITH of New Hampshire. In order to limit potential negative impacts on gasoline prices and fuel supplies, the legislation authorizes a total of $750 million over three fiscal years to promote production of other fuel additives. This funding is intended to provide grants to merchant MTBE producers for retooling existing facilities to produce other clean fuel additives, such as iso-octane, in order to avoid any fuel shortages that may have otherwise resulted from the elimination of the use of MTBE.

According to a report from the EPA, the impact of the Federal Reformulated Fuels Act on the fuel supply could range from a one percent shortage to a one percent surplus. The report further stated that, due to the transition assistance, the actual impact is more likely to be on the surplus side.

Mr. JEFFORDS. The renewable fuels and MTBE provisions contained in H.R. 4, as passed by the Senate, constitute an agreement among many competing interests that is designed to get rid of MTBE and increase renewable fuel use.

After the reformulated gasoline program went into effect in 1995, many refiners chose to use MTBE to satisfy the minimum 2 percent oxygen requirement of the program. Oxygenates reduce tailpipe emissions of carbon monoxide and other ozone precursors and provide a clean source of high octane, thereby displacing such toxic gasoline octane enhancers as benzene, toluene, and 1,3 butadiene. After implementation of the RFG program, increasing detection of MTBE in ground water and surface water led California to establish a schedule to ban MTBE and 13 other States have followed with their own MTBE bans.

It became clear that the combination of a phase out of MTBE in these states and the continued existence of the two percent oxygen content requirement for RFG could result in a potentially disruptive and abrupt transition to ethanol in states that did not have a history of using ethanol. To facilitate the ban of MTBE, and to provide greater flexibility in producing RFG, states and refiners requested Congress and the administration to lift the RFG oxygen requirement. At the same time, ethanol producers saw a major opportunity for market growth and were reluctant to support elimination of the RFG oxygen requirement.

To address the challenge of maintaining market growth for ethanol, providing greater flexibility in making clean-burning gasoline, and reducing the use of MTBE, Senators LUGAR and DASCHLE in 2000 introduced the Renewable Fuels Act, S. 2503. That bill would allow States to waive the 2 percent oxygen requirement and established a nation-wide renewable fuels standard (RFS) to roughly triple the use of ethanol from current levels over 10 years. That RFS requirement would apply to refiners, who would be able to generate, bank, and trade credits for the use of renewable fuels, such as ethanol and biodiesel. This mechanism was designed to increase the use of renewable fuels, provide maximum flexibility in the use of those renewable fuels, while ensuring that eliminating MTBE from gasoline supplies will not lead to greater dependence on foreign oil. As a result of the credit trading and banking, refiners will use renewable fuels where and when it is most economical to do so, and no State will need to use any particular amount of renewable fuel.

That legislation also established that ethanol produced from cellulosic biomass, which is particularly energy-efficient and produces superior greenhouse gas benefits, would receive 1.5 credits for every gallon used. This should spur the establishment of new ethanol facilities across the United States that will use wood waste, municipal solid waste, switchgrass, and other innovative feedstocks.

In September of 2000, the Environment and Public Works Committee passed legislation, S. 2962, which incorporated many of the elements of S. 2503, but Congress adjourned prior to enactment of that bill. The EPW Committee again took up the issue in September of 2001, passing legislation to allow states to waive the oxygen requirement, banning MTBE, and providing additional resources for cleaning up MTBE contamination, but not including a renewable fuels standard. As the Senator from New Hampshire mentioned earlier, that legislation, S. 950, was largely incorporated into S. 517, the Energy Policy Act. A separate section establishing a renewable fuels standard also was included in S. 517. Subsequently, negotiations between the Environment and Public Works Committee, the Energy Committee, and ethanol, public health, environmental, and petroleum interests produced a compromise that replaced the initial MTBE and renewable fuels provisions of S. 517.

During debate on the RFS, concerns were raised that it could lead to gasoline price increases. In response, Senators MURKOWSKI and DASCHLE asked the Energy Information Administration (EIA) to evaluate the potential costs of implementing the RFS, as well as the other fuels provisions in S. 517. The EIA found that the RFS would raise gasoline prices by less than 1 penny per gallon in RFG areas and less than one-half a cent per gallon nationwide. The EIA also noted that these were upper-bound estimates that did not account for the economic benefits that would result from the credit trading and banking provisions. The American Petroleum Institute estimated that the maximum cost increase for a gallon of gasoline due to the implementation of the RFS would be less than one-third of a cent per gallon.

Concerns have also been expressed that requiring the nation to use more renewable fuels could lead to supply shortages and price increases. The evidence suggests that there will be abundant supplies of renewable fuels to meet the RFS. The RFS begins in 2004, requiring 2.3 billion gallons of ethanol to be used in that year. According to the California Energy Commission report on nationwide ethanol supplies, issued in August of 2001, there will be 2.7 billion gallons of ethanol capacity in place by then, so renewable fuels supplies should be plentiful.

Nevertheless, additional consumer protections were incorporated into the legislation. Under the bill, the Department of Energy is required to evaluate supply and logistics of transporting and blending renewable fuels. If problems are anticipated, the Administrator of the Environmental Protection Agency is instructed to reduce the level of the RFS in 2004. In subsequent years, States that are concerned about renewable fuels prices or supplies may apply to the Administrator of the Environmental Protection Agency to reduce the RFS in whole or in part. State applications must be acted upon within 90 days.

The legislation creates a narrow prospective safe harbor from liability for defect in design or manufacture of a renewable fuel by virtue of it being mandated by this legislation. To qualify for this limited protection, manufacturers of such fuels must have evaluated them for EPA with respect to their toxicity, carcinogenicity, air quality impacts, water quality impacts and they must be used in compliance with any restrictions imposed by EPA. All other causes of action or damages available under applicable State or Federal law are unaffected by this legislation including, but not limited to, negligence, duty to warn, personal injury, property damage, environmental damage, wrongful death, compensatory damages, and punitive damages.

The Senate passed its bill on April 25 and appointed conferees on May 1. We should move quickly to begin this conference because there are many difficult matters to negotiate. Fortunately, the compromise provisions which we have been discussing relating to MTBE and renewable fuels appear to have broad support, judging from the votes in the Senate, and should be amenable to swift agreement among the energy bill conferees.

So, as I mentioned during the debate on S.517 as part of my summary of these provisions, this is not an ideal package, but it meets the test of improving and protecting air and water quality and promoting renewable energy.

Mr. SMITH of New Hampshire. Mr. President, I agree with the chairman that this legislation is not ideal, but it accomplishes our main goal of remediation and prevention of MTBE contamination. I am pleased that the House has appointed its conferees today and I hope that we can move that conference to an expeditious conclusion maintaining the integrity of the compromise that we worked out here in the Senate.

SUPPORT FOR THE LOCAL LAW ENFORCEMENT ENHANCEMENT ACT

Mrs. BOXER. Mr. President, I was deeply disappointed that the Senate did not have enough votes to move forward on the hate crimes bill—even though a clear majority of the Senate supports this important measure.

During the debate, many of my colleagues addressed the constitutionality of this legislation, and the role that the Federal Government should play

with regard to hate crimes. What speaks volumes to me about the importance of this legislation—and the reason the Senate's inaction is so disappointing—are the stories. The people behind the numbers. The victims and the survivors.

In the strong hope that we will revisit this matter in the near future, let me share some of these stories—some of the awful realities of the crimes we are talking about. The most recent happened just last week in Riverside, CA.

Last Thursday, two gay men were stabbed repeatedly in the back outside a popular gay bar. One of these men, 40-year-old Jeffrey Owens, died hours later. Michael Bussee, 48-years-old, managed to survive.

According to the media reports, both men had come to the bar to celebrate a friend's birthday. After leaving the bar with their partners, Jeffrey Owens wanted to show everyone the pictures he had taken on a recent trip to Joshua Tree National Park. When he went to retrieve the pictures in his car, a man approached Michael Bussee, punched him, and then stabbed him in the back. Noting the commotion, Jeffrey Owens approached the perpetrator, and was stabbed four times in the back. Before stabbing Jeffrey, the attacker screamed a homophobic slur.

Apparently, neither man knew how badly he had been hurt. Jeffrey Owens didn't even realize he had been stabbed until he stepped out of the car at the county hospital in Moreno Valley, when his friends saw his blood-soaked seat.

Jeffrey Owens died hours later, after two operations. Michael Bussee was treated and released.

There are countless other stories I could share with you, but I will only touch on a few of them here today.

On September 7, 2000, a Los Angeles resident was charged with murder and hate crimes for allegedly killing a 65-year-old Hispanic man, Jesus Plascensia, by running him over at least twice in a parking lot. Authorities say she made comments about her hatred of Hispanics after she murdered him and referred to him as ''dead road kill.''

On September 18, 2001, someone threw a Molotov cocktail through the window of a Sikh family's home in San Mateo, CA. The fuse was lit but, due to some miracle, the firebomb did not explode as it hit the head of a 3-year-old child in the house.

In Santa Barbara, CA, a 37-year-old gay man named Clint Scott Risetter was killed after an alleged arsonist poured gasoline over him while he slept and set him on fire. The perpetrator says he killed Risetter ''because he was gay,'' and because he had ''a lot of hatred toward gay people.''

And the list goes on and on. These stories are what make this bill so vitally important.

This bill would extend current Federal hate crime protection—which covers race, religion, color and national origin—to gender, sexual orientation and disability. It would also make it easier to prosecute hate crimes at the Federal level.

It is an extremely important tool to help our already overtaxed State and local law enforcement by allowing Federal assistance, when necessary, in the investigation and prosecutions of hate crimes.

It would provide Federal assistance to State, local and Indian law enforcement officials who have run up extraordinary expenses in connection with their investigation and prosecution of hate crimes. It would also provide training grants to help local law enforcement officers identify, investigate, prosecute, and prevent hate crimes. Finally, it would allow the Justice Department to back up local law enforcement by removing arcane obstacles that prevent effective prosecution of hate crimes motivated by race, color, religion, or ethnicity.

This bill has broad support from notable law enforcement agencies and state and local leaders, including 22 state Attorneys General, the International Association of Chiefs of Police, the National Sheriff's Association, the Federal Law Enforcement Officers Association, and others. With this broad-based support, and with the need so clearly urgent, this bill should be immediately passed.

Two years ago we stressed the importance of passing hate crimes legislation. We cited the examples of James Byrd, Jr., of Matthew Shepard, and others. And we passed it.

Here we are, two years later, making the same arguments and conducting the same debates. This time, the victims have new names: most recently, in my State of California, names such as Jeffrey Owens, Michael Bussee, Jesus Plascensia, and Clint Scott Risetter.

The time to act is now. It is my hope that we will pass this vital legislation by the end of this year.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 1, 2001 in Modesto, CA. The home of an inter-racial couple and the couple's two children were threatened when someone threw a Molotov cocktail at the couple's home. Police believe it was a hate crime, citing other evidence such as a watermelon thrown on the driveway, a box of grits, a frozen bag of black-eyed peas, and a 40-oz. King Cobra beer.

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 of 2001 is now 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.

LEGISLATION TO DENY U.S. TAXPAYER MONEY TO ARAFAT AND THE PALESTINIAN AUTHORITY

Mr. SMITH of New Hampshire. Mr. President, I rise today in support of my legislation to prohibit any U.S. taxpayer money from ending up in the hands of Yasser Arafat and the Palestinian authority.

Unfortunately, Yasser Arafat is not a partner in the peace process.

As long as the United States continues to provide money to the Palestinian authority through grants to non-governmental organizations, some of that money will end up in the hands of those who wish to do harm to Israel.

We must stand shoulder to shoulder with Israel in the war against terrorism.

We must also send a clear message to Yasser Arafat and the Palestinian leadership that the United States will not tolerate terrorism against Israel.

Israel is a true friend and ally.

And, as a Nation, we share many of the same values—democracy, respect for human rights, freedom of the press, a strong desire for peace and prosperity, to name but a few.

During the Camp David summit in July of 2000, it was Israel that was prepared to make tremendous concessions to ensure peace in the Region.

As we all know today, Arafat refused to reach a peace agreement, and walked away from the negotiating table.

Yasser Arafat did not want peace because he needs the conflict for them to stay in power.

Instead of peace, they chose terror.

My staff has compiled a list of terrorist attacks on Israel last year. In 2001, 79 attacks cost 160 innocent Israelis their lives, and wounded another 1,200. Since then, of course, we have all seen the tremendous cost in human lives and misery from many more terrorist attacks on innocent civilians, and the resulting isolation of Yasser Arafat and the civilized world's condemnation of the Palestinian authority.

We dare not forget the level of terror visited upon Israel by Palestinian terrorists.

Arafat is using his own personal forces to attack Israel through suicide attacks.

Furthermore, he is allowing Hamas and Islamic Jihad safe harbor in the West Bank and Gaza Strip.

Hamas and Islamic Jihad are two of the most heinous terrorist organizations in the world, responsible for the deaths of numerous innocent people.

Keep in mind, at one time, Arafat promised to get rid of these organizations.

Arafat's promises are worth nothing.

It is wrong to ask American taxpayers to subsidize the Palestinian authority when Yasser Arafat uses the resources of the Palestinian authority to attack innocent men, women, and children in Israel.

We have seen video footage of the Palestinian people cheering and dancing in the streets after the September 11th attacks—many holding posters of Saddam Hussein.

Yet, while we have sanctions against Iraq, we are providing millions of dollars in aid to the Palestinian authority through non-governmental organizations.

We know well that any funds, even designated as humanitarian, free up money that Arafat can use for his army of human bombers.

If there is any doubt in anybody's mind that Yasser Arafat promotes terrorism, I would like you to consider the order on the official letterhead of the presidential bureau of the Palestinian authority/Palestine liberation organization, bearing the signature of Yasser Arafat just 8 days after our country was attacked on 911, ordering $600 be paid from the treasury of the Palestine authority to each of three terrorists. Two of them are senior activists of the Fatah terrorist group, and one of these, Ziad Da'as, is the head of the group behind a recent deadly terrorist attack on a bat-mitzvah party in Israel. The Israeli defense ministry says they recently captured this document at Arafat's office in Ramallah.

Also, I ask my colleages to consider the order from Yasser Arafat to the finance ministry of the Palestinian authority from January 7th of this year. In this document, Arafat orders the disbursement of $350 to each of the 12 named Fatah activists. According to the Israeli Defense Ministry, who captured this document at Arafat's headquarters in Ramallah, each of these 12 individuals are known terrorists, belonging to Fatah and or Tanzim. Arafat's approval is given in response to a request of Ra'ed Karmi, then the head of the Fatah and Tanzim Terror Groups, which perpetrated numerous murderous attacks on innocent Israeli civilians since September 2000.

American aid to the Palestinian authority allows Arafat to focus more of his resources on attacking Israel.

We need to make sure no taxpayer money ends up in the Palestinian authority.

My legislation would do just that.

As recently as April 7th of this year, Tim Russert on ''Meet the Press'' asked the Secretary of State to deny that Arafat is funding terrorism. Here Is what he said:

Russert: Israel says documents link Arafat and terrorism. They seized documents and made them public, which linked the office of Yasser Arafat with terrorist attacks carried out against Israeli civilians and other targets. One of the documents, said to be an invoice submitted by a leading Palestinian militant group to a Palestinian official, among other items, the invoice requested 20,000 Israeli Shekels, $4,200 American, to buy electrical and chemical components for the production of a month's supply of 30 bombs. It's an invoice of terrorism, said Dori Gold, an advisor to Prime Minister Sharon. [Mr. Secretary,] do you believe the Palestinian authority harbors or supports terrorism?''

Do you know, what our Secretary of State replied?

Did he deny the authenticity of this document? He did not.

Did he deny that Arafat paid the bill? He did not.

Did he deny that our taxpayer dollars are thus funding the killing of innocent men, women and children? He did not.

What he said was, ''It is a complex situation''.

There's nothing complex about it! Our tax dollars should never be used for terrorism. Period. End of discussion!

After our Nation was brutally attacked on September 11, President Bush set a new direction in U.S. foreign policy.

He Said, ''From this day forward, any Nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.''

By any honest assessment, Yasser Arafat both harbors and supports terrorism.

On the other hand, Israel is a good friend of the United States and the only democracy in the middle east.

I repeat, we must stand unequivocally by Israel, and do everything in our power to support her.

The record is clear.

Israel is a friend of the United States, Yasser Arafat is not.

We can't expect Israel to negotiate with individuals who wish to destroy Israel's very existence.

We must also ensure that we in no way support Arafat's oppressive regime by providing money to organizations affiliated with the Palestinian authority.

Every dollar that we send to the west bank and Gaza is a dollar that could potentially be used to support terrorism.

I strongly urge my colleagues to stand with me on the side of Israel and vote for my legislation.

HUMAN CLONING PROHIBITION ACT

Mr. DORGAN. Mr. President, earlier this week I modified my bill, the Human Cloning Prohibition Act, S. 2076. I originally introduced this bill in an attempt to forge a consensus on what I thought was a straight-forward concept, the banning of reproductive cloning or the cloning of a human being. When I introduced the legislation, I stated: ''It is a simple bill, but it reflects my view and a view that is held by almost everyone. . . . My legislation makes it illegal to clone a human being and imposes strict penalties against anyone who violates this prohibition.''

However, in recent weeks those who oppose my legislation have interpreted the language of my bill in a manner that is not consistent with the intent of the bill. They argue that my bill as originally introduced would allow a cloned embryo to be implanted into the uterus and ''harvested'' at some point prior to birth.

I do not believe the language of my bill allows that, and it is certainly not the intent of the bill. But, in order that no one can misinterpret the intent of my bill, I am making an adjustment in the bill language. The revised language will define human cloning as ''implanting or attempting to implant the product of somatic cell nuclear transfer, or any other cloning technique, into a uterus or the functional equivalent of a uterus.'' It makes it unlawful for ''any person to conduct or attempt to conduct human cloning.'' The bill retains the strict penalties against violators that were present in the original version.

My legislation is silent on the matter of therapeutic cloning or what some call ''regenerative medicine.'' I understand that this is a topic that needs thoughtful discussion and debate. It is a subject that is addressed in other bills now before the Senate.

I respect those who support the Brownback bill and wish to prohibit what is called somatic cell nuclear transplantation or the cloning of stem cells. This is a difficult subject and there is plenty of room for thoughtful disagreement in the debate. But I don't believe that we should prohibit the promising research that could lead to cures for diseases such as diabetes, Alzheimer's, cancer, heart disease and more. I agree with Nancy Reagan, former President Ford, ORRIN HATCH, and others that this kind of regenerative medicine conducted under strict guidelines and controls can offer great hope to tens of millions of Americans and can save lives.

The debate on that matter is left to other legislation. My bill applies only to the issue of prohibiting the cloning of a human being and I hope that this change in the language will no longer leave room for those who are opponents to misinterpret or misunderstand its intent.

ADDITIONAL STATEMENTS

ALEUTIAN CAMPAIGN OF WORLD WAR II

• Mr. STEVENS. Mr. President, I submit the following newspaper articles commemorating the 60th anniversary of Aleutian Campaign of the Second World War and the veterans who served there. This campaign was the only action actually fought on American soil during the war. The men who served there endured not only the horrors of combat, but also one of the harshest environments on Earth. Fighting and, in many cases, dying, to prove that

Americans are dedicated, at all cost, to the principle that no corner of our country, no matter how remote, will ever be ceded to our enemies.

For those who wish to learn more about the Aleutian Campaign, I recommend ''The Thousand Mile War'' by Brian Garfield. It illustrates the strategic importance of the battles of Dutch Harbor, Attu, and Kiska. Garfield has vivid descriptions of the long, hard campaign to push the Japanese off American soil.

I ask to print the aforementioned articles in the RECORD.

The material follows:

[From the Anchorage Daily News, June 3, 2002]

MEMORIES OF WAR: SIXTY YEARS AGO, BOMBS FELL ON DUTCH HARBOR AND TURNED ALASKA INTO A BATTLEGROUND

(By Gabriel Spitzer)

To Japan during World War II, the Aleutian Islands looked into North America. It was on the Aleutians that the enemy set foot on American soil for the first time since the War of 1812.

Sixty years ago, on the morning of June 3, 1942, 16 Japanese fighters and bombers streaked eastward toward Dutch Harbor, off Unalaska Island. Bombs rained down for about 20 minutes on the Navy facilities there. The next day the Japanese forces returned in greater numbers. By the end of the second day, 35 American men were killed and 28 more were wounded.

Johnnie Jenkins, a 25-year-old Navy mess cook, was in his barracks the morning of June 3 when the explosions woke him. He said he jumped from bed and threw on his clothes, one shoe on and the other in his hand.

''I stood in the doorway, and I saw a Japanese plane coming in with a rising sun on it,'' said Jenkins, now living in Anchorage. ''Lord, my heart started pumping and I was so scared. I thought, this is it. I just froze right there.''

Jenkins, who is African-American, looked around for cover.

''I saw a white fellow in a foxhole, and he stood up. I ran over there. He said, 'You can't come in here, I'm from Alabama.' I said, 'I don't give a damn where you're from. You move on over!' And he did.''

One of the many civilians at Dutch Harbor was 22-year-old shipwright Bob Ingram, now living in Fairbanks. Ingram was getting ready for an ordinary day of work when the bombs began to fall.

''Somebody yelled 'air raid'. We saw airplanes, quite a few in the sky,'' he said.

''Somebody said, there's been a number of men killed, and they're going to need caskets. Now, if there's one thing you don't need during an air raid it's caskets. But we wanted to help. So we started to make caskets out of plywood, 2 feet square and 6 feet long.''

As inviting as the Aleutians may have seemed on the map, the Japanese quickly found them an inhospitable invasion route. Often bathed in fog and pounded by frequent storms, the islands proved difficult to scout and navigate. This, coupled with American intelligence reports, led to victories for the United States but not before Japan had occupied two Alaska islands and drawn American forces into one of the costliest battles of the Pacific theater.

Japan had little intention of actually invading the U.S. mainland from the Aleutians. Instead, it hoped to occupy a few islands in the North Pacific to solidify its naval perimeter and protect itself from American incursions by sea and air. It also hoped to pull America's might away from its main objective, the South Pacific, Hawaii and perhaps Australia.

The Dutch Harbor raid was a diversionary tactic, meant to draw attention from Japan's assault on Midway Island, planned to occur at the same time that American forces were distracted by the attack on Alaska.

But unknown to the Japanese, U.S. code breakers had cracked the enemy's top secret ''purple code'' and were able to prepare for the attacks. U.S. soldiers at bases throughout the Pacific were put on alert.

One of them was Marine Corps Pvt. Howard Lucas, stationed on Kodiak Island.

''We were ready for somebody to come up over the hill and get us,'' said Lucas, 79, who lives in Palmer.

Lucas spent two weeks on alert 24 hours a day, manning an antiquated World War I-era water-cooled machine gun.

''It was scary,'' he said. ''But they never showed up. Nobody knew what they were going to do, the Japanese included, I guess.''

By the morning of June 3, the fog of war, both literal and figurative, had wreaked havoc on both sides.

That day, planes on the Japanese carrier *Junyo* never reached Dutch Harbor, grounded by weather. At the same time, a radio message warning American forces of the impending attack failed to reach its destination.

In the two days of bombing and the days immediately before, the weather made a mockery of both sides' battle plans.

Historians estimate that both sides sustained more casualties related to the weather than from actual combat. American forces lost four times as many planes to weather-related accidents as they did in battle.

Although U.S. casualties greatly outnumbered Japanese losses at Dutch Harbor, by the end of the assault Japan was on its heels. Its attack on Midway proved a major defeat, and American intelligence had foiled Japan's naval ruse.

Rather than abandon the Aleutian campaign, Japanese forces occupied the western islands of Attu and Kiska. On Attu, 1,200 Japanese troops surrounded and captured 39 Aleut villagers.

On Kiska, the invaders found only a weather station guarding the island. Still, scores of Aleuts and about a dozen white Americans were captured in the attacks and spent the rest of the war as prisoners in Japan.

Drafin Delkettie, one of the few living members of the celebrated Combat Intelligence Platoon, Alaska Scouts, was stationed on the island of Amchitka, about 40 miles east of Japanese-occupied Kiska.

During that time, Delkettie, who lives in Anchorage, experienced what the soldiers at Dutch Harbor felt.

''They bombed and strafed us every morning at 10 a.m. and every evening at 6 p.m. They never missed it by a minute. Sometimes we played pinochle or something, waiting for them to come,'' he said.

Which didn't make it a game. ''No matter where the bombs are falling,'' he reflected, ''It's scary.''

[From the Anchorage Daily News, June 3, 2002]

WAR CAME TO ALASKA . . . SIXTY YEARS AGO

It was early on a Wednesday morning, that day of June 3, 1942, when war came to Alaska.

Sixty years have passed since then. The war has come and gone. But the memories are seared deeply in the minds and hearts of those whose lives were touched by the long fight against enemies of freedom.

World War II began officially for the U.S. on Dec. 7, 1941, with Japan's surprise air attack on Pearl Harbor in the territory of Hawaii.

It was six months later that Japanese bombers delivered the first bombs on the territory of Alaska, attacking Dutch Harbor and nearby Fort Mears—timed to coincide with Japan's assault on Midway, far to the south in the Pacific.

Today's anniversary of the start of the battle in the Aleutian Islands—the only action actually fought on American soil during the war—is a reminder that American soldiers, airmen and sailors put their lives on the line to drive enemy forces from Attu and Kiska.

One of those, Army Pvt. Joe P. Martinez of Company K, 32nd Infantry, was posthumously awarded the Medal of Honor for gallantry above and beyond the call of duty.

Despite facing what the War Department called ''severe hostile machine-gun, rifle and mortar-fire'' from both flanks and from enemy forces protected by snow trenches ahead of him, Martinez used his automatic rifle and hand grenades to lead repeated charges up a rocky, knife-like ridge to a snow-covered mountain pass.

Just below the rim of the pass, Martinez encountered a final enemy-occupied trench and while firing into it was mortally wounded. But soldiers following in his footsteps then were able to capture the pass, described in the citation awarding him the nation's highest medal as ''an importance on the island.''

The war is decades in the past now. Old enemies have become friends.

But Alaskans of today should never forget that in the Aleutians, now a proud part of the 49th State, young Americans gave their lives years ago to drive invading forces from our land.

It's worthy of remembering on today's anniversary of that first raid on Dutch Harbor.●

EULOGY FOR REVEREND JAMES L. STOVALL

● Mr. BREAUX. Mr. President, my State of Louisiana recently mourned the death of one of our most notable and renowned religious leaders, Reverend James L. Stovall, a minister of the United Methodist Church for thirty years and the founder of the Louisiana Coalition Against Racism and Nazism. In 1989, fearful of the rise of former Ku Klux Klan leader David Duke, Reverend Stovall led the effort to bring together people of faith and other citizens to oppose the hatred and bigotry espoused by Duke and many of his supporters.

As a participant in the Louisiana Senate election of 1990 and the governor's election the following year, I can attest to successful efforts of Reverend Stovall and his Coalition in exposing for Louisiana and the world Duke's harmful and divisive racist record.

Those who did not know James Stovall might not have known that his role in forming and leading the Louisiana Coalition Against Racism and Nazism was merely the culmination of a life and career dedicated to championing human rights and better relations among people of all faiths, ethic backgrounds, and nationalities. As one of his daughters said to a newspaper reporter after his death on May 17, ''He had a genuine sense of caring about

people and a strong sense of right and wrong.''

James Stovall was born in Winn Parish, graduated from Centenary College in Shreveport and the Perkins School of Theology at Southern Methodist University. During the Second World War, he served this country as a chaplain attached to the Marine Corps. Following the war, he returned to Louisiana where, for thirty years, he served Methodist churches in Eunice, Baton Rouge, Lake Charles, Lafayette, Metairie, and Monroe. A strong believer in ecumenism, he was a leader in the creation of the Greater Baton Rouge Federation of Churches and Synagogues, and from 1976 to 1991, he served as executive director of the Louisiana Interchurch Conference.

Reverend Stovall served not only the church, but held several positions in State government. He was executive director of the Governor's Office of Elderly Affairs from 1979 to 1980, chairman of the Governor's Pardon and Parole Study Commission in 1976, and a member of the Louisiana Commission on Human Rights in 1992.

At his funeral service in Baton Rouge, one of Reverend Stovall's good friends, Dr. Lance Hill, who is executive director of the Southern Institute for Education and Research at Tulane University New Orleans, shared a powerful story about his legacy. I would like to quote from that eulogy at this time:

Many years ago Jimmie told me that John Wesley, the founder of the Methodist Church, once noted that a man's achievements in this lifetime are fleeting and insignificant; what is meaningful is the shadow that he casts into the future. We formed the Southern Institute for Education and Research at Tulane University nine years ago to continue the work of Jimmie Stovall and the anti-Duke coalition, but this time through a proactive program that taught young people the consequences of prejudice and the individual moral obligation to speak out against the oppression of others.

The Southern Institute is very much Reverend Stovall's gift to Louisiana. I told Jimmie years ago that we should have named it the Stovall Institute, but people might think it was a [football] clinic. Jimmie just laughed, but he knew what I meant. The work of the Institute is part of Jimmie's vast shadow cast into the future.

A few months ago, I returned to St. Catherine of Sienna, a school in the middle of [David] Duke's old legislative district. We had worked with the teachers and students there for years. That day I watch 150 students mesmerized by the story told by Eva Galler, a Holocaust survivor. The students heard the story of Eva's leap from the train to Auschwitz; the destruction of her family; the end of the world as she knew it. Eva told them that this was not simply a story of Jews and Nazis, it was a story of racism and hatred. It could happen anywhere, anytime, and they had a moral obligation to resist hatred at every turn.

I watched three young boys on the back row, sitting on the edge of their seats, straining to see over the tall girls in front of them. They were transfixed by Eva. And as Eva spoke, I saw the soft, warm shadow of Reverend Stovall envelop the children. These children, the next generation of leaders in Louisiana, these children were his legacy. In this sense, James Stovall achieved a kind of immortality that only the best of us can ever dream of. We will miss him in body, but he will always be with us in spirit.

I extend my heartfelt condolences to Reverend Stovall's daughters, sisters, grandchildren, and great-grandchildren. In the midst of their grief, I hope that they will be comforted to know that his important work and the principles that guided him in that work will not soon be forgotten.●

RECOGNIZING KELLY CAMPBELL

● Mr. ALLEN. Mr. President, today I recognize Kelly Campbell, a student at Lebanon High School in Lebanon, VA, who has been chosen to make a presentation at the White House Visitors Center during the National History Day Celebration.

Kelly is one of 16 young history scholars from across the country who will present their work reflecting this year's National History Day theme: Revolution, Reaction, Reform in History. The students' projects presented at the White House are part of a larger group of 2,000 finalists participating in the National History Day national contest at the University of Maryland.

The National History Day Program engages more than one-half million participants annually in grades 6 through 12 in 49 states and the District of Columbia. The program provides students the analytical and research skills that are useful in any area of their lives. Students research history topics of their choice related to an annual theme and create exhibits, performances, documentaries and papers, which they may enter in competitions at the district, State and national levels.

Kelly will present an exhibit entitled ''The 3 R's: Revolution, Reform, Reaction and the Schools of the Freedman's Bureau.''

During my term as Governor of Virginia, we recognized that there are fundamental academic basics that our children must learn if they are to be capable, responsible, and contributing citizens, and able to compete and succeed in the future. To ensure the success of our school children, we implemented high standards and accountability including history standards. We believed that Virginia's students should have the fundamental knowledge and understanding of their cultural and historical heritage that serves as a foundation for preserving a free, prosperous and decent society.

I congratulate Kelly and her fellow historians on their success and wish them the best as they compete against students from across the country.●

COMMENDING MELISSA BROWN, KAITIE COCHRANE AND LINDSAY JANS ON NATIONAL HISTORY DAY

● Mr. WELLSTONE. Mr. President, today I would like to commend Melissa Brown, Kaitie Cochrane, and Lindsay Jans for their hard work, dedication, and creativity in the study of history. They have earned the admiration of their families, their community, their teacher, Huy Nguyen, and their school, Sunrise Park Middle School. These students have been selected by the National History Day program to present their performance, ''Separate But Not Equal,'' at the National Museum of American History on June 12, 2002. To be ranked by the National History Day program among the 2000 students chosen to join the national competition is an impressive honor, and to be one of only 17 groups selected from over half a million participants to present at the National Museum of American History is an incredible achievement indeed.

The National History Day Contest is the Nation's oldest and one of the most highly regarded humanities contests for students in middle and high school. The experience that Kaitie, Lindsay, and Melissa have gained through their NHD project using primary resources and participating in hands-on activities will last them for the rest of their lives. The more than 9 million students who have participated in the NHD program have gone on to careers in business, law, medicine, teaching, and countless other disciplines in which they are putting into practice the thinking and investigative approach fostered through the National History Day program. I want to thank these students for representing Minnesota along with only thirteen other States at the National Museum of American History today. The kind of leadership and perseverance Lindsay, Melissa, and Kaitie have exhibited will carry the theme of this year's National History Day Contest, ''Revolution, Reaction, and Reform in History,'' into the next generation. I wish them the best of luck both in the upcoming competition and in their future endeavors. I thank them for their hard work and their commitment to learning and sharing their knowledge with other students from across the country.●

TRIBUTE TO FRANK OLIVERI UPON HIS RETIREMENT

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Frank Oliveri, an exemplary public official who dedicated himself to serving the people of the city of New York for three decades. As deputy director of waste water treatment, he has brought to the office the professional skills and knowledge that has made a difference in the lives of the people of the Big Apple.

Frank began his career with the Department of Environmental Protection in 1971. He is widely respected for his waste water expertise at city, state and national levels. Frank approached his work with a can-do attitude, and balanced what needs to be done with what can be done. Throughout his career, Frank accomplished a great deal for

the Department of Environmental Protection.

It is an honor and a privilege to serve Frank Oliveri in the U.S. Senate and I wish him and his family Godspeed in his retirement and in all of their future endeavors.●

THREE MICHIGAN STUDENTS HONORED FOR NATIONAL HISTORY DAY

● Mr. LEVIN. Mr. President, I would like to congratulate three Michigan students whose projects have been selected for the high honor of being presenters at the National Museum of American History on Wednesday, June 12, 2002. These three students are three of only 34 chosen to present from over 2,000 National History Day finalists. The National History Day contest annually receives more than a half million entries.

Trevor Bakker, of Holland West Middle School in Holland, MI, won for his project titled ''A Pinch of Salt: Mahatma Gandhi's Nonviolent Revolution.'' From Rochester Adams High School in Rochester Hills, MI, Allison and Rachel Brown received recognition for their project called ''Laying It On the Line: The United Automobile Workers' Struggle for Labor Reform.'' These projects reflect this year's National History Day theme, ''Revolution, Reaction, Reform in History.''

Michigan has played a critical role in revolution and reform in our country. On December 30, 1936, the newly-formed United Automobile Workers of America revolted against management with a sit-down strike in Flint to protest General Motors' decision to shift work to other factories where the union was not as strong. Three months later, the strike ended successfully with an agreement under which General Motors recognized the union as the bargaining agent of the workers, inspiring the growth of countless unions across the country.

In addition, Michigan was the home of Sojourner Truth, the great reformer for the issues of slavery and women's rights, over the last 20 years of her life. And Michigan's unique ten-cent bottle refunds, implemented in 1978 by the Beverage Container Act, represents a significant reform for the national issues of recycling and waste reduction.

These three young historians have poured months of research into this endeavor. Along the way they have sharpened their critical thinking and research skills while becoming bonafide experts on their respective topics. Their time in Washington is sure to be an enriching experience as they observe some of the richness of American history up close.

I know my Senate colleagues will join me in congratulating Trevor, Allison, and Rachel for their tremendous accomplishment, and in hoping for their continued success.●

NEW MEXICO STUDENTS' NATIONAL HISTORY DAY PROJECT

● Mr. BINGAMAN. Mr. President, today I recognize the notable work of New Mexico middle school students Elyse Burlingame, Gabrielle Sanchez, Michelle Foley-Shea, Ciara Siebuhr and Crystle Krueger on their impressive history project titled ''Margaret Sanger: Woman Rebel.'' Their project highlights the determination and important achievements of Margaret Sanger, a strong advocate for a woman's right to family planning services. The achievement of these young scholars has been recognized through the project's selection as one of the projects that will be displayed at the National Museum of American History, today, June 12, 2002. Their project was chosen out of more than half a million projects submitted by students across the nation as being an outstanding work that reflects this year's National History Day theme, ''Revolution, Reaction, Reform in History.'' Not only does the work of these students capture the story of an important figure in history, it also goes beyond the story itself and brilliantly interprets the effects Margaret Sanger had on American society in a very useful way. Their ability to go beyond their research in this way demonstrates the attributes of true scholars. Their work reflects an excellent understanding of historical context, as well as intellectual and social setting. These students also demonstrate great intellectual maturity by presenting the historical struggle of Margaret Sanger using a variety of viewpoints that allow for a better reflection of history. It is a great honor for these students, as well as for the entire state of New Mexico, to have their project displayed in the National Museum of American History in our nation's capital. I would like to congratulate Ms. Burlingame, Ms. Sanchez, Ms. Foley-Shea, Ms. Siebuhr, and Ms. Krueger on their hard work and the well deserved recognition of their project.●

10TH ANNIVERSARY OF THE NATIONAL LAW CENTER FOR INTER-AMERICAN FREE TRADE

● Mr. KYL. Mr. President, I would like to congratulate the National Law Center for Inter-American Free Trade on its 10th anniversary by having the following letter printed in the CONGRESSIONAL RECORD.

DR. BORIS KOZOLCHYK,
President and Director, National Law Center for Inter-American Free Trade, Tucson, AZ

DEAR DR. KOZOLCHYK: I would like to congratulate the National Law Center for Inter-American Free Trade on the celebration of its tenth anniversary on April 1, 2002.

The Center is an impressive research and educational institution affiliated with the James E. Rogers College of Law at the University of Arizona in Tucson. It takes excellent advantage of being near one of the most significant international borders in the world.

Since its establishment, the Center has undertaken significant work for the U.S. Department of State to harmonize commercial law in the Americas, focusing on a model law for secured transactions, uniform documentation for cross-border surface transportation, and rules for electronic commerce. This legal reform work is performed in cooperation with the Organization of American States.

The Center plays an important role in integrating U.S. business into the economies of the Western Hemisphere. Its work to reduce legal barriers to trade promotes the rule of law, democratic institutions, and enhances political stability and security in the region.

Once again, congratulations, and I wish the Center continued success.●

TRIBUTE TO TWO CALIFORNIA STUDENTS

● Mrs. BOXER. Mr. President, today I would like to honor two students from my State of California: Heidi Bowerman and Katie Olson. They have been selected to present their award winning projects at the National Museum of American History on June 12, 2002.

The Smithsonian Institution's National Museum of American History is celebrating National History Day by reflecting on this year's theme: Revolution, Reaction, Reform in History. The program asks students to research history topics of their choice related to the year's theme, and then create exhibits, performances, documentaries and papers, which they then enter in competitions at the district, State and national levels. Heidi and Katie's projects were two of seventeen projects that were selected out of more than half a million students across America.

Katie's exhibit is titled: ''Warsaw Ghetto Uprising.'' Katie attends Santa Rose High School in Santa Rosa, CA, and her teachers were Will Dunn and Whitney Olson.

Heidi's performance is titled: ''Aristocracy to Communism: The Revolution that Reformed a Nation.'' Heidi attends Alta Sierra Intermediate School in Clovis, CA, and her teachers were Carole Smoot and Linda Linder.

I am so proud to have two accomplished young women representing the State of California in receiving this impressive award. Their achievements, along with the other student award winners, should serve as an inspiration to all students.●

RECOGNIZING KATHY SHORTT

● Mr. ALLEN. Mr. President, I rise today to recognize Kathy Shortt, a teacher at Lebanon High School in Lebanon, VA, who is one of eight finalists for the Richard T. Farrell Teacher of Merit Award for outstanding success in teaching history.

The Richard T. Farrell Award is presented each year to a teacher who employs innovative teaching methods in and out of the classroom. The teacher must participate in the National History Day program, develop and use creative teaching methods that interest students in history and help them

make exciting discoveries about the past, and show exemplary commitment to helping students develop their interests in history and recognizing their achievements.

Ms. Shortt is being recognized for her dedication to the National History Day program and her success at improving history education. She has been involved in helping students participate in National History Day for 21 years and has presented at numerous workshops and acted as a mentor for other teachers for much of her career. She continues to have an impact on students even after they have left her classroom.

During my term as Governor of Virginia, we recognized that there are fundamental academic basics that our children must learn if they are to be capable, responsible, and contributing citizens, and able to compete and succeed in the future. To ensure the success of our school children, we implemented high standards and accountability including history standards. We believed that Virginia's students should have the fundamental knowledge and understanding of their cultural and historical heritage that serves as a foundation for preserving a free, prosperous and decent society.

I commend Kathy on her selection for this award and applaud her dedication to her students and the improvement of the educational process. With dedicated teachers like Kathy Shortt, I know the students in Virginia and indeed, across America have a bright future.●

TRIBUTE TO SARA MOSS

● Mr. LIEBERMAN. Mr. President, I rise today to congratulate Sara Moss for being honored by the New York Lawyers' Division of the Anti-Defamation League for her strong commitment to public service and an exemplary dedication to human relations.

The mission of Anti-Defamation League is to expose and combat the purveyors of hatred in our midst, responding to whatever new challenges may arise. The Human Relations Award is presented to an individual who has demonstrated distinguished service, outstanding leadership and a personification of the highest ideals of our democratic society.

Ms. Moss possesses all of these qualities and more. One need only look at the many examples in her life to be convinced. In addition to maintaining a successful career as Senior Vice President and General Counsel of Pitney Bowes, she has continued to demonstrate a strong commitment to public service and pro bono work, especially when involving issues related to women and minorities. In particular, Ms. Moss has used her position with Pitney Bowes to provide legal counsel to a wide variety of service organizations, including a social service agency, a women's learning center, a nonprofit day care provider, a sexual assault crisis center, and a substance abuse and rehabilitation center. She has received many awards for her service, including the Minority Corporate Council Diversity Award and the Pro Bono Partnership Outstanding Contribution Award.

Ms. Moss is a fine example of the embodiment of our living democratic ideals, and I congratulate her on receiving this distinguished recognition of her contribution to improving human relations. I wish her continued success in her commitment to public service and hope that her example will demonstrate the importance of active civic involvement on the behalf of our communities.●

2001 NATIONAL MEDAL OF TECHNOLOGY LAUREATES

● Mr. CORZINE. Mr. President, I rise today to honor the 2001 National Medal of Technology Laureates, Dr. Arun N. Netravali of Murray Hill, NJ and Dr. Sidney Pestka of Piscataway, NJ.

Dr. Arun Netravali is a leader in the field of communications systems. As the chief scientist of Lucent Technologies and past president of Bell Labs, he is being cited for his pioneering contributions that transformed television from analog to digital. His innovative algorithms have enabled the switch from analog to digital in numerous services, including broadcast television, CATV, DBS, and HDTV. Furthermore, his work has facilitated an entirely new set of products and services for the multimedia revolution over the Internet. Important communication services such as video conferencing and streaming over the Internet could not be done economically without Dr. Netravali's compression algorithms. He has also been singled out for this prestigious honor for his leadership. During his tenure, Dr. Netravali created, inspired and motivated teams to innovate, keeping Bell Labs at the forefront of revolutionary developments in technology.

I would also like to recognize Dr. Sidney Pestka for his groundbreaking achievements that led to the development of the biotechnology industry. During his career, Dr. Pestka has made a remarkable series of discoveries and developments, often bucking prevailing beliefs and designing innovative solutions to problems along the way to success. His efforts have led to the development of the first recombinant interferons for the treatment of many viral diseases, cancers, and multiple sclerosis. Creating the foundation for more than 100 U.S. and foreign patents, Dr. Pestka's work prepared the pathway for the development of many other biotherapeutic agents now used and stimulated the development of today's extensive biotechnology industry. He has fostered new industries in multiple area, developed new medicines for previously untreatable diseases, and brought new hope to those afflicted. Indeed, his achievements in innovation and translation provide a role model for this and future generations.

These two New Jerseyans embody the spirit of American innovation and have advanced our nation's global competitiveness and standard of living. Their groundbreaking contributions have commercialized technologies, created jobs, improved productivity and stimulated the nation's growth and development. I commend them for their remarkable achievements and am honored to bring them to your attention.●

MESSAGE FROM THE HOUSE

At 1:44 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment.

S. 2431. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2054. An act to give the consent of Congress to an agreement or compact between Utah and Nevada regarding a change in the boundaries of those States, and for other purposes.

H.R. 2068. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, ''Public Buildings, Property, and Works.''

H.R. 2621. An act to amend title 18, United States Code, with respect to consumer product protection.

H.R. 2880. An act to amend laws relating to the lands of the enrollees and lineal descendants of enrollees whose names appear on the final Indian rolls of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations (historically referred to as the Five Civilized Tribes), and for other purposes.

H.R. 3738. An act to designate the facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, as the ''Herbert Arlene Post Office Building.''

H.R. 3739. An act to designate the facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, as the ''Rev. Leon Sullivan Post Office Building.''

H.R. 3740. An act to designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the ''William V. Cibotti Post Office Building.''

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 213. Concurrent resolution expressing the sense of the Congress regarding North Korean refugees who are detained in China and returned to North Korea where they face torture, imprisonment, and execution.

H. Con. Res. 394. Concurrent resolution expressing the sense of the Congress concerning the 2002 World Cup and co-hosts Republic of Korea and Japan.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2054. An act to give the consent of Congress to an agreement or compact between Utah and Nevada regarding a change in the boundaries of those States, and for other purposes; to the Committee on the Judiciary.

H.R. 2068. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, ''Public Buildings, Property, and Works''; to the Committee on the Judiciary.

H.R. 2880. An act to amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw Nations, historically referred to as the Five Civilized Tribes, and other purposes; to the Committee on Indian Affairs.

H.R. 3738. An act to designate the facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, as the ''Herbert Arlene Post Office Building''; to the Committee on Government Affairs.

H.R. 3739. An act to designate the facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, as the ''Rev. Leon Sullivan Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3740. An act to designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the ''William V. Cibotti Post Office Building''; to the Committee on Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 213. Concurrent resolution expressing the sense of the Congress regarding North Korean refugees who are detained in China and returned to North Korea where they face torture, imprisonment, and execution; to the Committee on Foreign Relations.

H. Con. Res. 394. Concurrent resolution expressing the sense of the Congress concerning the 2002 World Cup and co-hosts Republic of Korea and Japan; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2621. An act to amend title 18, United States Code, with respect to consumer product protection.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. BIDEN, from the Committee on Foreign Relations:

Treaty Doc. 106–37(B) Optional Protocol No. 2 to Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (Exec. Rept. No. 107–4)

Text of the Committee-Recommended Resolution of Advice and Consent

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. ADVICE AND CONSENT TO RATIFICATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION, AND CHILD PORNOGRAPHY, SUBJECT TO A RESERVATION, UNDERSTANDINGS, A DECLARATION, AND A CONDITION.

The Senate advises and consents to the ratification of the Optional Protocol Relating to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, opened for signature at New York on May 25, 2000 (Treaty Doc. 106–37; in this resolution referred to as the ''Protocol''), subject to the reservation in section 2, the understandings in section 3, the declaration in section 4, and the condition in section 5.

SEC. 2. RESERVATION.

The advice and consent of the Senate under section 1 is subject to the reservation, which shall be included in the United States instrument of ratification of the Protocol, that, to the extent that the domestic law of the United States does not provide for jurisdiction over an offense described in Article 3(1) of the Protocol if the offense is committed on board a ship or aircraft registered in the United States, the obligation with respect to jurisdiction over that offense shall not apply to the United States until such time as the United States may notify the Secretary-General of the United Nations that United States domestic law is in full conformity with the requirements of Article 4(1) of the Protocol.

SEC. 3. UNDERSTANDINGS.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the United States instrument of ratification of the Protocol:

(1) NO ASSUMPTION OF OBLIGATIONS UNDER CONVENTION ON THE RIGHTS OF THE CHILD.—The United States understands that the United States assumes no obligations under the Convention on the Rights of the Child by becoming a party to the Protocol.

(2) THE TERM ''SALE OF CHILDREN''.—The United States understands that the term ''sale of children'', as defined in Article 2(a) of the Protocol, is intended to cover any transaction in which remuneration or other consideration is given and received under circumstances in which a person who does not have a lawful right to custody of the child thereby obtains de facto control over the child.

(3) THE TERM ''CHILD PORNOGRAPHY''.—The United States understands the term ''child pornography'', as defined in Article 2(c) of the Protocol, to mean the visual representation of a child engaged in real or simulated sexual activities or of the genitalia of a child where the dominant characteristic is depiction for a sexual purpose.

(4) THE TERM ''TRANSFER OF ORGANS FOR PROFIT''.—The United States understands that—

(A) the term ''transfer of organs for profit'', as used in Article 3(1)(a)(i) of the Protocol, does not cover any situation in which a child donates an organ pursuant to lawful consent; and

(B) the term ''profit'', as used in Article 3(1)(a)(i) of the Protocol, does not include the lawful payment of a reasonable amount associated with the transfer of organs, including any payment for the expense of travel, housing, lost wages, or medical costs.

(5) THE TERMS ''APPLICABLE INTERNATIONAL LEGAL INSTRUMENTS'' AND ''IMPROPERLY INDUCING CONSENT''.—

(A) UNDERSTANDING OF ''APPLICABLE INTERNATIONAL LEGAL INSTRUMENTS''.—The United States understands that the term ''applicable international legal instruments'' in Articles 3(1)(a)(ii) and 3(5) of the Protocol refers to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption done at The Hague on May 29, 1993 (in this paragraph referred to as ''The Hague Convention'').

(B) NO OBLIGATION TO TAKE CERTAIN ACTION.—The United States is not a party to The Hague Convention, but expects to become a party. Accordingly, until such time as the United States becomes a party to The Hague Convention, it understands that it is not obligated to criminalize conduct proscribed by Article 3(1)(a)(ii) of the Protocol or to take all appropriate legal and administrative measures required by Article 3(5) of the Protocol.

(C) UNDERSTANDING OF ''IMPROPERLY INDUCING CONSENT''.—The United States understands that the term ''improperly inducing consent'' in Article 3(1)(a)(ii) of the Protocol means knowingly and willfully inducing consent by offering or giving compensation for the relinquishment of parental rights.

(6) IMPLEMENTATION OF THE PROTOCOL IN THE FEDERAL SYSTEM OF THE UNITED STATES.—The United States understands that the Protocol shall be implemented by the Federal Government to the extent that it exercises jurisdiction over the matters covered therein, and otherwise by the State and local governments. To the extent that State and local governments exercise jurisdiction over such matters, the Federal Government shall, as necessary, take appropriate measures to ensure the fulfillment of the Protocol.

SEC. 4. DECLARATION.

The advice and consent of the Senate under section 1 is subject to the declaration that:

(1)(A) the provisions of the Protocol (other than Article 5) are non-self-executing; and

(B) the United States will implement Article 5 of the Protocol pursuant to chapter 209 of title 18, United States Code; and

(2) except as described in the reservation in section 2——

(A) current United States law, including the laws of the States of the United States, fulfills the obligations of the Protocol for the United States; and

(B) accordingly, the United States does not intend to enact new legislation to fulfill its obligations under the Protocol.

SEC. 5. CONDITION.

The advice and consent of the Senate under section 1 is subject to the condition that the Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997 (relating to condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988).

Treaty Doc. 106–37(A) Optional Protocol No. 1 to Convention on Rights of the Child on Involvement of Children in Armed Conflict (Exec. Rept. No. 107–4)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. ADVICE AND CONSENT TO RATIFICATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT, SUBJECT TO UNDERSTANDINGS AND CONDITIONS.

The Senate advises and consents to the ratification of the Optional Protocol to the

Convention on the Rights of the Child on the Involvement of Children In Armed Conflict, opened for signature at New York on May 25, 2000 (Treaty Doc. 106–37; in this resolution referred to as the ''Protocol''), subject to the understandings in section 2 and the conditions in section 3.

SEC. 2. UNDERSTANDINGS.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the United States instrument of ratification of the Protocol:

(1) NO ASSUMPTION OF OBLIGATIONS UNDER THE CONVENTION ON THE RIGHTS OF THE CHILD.—The United States understands that the United States assumes no obligations under the Convention on the Rights of the Child by becoming a party to the Protocol.

(2) IMPLEMENTATION OF OBLIGATION NOT TO PERMIT CHILDREN TO TAKE DIRECT PART IN HOSTILITIES.—The United States understands that, with respect to Article 1 of the Protocol—

(A) the term ''feasible measures'' means those measures that are practical or practically possible, taking into account all the circumstances ruling at the time, including humanitarian and military considerations;

(B) the phrase ''direct part in hostilities''—

(i) means immediate and actual action on the battlefield likely to cause harm to the enemy because there is a direct causal relationship between the activity engaged in and the harm done to the enemy; and

(ii) does not mean indirect participation in hostilities, such as gathering and transmitting military information, transporting weapons, munitions, or other supplies, or forward deployment; and

(C) any decision by any military commander, military personnel, or other person responsible for planning, authorizing, or executing military action, including the assignment of military personnel, shall only be judged on the basis of all the relevant circumstances and on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken.

(3) MINIMUM AGE FOR VOLUNTARY RECRUITMENT.—The United States understands that Article 3 of the Protocol obligates States Parties to the Protocol to raise the minimum age for voluntary recruitment into their national armed forces from the current international standard of 15 years of age.

(4) ARMED GROUPS.—The United States understands that the term ''armed groups'' in Article 4 of the Protocol means nongovernmental armed groups such as rebel groups, dissident armed forces, and other insurgent groups.

(5) NO BASIS FOR JURISDICTION BY ANY INTERNATIONAL TRIBUNAL.—The United States understands that nothing in the Protocol establishes a basis for jurisdiction by any international tribunal, including the International Criminal Court.

SEC. 3. CONDITIONS.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) REQUIREMENT TO DEPOSIT DECLARATION.—The President shall, upon ratification of the Protocol, deposit a binding declaration under Article 3(2) of the Protocol that states in substance that—

(A) the minimum age at which the United States permits voluntary recruitment into the Armed Forces of the United States is 17 years of age;

(B) the United States has established safeguards to ensure that such recruitment is not forced or coerced, including a requirement in section 505(a) of title 10, United States Code, that no person under 18 years of age may be originally enlisted in the Armed Forces of the United States without the written consent of the person's parent or guardian, if the parent or guardian is entitled to the person's custody and control;

(C) each person recruited into the Armed Forces of the United States receives a comprehensive briefing and must sign an enlistment contract that, taken together, specify the duties involved in military service; and

(D) all persons recruited into the Armed Forces of the United States must provide reliable proof of age before their entry into military service.

(2) INTERPRETATION OF THE PROTOCOL.—The Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997 (relating to condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988).

(3) REPORTS.—

(A) INITIAL REPORT.—Not later than 90 days after the deposit of the United States instrument of ratification, the Secretary of Defense shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report describing the measures taken by the military departments to comply with the obligation set forth in Article 1 of the Protocol. The report shall include the text of any applicable regulations, directives, or memoranda governing the policies of the departments in implementing that obligation.

(B) SUBSEQUENT REPORTS.—

(i) REPORT BY THE SECRETARY OF STATE.—The Secretary of State shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a copy of any report submitted to the Committee on the Rights of the Child pursuant to Article 8 of the Protocol.

(ii) REPORT BY THE SECRETARY OF DEFENSE.—Not later than 30 days after any significant change in the policies of the military departments in implementing the obligation set forth in Article 1 of the Protocol, the Secretary of Defense shall submit a report to the Committee on Foreign Relations and the Committee on Armed Services of the Senate describing the change and the rationale therefor.

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. LIEBERMAN (for himself and Mr. MILLER):

S. 2613. A bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CORZINE:

S. 2614. A bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident physicians to ensure the safety of patients and resident physicians themselves; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. WELLSTONE):

S. 2615. A bill to amend title XVII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals; to the Committee on Finance.

By Mr. THURMOND:

S. 2616. A bill to amend the Public Health Service Act to establish an Office of Men's Health; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAHAM (for himself, Mr. DEWINE, Mr. MCCAIN, Mr. TORRICELLI, Mr. MILLER, Mr. LEAHY, Mr. FEINGOLD, Mr. DODD, Mr. NELSON of Florida, Mr. GRASSLEY, Mr. BREAUX, Mr. WARNER, Mr. NELSON of Nebraska, Mr. COCHRAN, Mr. HELMS, Mr. CHAFEE, Mr. REID, Mr. ROCKEFELLER, Mr. BAYH, Mr. LUGAR, Mr. BROWNBACK, Mr. ALLEN, and Mr. SESSIONS):

S. Res. 283. A resolution recognizing the successful completion of democratic elections in the Republic of Colombia; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 1339

At the request of Mr. CAMPBELL, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1746

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1746, a bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities.

S. 1785

At the request of Mr. CLELAND, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1931

At the request of Mr. LIEBERMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1931, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the medicare program.

S. 2070

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2070, a bill to amend part A of title IV to exclude child care from the determination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes.

S. 2085

At the request of Mr. CLELAND, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2085, a bill to amend title XVIII of the Social Security Act to clarify the definition of homebound with respect to home health services under the medicare program.

S. 2108

At the request of Ms. STABENOW, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2108, a bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay, and for other purposes.

S. 2233

At the request of Mr. THOMAS, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Massachusetts (Mr. KERRY), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans.

S. 2425

At the request of Mr. BAYH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2425, a bill to prohibit United States assistance and commercial arms exports to countries and entities supporting international terrorism.

S. 2458

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2458, a bill to enhance United States diplomacy, and for other purposes.

S. 2489

At the request of Mrs. CLINTON, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2489, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 2548

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2548, a bill to amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to improve the provision of education and job training under that program, and for other purposes.

S. 2560

At the request of Mr. ALLARD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2560, a bill to provide for a multi-agency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, and for other purposes.

S. 2572

At the request of Mr. KERRY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2572, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 2573

At the request of Mr. REED, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2573, a bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes.

S. 2600

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2600, a bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

S. 2608

At the request of Mr. GREGG, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2608, a bill to amend the Coastal Zone Management Act of 1972 to authorize the acquisition of coastal areas in order better to ensure their protection from conversion or development.

S. 2611

At the request of Mr. REED, the names of the Senator from New York (Mrs. CLINTON), the Senator from South Dakota (Mr. DASCHLE), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2611, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S.J. RES. 37

At the request of Mr. WELLSTONE, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. J. Res. 37, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by Centers for Medicare & Medicaid Services within the Department of Health and Human Services relating to modification of the medicaid upper payment limit for non-State government owned or operated hospitals published in the Federal Register on January 18, 2002. and submitted to the Senate on March 15, 2002.

S. RES. 266

At the request of Mr. ROBERTS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as ''Put the Brakes on Fatalities Day.''

S. CON. RES. 3

At the request of Mr. FEINGOLD, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN (for himself and Mr. MILLER):

S. 2613. A bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LIEBERMAN. Mr. President, on behalf of myself and Senator MILLER, I am submitting legislation that is designed to facilitate historic preservation activities at historically black colleges and universities. Specifically, this legislation would amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to decrease the cost-sharing requirement for those seeking Federal funds for historic preservation activities at historically black colleges and universities. I am proud to say that the legislation I am submitting today is a companion bill to H.R. 1606, submitted by Congressman JAMES CLYBURN of South Carolina.

American history has been a constant, if not always consistent, march toward an ideal. That ideal is equal opportunity for all.

In every generation, it's taken the work of pioneers to open the gates of the American community to people who had previously been excluded. Pioneers have stepped forward when others would not to defiantly state, in effect, that we as a Nation will not be defined by surface characteristics. We will look deeper and try harder. The pioneers have held us to our national promise, and reminded us that America and Americanism are not about where you came from, what language you speak, what religion you practice, or what you look like, but about belief in basic ideals of responsibility, opportunity and community.

Historically Black Colleges and Universities have been such pioneers for generations, and they continue today to help America become its best self.

Today, America has 103 historically black colleges and universities in twenty-two States and the Virgin Islands, which educate about 300,000 undergraduate students and thousands of graduate, professional and doctoral students. In fact, 8 of the top 10 producers of African-American engineers are HBCUs. 42 percent of all the PhDs earned each year by African-Americans are earned by graduates of HBCUs.

Despite playing such a central role in our economy, society, and culture, HBCUs have been physically eroding for years. In 1998, the National Trust for Historic Preservation reported that most of the HBCUs in the United States are showing serious signs of neglect. The Trust said that campus landmarks are decaying and college grounds are badly in need of attention. And a 1998 General Accounting Office report estimated that in HBCUs nationwide, there were more than 700 historic buildings in states of disrepair.

That's why I am proudly sponsoring Representative CLYBURN's bill to provide more restoration funding for historic sites at Historically Black Colleges and Universities throughout the Nation.

These beautiful, architecturally significant structures are in most cases over a hundred years old, and were often built using the help of the students themselves. Their architectural beauty is a sign of something deeper, the fact that they have served as critical portals of opportunity for African-Americans throughout our history. That's why they deserve our strong protection and sensitive preservation.

I saw this firsthand. When I visited Allen University in South Carolina in April of this year, I went to Arnett Hall, a building that had been transformed from an eyesore into a beautiful and stately facility with the help of Federal funds, thanks to Representative CLYBURN. In the past, students and faculty would walk into the hall and get the message that we as a Nation were neglecting these historic treasures. Now, they absorb the message that we consider historically black colleges and universities central to our history and to our future.

Thanks in no small part to these institutions, the overarching history of African-Americans in this country has been not a tragedy, as it once was, but a brilliant movement toward dignity, inclusion, freedom, and opportunity. That's the right message for African-Americans and all Americans.

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. 2613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECREASED MATCHING REQUIREMENT; AUTHORIZATION OF APPROPRIATIONS.

(a) DECREASED MATCHING REQUIREMENT.—Section 507(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 470a note) is amended—

(1) by striking ''(1) Except'' and inserting the following:

''(1) IN GENERAL.—Except'';

(2) by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)'';

(3) by striking ''(2) The Secretary'' and inserting the following:

''(2) WAIVER.—The Secretary'';

(4) by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (3)''; and

(5) by adding at the end the following new paragraph:

''(3) EXCEPTION.—The Secretary may obligate funds made available under subsection (d)(2) for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places only if the grantee agrees to provide, from funds derived from non-Federal sources, an amount that is equal to 30 percent of the total cost of the project for which the grant is provided.''.

(b) AUTHORIZATION OF APPROPRIATION.—Section 507(d) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 470a note) is amended—

(1) by striking ''Pursuant to'' and inserting the following:

''(1) 1996 AUTHORIZATION.—Pursuant to''; and

(2) by adding at the end the following new paragraph:

''(2) ADDITIONAL AUTHORIZATION.—In addition to amounts made available under paragraph (1), pursuant to section 108 of the National Historic Preservation Act, there are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.''.

By Mr. CORZINE:

S. 2614. A bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident physicians to ensure the safety of patients and resident physicians themselves; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Patient and Physician Safety and Protection Act of 2002, to limit medical resident work hours to 80 hours a week and to provide real protections for patients and resident physicians who are negatively affected by excessive work hours. This is a companion bill to legislation introduced in the House of Representatives by Representative JOHN CONYERS.

It is very troubling that hospitals across the Nation are requiring young doctors to work 36 hour shifts and as many as 120 hours a week in order to complete their residency programs. These long hours lead to a deterioration of cognitive function similar to the effects of blood alcohol levels of 0.1 percent. This is a level of cognitive impairment that would make these doctors unsafe to drive, yet these physicians are not only allowed but in fact are required to care for patients and perform procedures on patients under these conditions.

While the medical community has been aware of this problem for many years, the issue has largely been pushed under the rug. Only recently has the medical community taken a more serious look at the problem. In the last couple of months, my office has worked with the Association of American Medical Colleges and teaching hospitals in New Jersey and New York to address this problem and to try to find a workable solution.

As a result of these efforts and increased public pressure on the medical community to address this quality of care and labor issue, the Accreditation Council for Graduate Medical Education, ACGME, announced today new work hour recommendations. This is an important first step. But while some of their recommendations are commendable, they would still require residents to work in excess of 80 hours a week and 30-hour shifts. I look forward to working with the Council to adapt strong standards that are not only recommendations, but are enforceable requirements that truly protect patients and residents.

Today, I am introducing legislation that not only recognizes the problem of excessive work hours, but also creates strong enforcement mechanisms. The bill also provides funding support to teaching hospitals to implement new work hour standards. Without enforcement and financial support, efforts to reduce work hours are not likely to be successful.

Let me again emphasize that the Patient and Physician Safety and Protection Act of 2002 will limit medical resident work hours to 80 hours a week. Not 40 hours or 60 hours. 80 hours a week. It is hard to argue that this standard is excessively strict. In fact, it is unconscionable that we now have resident physicians, or any physicians for that matter, caring for very sick patients 120 hours a week and 36 hours straight with fewer than 10 hours between shifts. This is an outrageous violation of a patient's right to quality care. And, for many patients, it is literally a matter of life and death.

In addition to limiting work hours to 80 hours week, my bill limits the length of any one shift to 24 consecutive hours and limits the length of an emergency room shift to 12 hours. The bill also ensures that residents have at least one out of seven days off and ''on-call'' shifts no more often than every third night.

Finally, my legislation provides meaningful enforcement mechanisms that will protect the identity of resident physicians who file complaints about work hour violations. The guidelines that the ACGME released today do not contain any whistleblower protections for residents that seek to report program violations. Without this important protection, residents will be reluctant to report these violations, which in turn will weaken enforcement.

My legislation also makes compliance with these work hour requirements a condition of Medicare participation. Each year, Congress provides $8 billion to teaching hospitals to train new physicians. While Congress must continue to vigorously support adequate funding so that teaching hospitals are able to carryout this important public service, these hospitals must also make a commitment to ensuring safe work conditions for these physicians and providing the highest quality of care to the patients they treat.

In closing I would like to read a quote from an Orthopedic Surgery

Resident from Northern California, which I think illustrates why we need this legislation:

I was operating post-call after being up for over 36 hours and was holding retractors. I literally fell asleep standing up and nearly face-planted into the wound. My upper arm hit the side of the gurney, and I caught myself before I fell to the floor. I nearly put my face in the open wound, which would have contaminated the entire field and could have resulted in an infection for the patient.

This is a very serious problem that must be addressed before medical errors like this occur. I hope every member of the Senate will consider this legislation and the potential it has to reduce medical errors, improve patient care, and create a safer working environment for the backbone of our Nation's healthcare system.

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. 2614

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 ''Patient and Physician Safety and Protection Act of 2002''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Federal Government, through the medicare program, pays approximately $8,000,000,000 per year solely to train resident-physicians in the United States, and as a result, has an interest in assuring the safety of patients treated by resident-physicians and the safety of resident-physicians themselves.

(2) Resident-physicians spend a significant amount of their time performing activities not related to the educational mission of training competent physicians.

(3) The excessive numbers of hours worked by resident-physicians is inherently dangerous for patient care and for the lives of resident-physicians.

(4) The scientific literature has consistently demonstrated that the sleep deprivation of the magnitude seen in residency training programs leads to cognitive impairment.

(5) A substantial body of research indicates that excessive hours worked by resident-physicians lead to higher rates of medical error, motor vehicle accidents, depression, and pregnancy complications.

(6) The medical community has not adequately addressed the issue of excessive resident-physician work hours.

(7) Different medical specialty training programs have different patient care considerations but the effects of sleep deprivation on resident-physicians does not change between specialties.

(8) The Federal Government has regulated the work hours of other industries when the safety of employees or the public is at risk.

SEC. 3. REVISION OF MEDICARE HOSPITAL CONDITIONS OF PARTICIPATION REGARDING WORKING HOURS OF RESIDENTS.

(a) IN GENERAL.—Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)(1)—

(A) by striking ''and'' at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting '', and''; and

(C) by inserting after subparagraph (S) the following new subparagraph:

''(T) in the case of a hospital that uses the services of physician residents or postgraduate trainees, to meet the requirements of subsection (j).''; and

(2) by adding at the end the following new subsection:

''(j)(1)(A) In order that the working conditions and working hours of physicians and postgraduate trainees promote the provision of quality medical care in hospitals, as a condition of participation under this title each hospital shall establish the following limits on working hours for certain members of the medical staff and postgraduate trainees:

''(i) Subject to subparagraph (C), postgraduate trainees may work no more than a total of 80 hours per week and 24 hours per shift.

''(ii) Subject to subparagraph (C), postgraduate trainees—

''(I) shall have at least 10 hours between scheduled shifts;

''(II) shall have at least 1 full day out of every 7 days off and 1 full weekend off per month;

''(III) who are assigned to patient care responsibilities in an emergency department shall work no more than 12 continuous hours in that department; and

''(IV) shall not be scheduled to be on call in the hospital more often than every third night.

''(B) The Secretary shall promulgate such regulations as may be necessary to ensure quality of care is maintained during the transfer of direct patient care from 1 postgraduate trainee to another at the end of each such 24-hour period referred to in subparagraph (A) and shall take into account cases of individual patient emergencies.

''(C) The work hour limitations under subparagraph (A) and requirements of subparagraph (B) shall not apply to a hospital during a state of emergency declared by the Secretary that applies with respect to that hospital.

''(2) The Secretary shall promulgate such regulations as may be necessary to monitor and supervise postgraduate trainees assigned patient care responsibilities as part of an approved medical training program, as well as to assure quality patient care.

''(3) Each hospital shall inform postgraduate trainees of—

''(A) their rights under this subsection, including methods to enforce such rights (including so-called whistle-blower protections); and

''(B) the effects of their acute and chronic sleep deprivation both on themselves and on their patients.

''(4) For purposes of this subsection, the term 'postgraduate trainee' includes a postgraduate intern, resident, or fellow.''.

(b) DESIGNATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall designate an individual within the Department of Health and Human Services to handle all complaints of violations that arise from residents who report that their programs are in violation of the requirements of section 1866(j) of the Social Security Act (as added by subsection (a)).

(2) GRIEVANCE RIGHTS.—A postgraduate trainee or physician resident may file a complaint with the Secretary of Health and Human Services concerning a violation of such requirements. Such a complaint may be filed anonymously. The Secretary may conduct an investigation and take such corrective action with respect to such a violation.

(3) CIVIL MONEY PENALTY ENFORCEMENT.—Any hospital that violates such requirement is subject to a civil money penalty not to exceed $100,000 for each resident training program in any 6-month period. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under this paragraph in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act.

(4) DISCLOSURE OF VIOLATIONS AND ANNUAL REPORTS.—The individual designated under paragraph (1) shall—

(A) provide for annual anonymous surveys of postgraduate trainees to determine compliance with such requirements and for the disclosure of the results of such surveys to the public on a residency-program specific basis;

(B) based on such surveys, conduct appropriate on-site investigations;

(C) provide for disclosure to the public of violations of and compliance with, on a hospital and residence-program specific basis, such requirements; and

(D) make an annual report to Congress on the compliance of hospitals with such requirements, including providing a list of hospitals found to be in violation of such requirements.

(c) WHISTLEBLOWER PROTECTIONS.—

(1) IN GENERAL.—A hospital covered by the requirements of section 1866(j)(1) of the Social Security Act (as added by subsection (a)) shall not penalize, discriminate, or retaliate in any manner against an employee with respect to compensation, terms, conditions, or privileges of employment, who in good faith (as defined in paragraph (2)), individually or in conjunction with another person or persons—

(A) reports a violation or suspected violation of such requirements to a public regulatory agency, a private accreditation body, or management personnel of the hospital;

(B) initiates, cooperates or otherwise participates in an investigation or proceeding brought by a regulatory agency or private accreditation body concerning matters covered by such requirements;

(C) informs or discusses with other employees, with a representative of the employees, with patients or patient representatives, or with the public, violations or suspected violations of such requirements; or

(D) otherwise avails himself or herself of the rights set forth in such section or this subsection.

(2) GOOD FAITH DEFINED.—For purposes of this subsection, an employee is deemed to act ''in good faith'' if the employee reasonably believes—

(A) that the information reported or disclosed is true; and

(B) that a violation has occurred or may occur.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first July 1 that begins at least 1 year after the date of enactment of this Act.

SEC. 4. ADDITIONAL FUNDING FOR HOSPITAL COSTS.

There are hereby appropriated to the Secretary of Health and Human Services such amounts as may be required to provide for additional payments to hospitals for their reasonable additional, incremental costs incurred in order to comply with the requirements imposed by this Act (and the amendments made by this Act).

By Mr. MURKOWSKI (for himself and Mr. WELLSTONE):

S. 2615. A bill to amend title XVII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals; to the Committee on Finance.

Mr. MURKOWSKI. Mr. President, today I am introducing legislation that is designed to strengthen and improve the health care delivered to rural Medicare beneficiaries. The ''Rural Community Hospital Assistance Act of 2002'' ensures that our Nation's seniors will be able to receive the same quality of inpatient care throughout the country, regardless of whether they live in New York City or Petersburg, AK.

The best insurance in the world is worthless if there is not a provider or facility nearby to deliver quality health care. Right now, in communities across the country, many Medicare beneficiaries are underserved because they have no access to care. This is wrong and intolerable. I remain committed to ensuring that all Americans, and especially those in currently underserved rural communities, received the care they deserve.

Unfortunately, a number of the problems facing rural health care arise from the actions and construct of the federal Medicare system. Its historical one-size-fits-all approach to health care delivery and reimbursement has led to small community facilities that lack the ability to make payroll, expand services, add new technologies, and guarantee comparable care to more urban providers.

In recent years, Congress has moved to even the playing field between urban and rural medicine. New classifications, such as Critical Access Hospitals, have allowed these truly safety-net facilities to remain in operation and serve their community. But more work must be done.

In 1994, a new payment system for hospital inpatient services was created to bring efficiency and cost savings into the Medicare program. The new prospective payment system paid hospitals a fixed amount before services were provided, and severed the historical link between reimbursement and reasonable costs. In 2000, hospital outpatient services were added to this payment system.

But what has this system meant for the small rural hospital that has only a handful of beds and cares for a small number of patients? Quite simply, lower volumes hurt the ability of rural hospitals to handle a prospective payment system. They have limited financial reserves, lack available funds to make capital improvements and, especially in the case of Alaska, have difficulty dealing with volume fluctuations that are often times tied to seasonal travel.

The ''Rural Community Hospital Assistance Act'' seeks to remedy this problem and a few others that are facing rural America. This legislation would proved enhanced cost-based reimbursement for critical access hospitals. Cost-based reimbursement for inpatient and outpatient services would include a ''return on equity'' to assist the small facilities in addressing technology and infrastructure needs. It would also provide an option for rural hospitals with less than 50 inpatient beds to receive enhanced cost-based reimbursement for inpatient, outpatient, and select post-acute care services.

Hospitals are resorting to Critical Access status for financial reasons. Rural hospitals are facing a financial crisis. In fact, rural facilities have a Medicare inpatient margin that is almost 10 percentage points lower than urban hospitals. And with these financial constraints, they have often been forced to pass on facility upgrades and acquiring new technologies. Who suffers? The seniors who can't receive the same state-of-the-art care simply because they aren't fortunate to live in a urban zip code.

This legislation is vital to the state of Alaska. Hospitals such as Petersburg Medical Center, Sitka Community, Valdez Community, Seward Medical Center, and Wrangell Medical Center will be able to modernize and expand services to their growing elderly population. Access and quality will increase. Seniors will reap the benefits.

I would like to remind my colleagues that many Alaskan hospitals are not on a road system. They are true safety-net facilities. If they are not there, a need will go unmet.

We must work together to strengthen Medicare. I encourage my colleagues to reflect upon the burdens placed upon rural hospitals and to consider this worthy bill. It is an incremental step towards leveling the playing field between rural and urban medicine. I urge my colleagues to act swiftly upon this bill.

I ask unanimous consent that the text of the ''Rural Community Hospital Assistance Act of 2002'' be printed in the RECORD.

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

S. 2615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT.

(a) SHORT TITLE.—This Act may be cited as the ''Rural Community Hospital Assistance Act of 2002''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to that section or other provision of the Social Security Act.

SEC. 2. ESTABLISHMENT OF RURAL COMMUNITY HOSPITAL (RCH) PROGRAM.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end of the following new subsection:

''Rural Community Hospital; Rural Community Hospital Services

''(ww)(1) The term 'rural community hospital' means a hospital (as defined in subsection (e)) that—

''(A) is located in a rural area (as defined in section 1886(d)(2)(D)) or treated as being so located pursuant to section 1886(d)(8)(E);

''(B) subject to subparagraph (B), has less than 51 acute care inpatient beds, as reported in its most recent cost report;

''(C) makes available 24-hour emergency care services;

''(D) subject to subparagraph (C), has a provider agreement in effect with the Secretary and is open to the public as of January 1, 2002; and

''(E) applies to the Secretary for such designation.

''(2) For purposes of paragraph (1)(B), beds in a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital shall not be counted.

''(3) Subparagraph (1)(C) shall not be construed to prohibit any of the following from qualifying as a rural community hospital:

''(A) A replacement facility (as defined by the Secretary in regulations in effect on January 1, 2002) with the same service area (as defined by the Secretary in regulations in effect on such date).

''(B) A facility obtaining a new provider number pursuant to a change of ownership.

''(C) A facility which has a binding written agreement with an outside, unrelated party for the construction, reconstruction, lease, rental, or financing of a building as of January 1, 2002.

''(4) Nothing in this subsection shall be construed as prohibiting a critical access hospital from qualifying as a rural community hospital if the critical access hospital meets the conditions otherwise applicable to hospitals under subsection (e) and section 1866.''.

(b) PAYMENT.—

(1) INPATIENT SERVICES.—Section 1814 (42 U.S.C. 1395f) is amended by adding at the end the following new subsection:

''Payment for Inpatient Services Furnished in Rural Community Hospitals

''(m) The amount of payment under this part for inpatient hospital services furnished in a rural community hospital, other than such services furnished in a psychiatric or rehabilitation unit of the hospital which is a distinct part, is, at the election of the hospital in the application referred to in section 1861(ww)(1)(D)—

''(1) the reasonable costs of providing such services, without regard to the amount of the customary or other charge, or

''(2) the amount of payment provided for under the prospective payment system for inpatient hospital services under section 1886(d).''.

(2) OUTPATIENT SERVICES.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(n) PAYMENT FOR OUTPATIENT SERVICES FURNISHED IN RURAL COMMUNITY HOSPITALS.—The amount of payment under this part for outpatient services furnished in a rural community hospital is, at the election of the hospital in the application referred to in section 1861(ww)(1)(D)—

''(1) the reasonable costs of providing such services, without regard to the amount of the customary or other charge and any limitation under section 1861(v)(1)(U), or

''(2) the amount of payment provided for under the prospective payment system for covered OPD services under section 1833(t).''.

(3) HOME HEALTH SERVICES.—

(A) EXCLUSION FROM HOME HEALTH PPS.—

(i) IN GENERAL.—Section 1895 (42 U.S.C. 1395fff) is amended by adding at the end the following:

''(f) EXCLUSION.—

''(1) IN GENERAL.—In determining payments under this title for home health services furnished on or after October 1, 2002, by a qualified RCH-based home health agency (as defined in paragraph (2))—

''(A) the agency may make a one-time election to waive application of the prospective payment system established under this section to such services furnished by the agency shall not apply; and

''(B) in the case of such an election, payment shall be made on the basis of the reasonable costs incurred in furnishing such services as determined under section 1861(v), but without regard to the amount of the customary or other charges with respect to such services or the limitations established under paragraph (1)(L) of such section.

''(2) QUALIFIED RCH-BASED HOME HEALTH AGENCY DEFINED.—For purposes of paragraph (1), a 'qualified RCH-based home health agency' is a home health agency that is a provider-based entity (as defined in section 404 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Public Law 106–554; Appendix F, 114 Stat. 2763A–506) of a rural community hospital that is located—

''(A) in a county in which no main or branch office of another home health agency is located; or

''(B) at least 35 miles from any main or branch office of another home health agency.''.

(ii) CONFORMING CHANGES.—

(I) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended by inserting ''or with respect to services to which section 1895(f) applies'' after ''equipment'' in the matter preceding paragraph (1).

(II) PAYMENTS UNDER PART B.—Section 1833(a)(2)(A) (42 U.S.C. 1395l(a)(2)(A)) is amended by striking ''the prospective payment system under''.

(III) PER VISIT LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended by inserting ''(other than by a qualified RCH-based home health agency (as defined in section 1895(f)(2))'' after ''with respect to services furnished by home health agencies''.

(iii) CONSOLIDATED BILLING.—

(I) RECIPIENT OF PAYMENT.—Section 1842(b)(6)(F) (42 U.S.C. 1395u(b)(6)(F)) is amended by inserting ''and excluding home health services to which section to which section 1895(f) applies'' after ''provided for in such section''.

(II) EXCEPTION TO EXCLUSION FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended by inserting before the period at the end of the second sentence the following: ''and paragraph (21) shall not apply to home health services to which section 1895(f) applies''.

(4) RETURN ON EQUITY.—Section 1861(v)(1)(P) (42 U.S.C. 1395x(v)(1)(P)) is amended—

(A) by inserting ''(i)'' after ''(P)''; and

(B) by adding at the end the following:

''(ii)(I) Notwithstanding clause (i), subparagraph (S)(i), and section 1886(g)(2), such regulations shall provide, in determining the reasonable costs of the services described in subclause (II) furnished by a rural community hospital on or after October 1, 2002, for payment of a return on equity capital at a rate of return equal to 150 percent of the average specified in clause (i):

''(II) The services referred to in subclause (I) are inpatient hospital services, outpatient hospital services, home health services furnished by an RCH-based home health agency (as defined in section 1895(f)(2)), and ambulance services.

''(III) Payment under this clause shall be made without regard to whether a provider is a proprietary provider.''.

(5) EXEMPTION FROM 30 PERCENT REDUCTION IN REIMBURSEMENT FOR BAD DEBT.—Section 1861(v)(1)(T) (42 U.S.C. 1395x(v)(1)(T)) is amended by inserting ''(other than a rural community hospital)'' after ''In determining such reasonable costs for hospitals''.

(c) BENEFICIARY COST-SHARING FOR OUTPATIENT SERVICES.—Section 1834(n) (as added by subsection (b)(2)) is amended—

(1) by inserting ''(1)'' after ''(n)''; and

(2) adding at the end the following:

''(2) The amounts of beneficiary cost sharing for outpatient services furnished in a rural community hospital under this part shall be as follows:

''(A) For items and services that would have been paid under section 1833(t) if provided by a hospital, the amount of cost sharing determined under paragraph (8) of such section.

''(B) For items and services that would have been paid under section 1833(h) if furnished by a provider or supplier, no cost sharing shall apply.

''(C) For all other items and services, the amount of cost sharing that would apply to the item or service under the methodology that would be used to determine payment for such item or service if provided by a physician, provider, or supplier, as the case may be.''.

(d) CONFORMING AMENDMENTS.—

(1) PART A PAYMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended by inserting ''other than inpatient hospital services furnished by a rural community hospital,'' after ''critical access hospital services,''.

(2) PART B PAYMENT.—

(A) IN GENERAL.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(i) in paragraph (2), in the matter before subparagraph (A), by striking ''and (I)'' and inserting ''(I), and (K)'';

(ii) by striking ''and'' at the end of paragraph (8);

(iii) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(iv) by adding at the end the following:

''(10) in the case of outpatient services furnished by a rural community hospital, the amounts described in section 1834(n).''.

(B) AMBULANCE SERVICES.—Section 1834(l)(8) (42 U.S.C. 1395m(l)(8)), as added by section 205(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F, 114 Stat. 2763A–463), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(i) in the heading, by striking ''CRITICAL ACCESS HOSPITALS'' and inserting ''CERTAIN FACILITIES'';

(ii) by striking ''or'' at the end of subparagraph (A);

(iii) by redesignating subparagraph (B) as subparagraph (C);

(iv) by inserting after subparagraph (A) the following new subparagraph:

''(B) by a rural community hospital (as defined in section 1861(ww)(1)), or''; and

(v) in subparagraph (C), as so redesignated, by inserting ''or a rural community hospital'' after ''critical access hospital''.

(3) TECHNICAL AMENDMENTS.—

(A) CONSULTATION WITH STATE AGENCIES.—Section 1863 (42 U.S.C. 1395z) is amended by striking ''and (dd)(2)'' and inserting ''(dd)(2), (mm)(1), and (ww)(1)''.

(B) PROVIDER AGREEMENTS.—Section 1866(a)(2)(A) (42 U.S. C. 1395cc(a)(2)(A)) is amended by inserting ''section 1834(n)(2),'' after ''section 1833(b),''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after October 1, 2002.

SEC. 3. REMOVING BARRIERS TO ESTABLISHMENT OF DISTINCT PART UNITS BY RCH AND CAH FACILITIES.

(a) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by striking ''a distinct part of the hospital (as defined by the Secretary)'' in the matter following cause (v) and inserting ''a distinct part (as defined by the Secretary) of the hospital or of a critical access hospital or a rural community hospital''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations with respect to distinct part unit status that are made on or after October 1, 2002.

SEC. 4. IMPROVEMENTS TO MEDICARE CRITICAL ACCESS HOSPITAL (CAH) PROGRAM.

(a) EXCLUSION OF CERTAIN BEDS FROM BED COUNT.—Section 1820(c)(2) (42 U.S.C. 1395i–4(c)(2)) is amended by adding at the end the following:

''(E) EXCLUSION OF CERTAIN BEDS FROM BED COUNT.—In determining the number of beds of a facility for purposes of applying the bed limitations referred to in subparagraph (B)(iii) and subsection (f), the Secretary shall not take into account any bed of a distinct part psychiatric or rehabilitation unit (described in the matter following clause (v) of section 1886(d)(1)(B)) of the facility, except that the total number of beds that are not taken into account pursuant to this subparagraph with respect to a facility shall not exceed 10.''.

(b) PAYMENTS TO HOME HEALTH AGENCIES OWNED AND OPERATED BY A CAH.—Section 1895(f) (42 U.S.C. 1395fff(f)), as added by section 2(b)(3), is further amended by inserting ''or by a home health agency that is owned and operated by a critical access hospital (as defined in section 1861(mm)(1))'' after ''as defined in paragraph (2))''.

(c) PAYMENTS TO CAH-OWNED SNFS.—

(1) IN GENERAL.—Section 1888(e) (42 U.S.C. 1395yy(e)) is amended—

(A) in paragraph (1), by striking ''and (12)'' and inserting ''(12), and (13)''; and

(B) by adding at the end thereof the following:

''(13) EXEMPTION OF CAH FACILITIES FROM PPS.—In determining payments under this part for covered skilled nursing facility services furnished on or after October 1, 2002, by a skilled nursing facility that is a distinct part unit of a critical access hospital (as defined in section 1861(mm)(1)) or is owned and operated by a critical access hospital—

''(A) the prospective payment system established under this subsection shall not apply; and

''(B) payment shall be made on the basis of the reasonable costs incurred in furnishing such services as determined under section 1861(v), but without regard to the amount of the customary or other charges with respect to such services or the limitations established under subsection (a).''.

(2) CONFORMING CHANGES.—

(A) IN GENERAL.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by subsection (b)(2)(A), is further amended in the matter preceding paragraph (1)—

(i) by inserting ''other than a skilled nursing facility providing covered skilled nursing facility services (as defined in section 1888(e)(2)) or posthospital extended care services to which section 1888(e)(13) applies,'' after ''inpatient critical access hospital services''; and

(ii) by striking ''1813 1886,'' and inserting ''1813, 1886, 1888,''.

(B) CONSOLIDATED BILLING.—

(i) RECIPIENT OF PAYMENT.—Section 1842(b)(6)(E) (42 U.S.C. 1395u(b)(6)(E)) is amended by inserting ''services to which paragraph (7)(C) or (13) of section 1888(e) applies and'' after ''other than''.

(ii) EXCEPTION TO EXCLUSION FROM COVERAGE.—Section 1862(a)(18) (42 U.S.C. 1395y(a)(18)) is amended by inserting ''(other than services to which paragraph (7)(C) or (13) of section 1888(e) applies)'' after ''section 1888(e)(2)(A)(i)''.

(d) PAYMENTS TO DISTINCT PART PSYCHIATRIC OR REHABILITATION UNITS OF CAHS.—Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(1) in paragraph (1), by inserting '', other than a distinct part psychiatric or rehabilitation unit to which paragraph (8) applies,'' after ''subsection (d)(1)(B)''; and

(2) by adding at the end the following:

''(8) EXEMPTION OF CERTAIN DISTINCT PART PSYCHIATRIC OR REHABILITATION UNITS FROM COST LIMITS.—In determining payments under this part for inpatient hospital services furnished on or after October 1, 2002, by a distinct part psychiatric or rehabilitation unit (described in the matter following clause (v) of subsection (d)(1)(B)) of a critical access hospital (as defined in section 1861(mm)(1))—

''(A) the limits imposed under the preceding paragraphs of this subsection shall not apply; and

''(B) payment shall be made on the basis of the reasonable costs incurred in furnishing such services as determined under section 1861(v), but without regard to the amount of the customary or other charges with respect to such services.''.

(e) ELIMINATION OF ISOLATION TEST FOR COST-BASED CAH AMBULANCE SERVICES.—Paragraph (8) of section 1834(l) (42 U.S.C. 1395m(l)), as added by section 205(a) of BIPA, is amended by striking the comma at the end of the last subparagraph and all that follows and inserting a period.

(f) RETURN ON EQUITY.—Section 1861(v)(1)(P) (42 U.S.C. 1395x(v)(1)(P)), as amended by section 2(b)(4), is further amended by adding at the end the following:

''(iii)(I) Notwithstanding clause (i), subparagraph (S)(i), and section 1886(g)(2), such regulations shall provide, in determining the reasonable costs of the services described in subclause (II) furnished by a rural community hospital on or after October 1, 2002, for payment of a return on equity capital at a rate of return equal to 150 percent of the average specified in clause (i):

''(II) The services referred to in subclause (I) are inpatient critical access hospital services (as defined in section 1861(mm)(2)), outpatient critical access hospital services (as defined in section 1861(mm)(3)), extended care services provided pursuant to an agreement under section 1883, posthospital extended care services to which section 1888(e)(13) applies, home health services to which section 1895(f) applies, ambulance services to which section 1834(l) applies, and inpatient hospital services to which section 1886(b)(8) applies.

''(III) Payment under this clause shall be made without regard to whether a provider is a proprietary provider.''.

(g) TECHNICAL CORRECTIONS.—

(1) SECTION 403(b) OF BBRA 1999.—Section 1820(b)(2) (42 U.S.C. 1395i–4(b)(2)) is amended by striking ''nonprofit or public hospitals'' and inserting ''hospitals''.

(2) SECTION 203(b) OF BIPA 2000.—Section 1883(a)(3) (42 U.S.C. 1395tt(a)(3)) is amended—

(A) by inserting ''section 1861(v)(1)(G) or'' after ''Notwithstanding''; and

(B) by striking ''covered skilled nursing facility''.

(h) EFFECTIVE DATES.—

(1) ELIMINATION OF REQUIREMENTS.—The amendment made by subsections (a) and (b) shall apply to services furnished on or after October 1, 2002.

(2) TECHNICAL CORRECTIONS.—

(A) BBRA.—The amendment made by subsection (f)(1) shall be effective as if included in the enactment of section 403(b) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–321), as enacted into law by section 1000(a)(6) of Public Law 106–113.

(B) BIPA.—The amendment made by subsection (f)(2) shall be effective as if included in the enactment of section 203(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F, 114 Stat. 2763A–463), as enacted into law by section 1(a)(6) of Public Law 106–554.

Mr. WELLSTONE. Mr. President, I rise today along with my colleague, the Senator from Alaska, to introduce the Rural Community Hospital Assistance Act. Senator MURKOWSKI and I don't agree on a lot of issues. But one thing we both care very deeply about is the health of this Nation's rural hospitals. Rural hospitals provide essential care for more than 54 million people. They provide essential inpatient, outpatient and post-acute care, including skilled nursing, home health and rehabilitation services. Minnesota has more rural hospitals than any other state in the United States with the exception of Texas. The hospitals of rural America are the heart of our health care system. In rural America, how far away you are from your community hospital can be a matter of life and death.

But the health of our rural hospitals in 2002 is not good. Many are struggling to survive. Rural hospitals have Medicare inpatient margins that are 10 percent less than urban hospitals. Rural hospital total Medicare margins have declined significantly, falling to an average of negative 3.2 percent since 1999, and even lower margins, negative 5.4 percent, for rural hospitals with 50 or fewer beds. Rural hospital costs are increasing at a greater rate than urban hospitals. They can't survive on the Medicare prospective payment system that we've set up for them. That payment system provides a fixed hospital payment established in advance of the provisions of services, rather than providing reimbursement retroactively on the basis of costs. The Medicare Payment Advisory Commission (MedPAC) told the Congress last June that the Prospective Payment System is not working for small rural hospitals. We set up that system to contain costs and save money. But we can't have the kind of healthcare system that the people who live in the small towns and on the farms of America deserve, if we try to finance it on the cheap. This is about values. This is about priorities. This is about giving people who work hard all their lives the healthcare they deserve.

I voted against the Balanced Budget Act of 1997 because I was worried that it would lead to significant harm for our healthcare system. I was worried that it would hurt healthcare in our rural areas, in our cities, and that it would damage our healthcare safety net. Unfortunately, I was right and we have seen exactly the kind of problems I warned about. But one good thing we included was the Medicare Rural Hospital Flexibility Act which set up ''Critical Access Hospitals.'' The Critical Access Hospital (CAH) program provides cost based Medicare reimbursement for qualifying rural hospitals with 15 of fewer inpatient beds. Small rural hospitals face unique circumstances that require special consideration when developing Medicare payment policies. Because of their small size, a median of 58 beds compared to 186 beds for urban hospitals, rural hospitals have a much more difficult time surviving within a prospective payment system. Rural hospitals have fewer financial reserves and greater volume fluctuations than urban hospitals. They rely on Medicare as a source of revenue more than other hospitals. They have to deal with isolation, high levels of poverty, and shortages of critical health care professionals, making it much more difficult for small rural hospitals to absorb the impact of policy and market changes.

The Critical Access Hospital Program has done a good job. There are 43 Critical Access Hospitals in Minnesota. But this program needs to be updated and it needs to be extended and enhanced if we are going to restore our rural hospitals to financial health. The Rural Community Hospital Assistance Act will provide enhanced cost based reimbursement for Critical Access Hospitals, and extend such reimbursement to post acute care services. It will permit and extend enhanced reimbursement fore geriatric psychiatric care. It will provide enhanced cost based reimbursement for ambulance services. It would also provide an option for rural hospitals with less than 50 acute care beds to receive cost based reimbursement for inpatient, outpatient, and ambulance services. This is very important because so many rural hospitals with less than 50 beds are struggling just to survive. It is essential that the doors of our rural hospitals remain open. I ask my colleagues to join Senator MURKOWSKI and me in supporting this important legislation for rural America.

By Mr. THURMOND:

S. 2616. A bill to amend the Public Health Service Act to establish an Office of Men's Health; to the Committee on Health, Education, Labor, and Pensions.

Mr. THURMOND. Mr. President, this week in the United States we are commemorating Men's Health Week. The National Men's Health Week Act was passed by Congress and signed into law in 1994. Since then Men's Health Week has been celebrated each year as the week leading up to and including Father's Day. I was proud to be a cosponsor of that Act. Today, I rise to introduce the Men's Health Act of 2002, to establish an Office of Men's Health within the Department of Health and Human Services to promote men's health in America.

In this Nation, there is an ongoing, increasing, and predominantly silent crisis in the health and well-being of men. Due to a lack of awareness, poor health education, and culturally-induced behavior patterns, the state of men's health and well-being is deteriorating steadily. Heart disease, stroke, and various cancers, including prostate and testicular cancer, continue to be

major areas of concern. We must address these issues with diligent educational efforts, prevention and treatment as we seek to enhance the quality and duration of men's lives. Improved distribution of information concerning the health challenges men face and the utilization of the appropriate preventive measures are imperative to addressing this need.

As a lifelong advocate of regular medical exams, daily exercise, and a balanced diet, I feel strongly that an Office of Men's Health should be established to help improve the overall health of America's male population. The bill I am introducing is similar to a bill introduced in the House of Representatives. I invite my colleagues to join me in supporting this important measure. 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. 2616

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 ''Men's Health Act of 2002''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) A silent health crisis is affecting the health and well-being of America's men.

(2) While this health crisis is of particular concern to men, it is also a concern for women regarding their fathers, husbands, sons, and brothers.

(3) Men's health is a concern for employers who pay the costs of medical care, and lose productive employees.

(4) Men's health is a concern to Federal and State governments which absorb the enormous costs of premature death and disability, including the costs of caring for dependents left behind.

(5) The life expectancy gap between men and women has increased from one year in 1920 to almost six years in 1998.

(6) Prostate cancer is the most frequently diagnosed cancer in the United States among men, accounting for 36 percent of all cancer cases.

(7) An estimated 180,000 men will be newly diagnosed with prostate cancer this year alone, and 37,000 will die.

(8) The American Heart Association reports that heart attack is the single biggest killer of American males. Men are more likely to die of stroke and are almost twice as likely to die of heart disease than are women. High blood pressure increases the risk for stroke and heart attack and men under age 55 are much more likely to suffer from high blood pressure than are women.

(9) An estimated 7,600 men will be diagnosed this year with testicular cancer, and 400 of these men will die of this disease in 2002. A common reason for delay in treatment of this disease is a delay in seeking medical attention after discovering a testicular mass.

(10) Studies show that men are at least 25 percent less likely than women to visit a doctor, and are significantly less likely to have regular physician check-ups and obtain preventive screening tests for serious diseases.

(11) Appropriate use of tests such as prostate specific antigen (PSA) exams and blood pressure, blood sugar, and cholesterol screens, in conjunction with clinical exams and self-testing, can result in the early detection of many problems and in increased survival rates.

(12) Educating men, their families, and health care providers about the importance of early detection of male health problems can result in reducing rates of mortality for male-specific diseases, as well as improve the health of America's men and its overall economic well-being.

(13) Recent scientific studies have shown that regular medical exams, preventive screenings, regular exercise, and healthy eating habits can help save lives.

(14) Establishing an Office of Men's Health is needed to investigate these findings and take such further actions as may be needed to promote men's health.

SEC. 3. ESTABLISHMENT OF OFFICE OF MEN'S HEALTH.

(a) IN GENERAL.—Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following:

''OFFICE OF MEN'S HEALTH

''SEC. 1711. The Secretary shall establish within the Department of Health and Human Services an office to be known as the Office of Men's Health, which shall be headed by a director appointed by the Secretary. The Secretary, acting through the Director of the Office, shall coordinate and promote the status of men's health in the United States.''.

(b) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the Office of Men's Health (established under section 1711 of the Public Health Service Act as added by subsection (a)), shall submit to Congress a report describing the activities of such Office, including findings that the Director has made regarding men's health.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 283—RECOGNIZING THE SUCCESSFUL COMPLETION OF DEMOCRATIC ELECTIONS IN THE REPUBLIC OF COLOMBIA

Mr. GRAHAM (for himself, Mr. DEWINE, Mr. MCCAIN, Mr. TORRICELLI, Mr. MILLER, Mr. LEAHY, Mr. FEINGOLD, Mr. DODD, Mr. NELSON of Florida, Mr. GRASSLEY, Mr. BREAUX, Mr. WARNER, Mr. NELSON of Nebraska, Mr. COCHRAN, Mr. HELMS, Mr. CHAFEE, Mr. REID, Mr. ROCKEFELLER, Mr. BAYH, Mr. LUGAR, Mr. BROWNBACK, Mr. ALLEN, and Mr. SESSIONS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 283

Whereas on May 26, 2002, the Republic of Colombia successfully completed democratic multiparty elections for President and Vice President;

Whereas these elections were deemed by international and domestic observers, including the United Nations and the Organization of American States, to be free, fair, and a legitimate nonviolent expression of the will of the people of the Republic of Colombia;

Whereas the United States has consistently supported the efforts of the people of the Republic of Colombia to strengthen and continue their democracy;

Whereas the Senate notes the courage of the millions of citizens of the Republic of Colombia that turned out to vote in order to freely and directly express their opinion; and

Whereas these open, fair, and democratic elections of the new President and Vice President of the Republic of Colombia, and the speedy posting of election results, should be broadly commended: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the government and the people of the Republic of Colombia for the successful completion of democratic elections held on May 26, 2002, for President and Vice President;

(2) congratulates President-elect Alvaro Uribe Velez and Vice President-elect Francisco Santos Calderon on their recent victory and their continuing strong commitment to democracy, national reconciliation, and reconstruction;

(3) congratulates Colombian President Andres Pastrana, who has been a strong ally of the United States, a long-standing supporter of peace process negotiations, and a builder of national unity in the Republic of Colombia, for his personal commitment to democracy;

(4) commends all Colombian citizens and political parties for their efforts to work together to take risks for democracy and to willfully pursue national reconciliation in order to cement a lasting peace and to strengthen democratic traditions in the Republic of Colombia;

(5) supports Colombian attempts to—

(A) ensure democracy, national reconciliation, and economic prosperity;

(B) support human rights and rule of law; and

(C) abide by all the essential elements of representative democracy as enshrined in the Inter-American Democratic Charter, Organization of American States, and United Nations principles;

(6) encourages the government and people of the Republic of Colombia to continue their struggle against the evils of narcotics and all forms of terrorism;

(7) encourages the government of the Republic of Colombia to continue to promote—

(A) the professionalism of the Colombian Armed Forces and Colombian National Police; and

(B) judicial and legal reforms; and

(8) reaffirms that the United States is unequivocally committed to encouraging and supporting democracy, human rights, rule of law, and peaceful development in the Republic of Colombia and throughout the Americas.

Mr. GRAHAM. Mr. President, I rise, along with 21 of my colleagues, to submit a resolution commending the country and the people of Colombia on continuing the tradition of democracy, with a plurality freely and fairly voting for President-elect Alvaro Uribe Velez and Vice President-elect Francisco Santos Calderon on May 26, 2002.

In Colombia, the evil hand of terror and suffering and fear and death has been an everyday reality for too long. In 2000, over 44 percent of the worldwide incidents of terrorist attacks against U.S. citizens and United States interests were in the country of Colombia. These attacks pose a threat to Colombia, the stability of Latin America, the security of the Western Hemisphere, and the direct and indirect security of many United States citizens, businesses, and interests.

Yet, despite the constant threat and reality of violence in Colombia, the

citizens and government of Colombia carried out democratic elections, deemed by international standards to be free, fair and the express will of the Colombian people. As Latin America's oldest democracy, the legacy of leaders elected by the people continues.

We desire to work closely with both President-elect Uribe and Vice President-elect Santos to reach our common goals of continued democracy, stability, peace, and the elimination of drugs, terrorism and corruption from our countries and our hemisphere.

I urge my colleagues to join me in support of this resolution and the great democracy of Colombia.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3832. Mr. REID (for Mr. DORGAN (for himself, Mr. DURBIN, Mrs. CARNAHAN, Mr. CORZINE, and Ms. STABENOW)) proposed an amendment to amendment SA 3831 proposed by Mr. CONRAD to the bill (H.R. 8) to amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period, and for other purposes.

SA 3833. Mr. GRAMM (for himself, Mr. KYL, Mr. BROWNBACK, and Mr. HUTCHINSON) proposed an amendment to the bill H.R. 8, supra.

SA 3834. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3832. Mr. REID (for Mr. DORGAN (for himself, Mr. DURBIN, Mrs. CARNAHAN, Mr. CORZINE, and Ms. STABENOW)) proposed an amendment to amendment SA 3831 proposed by Mr. CONRAD to the bill (H.R. 8) to amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. ESTATE TAX WITH FULL TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTERESTS.

(a) ELIMINATION OF ESTATE TAX REPEAL.—

(1) IN GENERAL.—Subtitle A of title V, sections 511(d), 511(e), and 521(b)(2), and subtitle E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001 are repealed.

(2) CONFORMING AMENDMENTS.—

(A) The table contained in section 2001(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking ''2007, 2008, and 2009'' and inserting ''2007 and thereafter''.

(B) The table contained in section 2010(c) of such Code is amended by striking ''2009'' and inserting ''2009 and thereafter''.

(C) Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(i) by striking ''this Act'' and all that follows through ''2010.'' in subsection (a) and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.'', and

(ii) by striking '', estates, gifts, and transfers'' in subsection (b).

(b) INCREASE IN EXCLUSION AMOUNT.—The table contained in section 2010(c) of the Internal Revenue Code of 1986 (relating to applicable credit amount), as amended by subsection (a)(2)(B), is amended by striking ''$3,500,000'' and inserting ''$4,000,000''.

(c) FULL TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTERESTS.—

(1) IN GENERAL.—Section 2057(a) (relating to deduction for family-owned business interests) is amended—

(A) by striking paragraphs (2) and (3), and

(B) by striking ''GENERAL RULE.—'' and all that follows through ''For purposes'' and inserting ''ALLOWANCE OF DEDUCTION.—For purposes''.

(2) PERMANENT DEDUCTION.—Section 2057 is amended by striking subsection (j).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2002.

SA 3833. Mr. GRAMM (for himself, Mr. KYL, Mr. BROWNBACK, and Mr. HUTCHINSON) proposed an amendment to the bill H.R. 8, to amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Permanent Death Tax Repeal Act of 2002''.

SEC. 2. ESTATE TAX REPEAL MADE PERMANENT.

(a) IN GENERAL.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(1) in subsection (a) by striking ''shall not apply—'' and all that follows and inserting ''(other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.'', and

(2) in subsection (b) by striking '', estates, gifts, and transfers''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

SA 3834. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. INSURANCE RATE INCREASES FOR TERRORISM RISKS.

(a) CALCULATIONS OF TERRORISM INSURANCE PREMIUMS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall promulgate regulations establishing parameters for insurance rate increases for terrorism risk.

(2) CONSULTATION.—In developing the regulations under paragraph (1), the Secretary shall consult with the NAIC and appropriate Federal agencies.

(3) MODIFICATIONS.—The Secretary may periodically modify the regulations promulgated under paragraph (1), as necessary to account for changes in the marketplace.

(4) EXCLUSIONS.—Under exceptional circumstances, the Secretary may exclude a participating insurance company from coverage under any of the regulations promulgated under paragraph (1).

(b) SEPARATE ACCOUNT REQUIRED.—If a participating insurance company increases annual premium rates on covered risks under subsection (a), the company—

(1) shall deposit the amount of the increase in premium in a separate, segregated account;

(2) shall identify the portion of the premium insuring against terrorism risk on a separate line item on the policy; and

(3) may not disburse any funds from amounts in that separate, segregated account for any purpose other than the payment of losses from acts of terrorism.

(c) LIMITATION ON RATE INCREASES FOR COVERED RISKS.—

(1) EXISTING POLICIES.—Any rate increase by a participating insurance company on covered risks during any period within the Program may not exceed the amount established by the Secretary under subsection (a).

(2) NEW POLICIES.—Property and casualty insurance policies issued after the date of enactment of this Act shall conform with the regulations issued by the Secretary under subsection (a).

(d) REFUNDS ON EXISTING POLICIES.—Not later than 90 days after the date of enactment of this Act, a participating insurance company shall—

(1) review the premiums charged under property and casualty insurance policies of the company that are in force on the date of enactment of this Act;

(2) calculate the portion of the premium paid by the policy holder that is attributable to terrorism risk during the period in which the company is participating in the Program; and

(3) refund the amount calculated under paragraph (2) to the policy holder, with an explanation of how the refund was calculated.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Wednesday, June 12, at 2:30 p.m. in SD–366. The purpose of this hearing is to receive testimony on the following bills:

S. 1257 and H.R. 107, to require the Secretary of the Interior to conduct a theme study to identify sites and resources to commemorate and interpret the Cold War;

S. 1312 and H.R. 2109, to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach, Florida, for possible inclusion in the National Park System;

S. 1944, to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes;

H.R. 38, to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, and for other purposes;

H.R. 980, to establish the Moccasin Bend National Historic Site in the State of Tennessee as a unit of the National Park System; and

H.R. 1712, to authorize the Secretary of the Interior to make adjustments to the boundary of the National Park of American Samoa to include certain

portions of the islands of Ofu and Olosega within the Park, and for other purposes.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, June 12, 2002, at 9:30 a.m. to hold a hearing to receive testimony further analyzing the benefits and costs of multi-pollutant legislation. The hearing will be held in SD–406.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, June 12, 2002 at 9:30 a.m. for the purpose of holding a hearing entitled ''Protecting Our Kids: What is Causing the Current Shortage in Childhood Vaccines?''

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

COMMITTEE ON THE JUDICIARY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''The Criminal Justice System and Mentally Ill Offenders'' on Wednesday, June 12, 2002, in Dirksen room 226 at 9 a.m.

Agenda

Witnesses

Panel I: The Honorable George Ryan, Governor of the State of Illinois.

Panel II: The Honorable Matt Bettenhausen, Illinois Deputy Governor for Criminal Justice Policy, Executive Director, Illinois Governor's Commission on Capital Punishment; Donald Hubert, Esq., Donald Hubert & Associates, Chicago, IL, Member, Illinois Governor's Commission on Capital Punishment; John J. Kinsella, Esq., First Assistant State's Attorney, DuPage County, IL; Professor Larry Marshall, Northwestern University Law School, Legal Director, Center on Wrongful Convictions; Kent Scheidegger, Legal Director, Criminal Justice Legal Foundation, Sacramento, CA; Scott Turow, Esq., Sonnenschein Nath & Rosenthal, Chicago, IL, Member, Illinois Governor's Commission on Capital Punishment; and Druanne D. White, Esq., Solicitor, Tenth Judicial Circuit, South Carolina.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DORGAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 12, 2002, at 2:30 p.m. to hold a closed hearing on the joint inquiry into the events of September 11, 2001.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. DORGAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, June 12, 2002, at 2:30 p.m. on the Internet Corporation for Assigned Names and Numbers.

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

ORDERS FOR THURSDAY, JUNE 13, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m., Thursday, June 13; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 10 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee and the second half under the control of the Republican leader or his designee that at 10 a.m. the Senate begin consideration of the terrorism insurance bill, as under the previous order.

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

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. REID. Mr. President, we have worked long and hard today. As I have said before, we had some very good debate. I think it is time that we close business for the day. I ask unanimous consent the Chair deem the Senate closed for the day, as under the previous order, as there is no further business to come before the Senate.

There being no objection, the Senate, at 6:52 p.m., adjourned until Thursday, June 13, 2002, at 9 a.m.

EXTENSIONS OF REMARKS

TO AMEND THE HIGHER EDUCATION ACT OF 1965 TO ESTABLISH A SCHOLARSHIP PROGRAM TO RECOGNIZE SCHOLAR ATHLETES, AND FOR OTHER PURPOSES

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. LEACH. Mr. Speaker, Title IX, the Federal law passed 30 years ago to mandate equality of opportunity for women in intercollegiate athletics, is today a subject for deserved celebration on what it has done for women and understandable dismay for its unintended consequences for certain men's programs.

The challenge from a Federal policy perspective is to strengthen the good Title IX has wrought, while eliminating its negative consequences.

The good is obvious. Many more women have been given a chance to participate in intercollegiate athletics. But making progress is not the same thing as achieving full equality or advancing adequate opportunity. Nor is obtaining opportunity at the expense of eliminating it for others as positive a social goal as could otherwise be the case.

The problem is the distinction in goals of achieving equality and providing opportunity. Simplistically, an institution of higher education can offer no athletic options or, for instance, two women's and two men's teams and be in compliance with Title IX. Hence, in an abstract setting, a school that might offer 12 men's and six women's teams might be considered Title IX compliant if it eliminated six men's programs or if it eliminated three men's and added three women's programs. Instead of adding and subtracting, there would be greater opportunity for women as well as men if such a school opted to achieve equality with addition alone, by offering 12 women's as well as 12 men's programs.

Title IX is insufficiently progressive if it is implemented with a subtraction mind-set. It matters where the bar is placed. The lower the sports offerings for men, the less opportunity provided women. In architecture ''less'' might in some cases be ''more,'' but when individual opportunity is at issue, ''more'' is better.

Title IX is not just a doctrine of equality, but of equal opportunity.

The underlying dilemma with Title IX enforcement is that it has, to date, underemphasized the opportunity quotient implicit in the law. The goal should be equality with increased opportunity.

Just as the equalitarian nature of Title IX should be understood as a call for new sports openings for women, the opportunity basis of the law requires upgrading and reemphasizing participation in sports in the education process.

There is a trend at colleges and universities that the principal sports experience for students is ''going to'' rather than ''participating in'' intercollegiate athletics. What is needed is a new participation ethic in sports.

Athletic Departments are not the same thing as History Departments but they share in common the goal of developing the judgment and character of the individual student. Like band and orchestra and debate, sports teams should be seen as student-centered, not profit-driven.

Unfortunately, Title IX has been used by many athletic departments as an excuse to cut sports programs when it should be used to upgrade the role of sports. For one who appreciates what Title IX has started to do for women, yet is dismayed for the loss of so many wrestling, gymnastic, swimming and other men's programs, the question is what, if anything, the Federal government should do.

One option would be to mandate colleges and universities to offer particular programs, but such an approach has the obvious problem of intruding on institutional decisionmaking in potentially inappropriate ways. While Title IX may be considered an intrusion by some, its egalitarian character and purpose is socially compelling. The question that remains is how, from a governmental perspective, to put a greater emphasis on the opportunity side of the Title IX equation.

My recommendation is 3-fold: (a) Federal and State officials and college administrators should use their positions to call for a greater emphasis on participation in sports in the education experience; (b) Federal guidelines should encourage colleges and universities to meet the Title IX egalitarian premises by adding women's teams without subtracting men's; (c) a new Federal scholar/athletic scholarship program should be established to incentivize colleges and universities to offer greater athletic options.

With regard to the third recommendation, I am today introducing legislation titled the ''J. Dennis Hastert Scholar Athlete Act of 2002.'' The act calls for the creation of Hastert athletic scholarships to be granted at the State level to men and women on an equal basis. Qualification criteria would include an emphasis on sports that are part of the Olympic Games or are not significant revenue generators at particular institutions.

Sports participation helps build character, initiative, and leadership. This is totally independent of the growing assumption in colleges and universities that athletic departments must be profitable or at least not too expensive. It is, of course, a plus if an athletic department can be self-sufficient, but this should not be an overriding consideration. Indeed, it is remarkable how some of our larger universities which are at the forefront of competitive quality in revenue generating sports often offer far fewer athletic options than smaller colleges and universities which are not driven by a ticket sale mentality.

Some see the current emphasis on football to be a significant problem. To be fair, football is expensive, but at Division I schools it can often pay its own way and offset losses elsewhere in athletic budgets. In smaller colleges and universities football is no different than other sports. Its revenues frequently cannot match costs. Indeed, to their credit, six universities in the East offer two full football programs, with one requiring that all participants weigh under a given amount. As a former participant in three college sports where fans often numbered less than team members, I have always been appreciative of administrators who understood that what matters most is love of the sport, not its cost.

Wrestling is a classic. Gyms are seldom packed. Fans are appreciated, but those of us who made that walk with butterflies to the center of the mat and stared at an opponent whose arms looked thicker than tree trunks, understood that we wrestled for the competitive challenge and nothing else. Colleges and universities should support sports like wrestling and at the same time press to add women's sports as diverse as basketball, swimming, field hockey, volleyball, softball, soccer, crew, lacrosse, fencing, hockey, tennis, cross country, archery, track and field, golf, water polo and squash. What matters is growth of the individual: the character sport builds, not the remuneration it receives at the gate.

I speak personally to this issue because in the end sport is about the sum effect on individuals of the values it imparts—both team discipline and self-reliance.

The enemy of opportunity for those interested in participation in low revenue generating sports is neither football nor Title IX's call for gender equality. It is the assumption in too many places that sports are to be encouraged only if they are financially self-sufficient. But from a school's perspective, athletic teams should not be considered burdens. They provide a unique means of advertising the attributes, indeed the existence, of many institutions and a positive way of attracting students in a competitive education environment. It is in this context that the Hastert Scholarship program is proposed as a positive for schools, for students, and for the best of America's athletic ethic.

In a tight budget circumstance where it is tempting for colleges to meet Federal gender equality guidelines with a smaller number of teams, the question is whether the government should step in and incentivize sports participation while maintaining the mandate of equal opportunity.

My answer is yes.

Title IX should be about building up without tearing down.

HONORING DR. JOSEPH E. SABOL

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Dr. Joseph E. Sabol on the occasion of his retirement from California Polytechnic State University, in San Luis Obispo,

CA. Dr. Sabol has spent the past 29 years as a teacher educator, faculty member, administrator, club advisor, and director of Outreach for the College of Agriculture.

Dr. Sabol has also touched the lives of many through his work with Future Farmers of America, 4–H, Grange, and California Rare Fruit Growers. In addition, he has worked with the Agricultural Education Foundation through its California Agricultural Leadership Program since 1972. Over the course of his career, he has worked with teachers in Mexico, Pakistan, Australia, and Costa Rica.

A ceremony will be held to honor Dr. Sabol on June 22, 2002, at California Polytechnic State University, in San Luis Obispo, CA. Dr. Sabol is also working to establish a teaching endowment in the name of his mother and teaching mentor, Dorothea Sabol, in order to assist highly motivated teacher candidates in joining the teaching profession.

Mr. Speaker, I rise today to congratulate and honor Dr. Joseph Sabol for his dedication to higher education in California and his many contributions to California agriculture. I invite my colleagues to join me in thanking Dr. Sabol for his service to the education and agriculture communities and wishing him continued success in all future endeavors.

A PROCLAMATION HONORING JUDGE FRANK J. FREGIATO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. NEY. Mr. Speaker, Whereas, Judge Fregiato has been named 2002 Italian American of the Year by the Board of Directors of the Upper Ohio Valley Italian Festival; and,

Whereas, Judge Fregiato is currently the Belmont County Northern Division Court Judge; and,

Whereas, Judge Fregiato has been an active contributor to his profession through the American, Ohio and Belmont Bar Associations and various leadership positions; and,

Whereas, Judge Fregiato has worked to improve his community through involvement in Knights of Columbus, Masons Kirkwood Lodge, Belmont County Township Association, the Chamber of Commerce, and others;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in applauding Judge Frank J. Fregiato for receiving the 2002 Italian American of the Year Award.

3M SPECIALTY FILM AND MEDIA PRODUCTS DIVISION

HON. JIM DeMINT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. DEMINT. Mr. Speaker, Whereas, 3M was founded 100 years ago in Two Harbors, Minnesota and serves as the world's leading innovative company; and

Whereas, 3M makes and sells thousands of products that improve people's lives; and

Whereas, 3M is a company consisting of 75,000 employees world-wide and 250 at the 3M Specialty Film and Media Products Division in Greenville, South Carolina; and

Whereas, the 3M Specialty Film and Media Products Division began operations in Greenville in 1973; and

Whereas, 3M makes valuable contributions to our community through jobs, environmental stewardship, charitable contributions and volunteerism;

Therefore, be it declared that, this 11th day of June 2002, shall be 3M Day.

HONORING PETER NEUMANN

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. MCGOVERN Mr. Speaker, I rise today to congratulate Peter Neumann on the occasion of his retirement from the Social Security Administration after 31 years of dedicated service.

Born in New Britain, CT, on July 6, 1947, Mr. Neumann graduated from Newington High School in 1965. After attending Central Connecticut State College, he served in the U.S. Army from 1969–1971, including a tour of duty in Vietnam.

Mr. Neumann started working at Social Security in 1971 as a claims authorizer in the Bureau of Disability Insurance. He later served in many other management positions until finally becoming district manager for the Worcester, MA, Field Office, of the Social Security Administration in 1990.

Mr. Neumann has brought friendliness and accessibility to the Worcester Field Office for the 11 years he served as district manager. I can personally attest to this since he has always been helpful to my staff and me. I cannot thank him enough for the countless times he has worked with my office to solve Social Security problems for the people of central Massachusetts.

Without a doubt, Mr. Neumann has contributed immensely to the Social Security Administration as well as the community-at-large. Not only has Mr. Neumann served as president and vice president of the New England Social Security Management Association, but he has also served as president of the New England Public Employees Roundtable. In addition, Mr. Neumann has worked for the Worcester Area Combined Federal Campaign as board member and director for the last decade. As a member of the Central Massachusetts Agency on Aging for the last 8 years, he has served as president and has served on the Advisory Committee and Board of Directors. Mr. Neumann recently finished serving a term on the Board of Elder Services of Worcester. He has also volunteered at the Audio Journal, making tapes for blind consumers. There is no question Mr. Neumann's love for community service and devotion to elders is unwavering.

I am sure his eagerness to help people will not falter in retirement. His plans for the future include serving in the Peace Corps with his wife Maria, spending more time with his family, backpacking around Colorado, vacationing in Maine, visiting Italy and Thailand, and hiking the Appalachian Trail.

Mr. Speaker, I am certain that the entire House of Representatives joins me in thanking Mr. Neumann for his service to the Social Security Administration and wishes him the best of luck in retirement.

CELEBRATING THE 50TH ANNIVERSARY OF THE ZONTA CLUB OF MONTGOMERY COUNTY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mrs. MORELLA. Mr. Speaker, I rise to recognize and celebrate of the 50th Anniversary of The Zonta Club of Montgomery County. Zonta International is a worldwide service organization of business and professional executives who work together to advance the status of women. There are more than 34,000 members in 1,230 clubs. This past weekend, I gathered with the many dedicated members of my local club, known for many years as The Zonta Club of Bethesda/Silver Spring.

The Zonta Club of Montgomery County was founded and chartered in January of 1952. Their very first project involved distinguished service to the men and women of our Armed Forces through the local United Service Organizations. Over the past 50 years. The Zonta Club of Montgomery County has provided committed leadership and community service for so many other individuals and organizations. In this anniversary year, the membership has provided caring and dedicated service to The National Home for Children and Families in Bethesda.

Mr. Speaker, I would like to express my deepest thanks and admiration to The Zonta Club of Montgomery County, Maryland for 50 years of commitment and service to our community.

A PROCLAMATION RECOGNIZING CHRISTOPHER TRUEX

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. NEY. Mr. Speaker, Whereas, Christopher Truex has devoted himself to serving others through his membership in the Boy Scouts of America Troop 257; and

Whereas, Christopher Truex has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Christopher Truex must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award;

Therefore, I join with the entire 18th Congressional District of Ohio in congratulating Christopher Truex for his Eagle Scout Award.

HONORING SELF-HELP ENTERPRISES

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Self-Help Enterprises (SHE) for its contributions to California's San Joaquin Valley.

SHE was formed in 1965 with the purpose of providing improved living conditions to low-

income families in the eight-county rural area of the San Joaquin Valley. The idea of SHE dates back to the 1930s and to the program American Friends Service Committee (AFSC). This organization studied the desolate lives of coal miners and developed a self-help housing program. It also provided financing of 20- to 30-year loans at 2% interest.

AFSC transformed into a national program with its efforts in Goshen, California, located in the center of the San Joaquin Valley. Affordable, suitable housing in adequate numbers was not available to meet the needs of the low-income families in the area. The AFSC office in Visalia worked side by side with farm workers and others on the implementation of a plan to construct homes. Rather than pay a developer to construct housing, the rural residents worked together to build their own housing developments. AFSC encouraged legislation which would make housing loans eligible to rural residents other than farmers under Section 502, and USDA's Rural Housing Service allowed the rural residents to earn credit for ''sweat equity'' because they build their own homes. The success of this program led to the development in February 1965 of Self-Help Enterprises, the first rural self-help housing organization in the nation. SHE is still dedicated to serving low-income rural families after over 30 years.

Mr. Speaker, I rise today to honor Self-Help Enterprises for its tremendous dedication to the community. I invite my colleagues to join me in thanking SHE and wishing the program continued success in the future.

3M PACKAGING SYSTEMS DIVISION

HON. JIM DeMINT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. DEMINT. Mr. Speaker, whereas, 3M was founded 100 years ago in Two Harbors, Minnesota and serves as the world's leading innovative company; and

Whereas, 3M makes and sells thousands of products that improve people's lives; and

Whereas, 3M is a company consisting of 75,000 employees world-wide and 219 at the 3M Packaging Systems Division in Greenville, South Carolina; and

Whereas, the 3M Packaging Systems Division began operations in Greenville in 1974; and

Whereas, 3M makes valuable contributions to our community through jobs, environmental stewardship, charitable contributions and volunteerism;

Therefore, be it declared that, this 11th day of June 2002, shall be 3M day.

HONORING WILLIAM WALLACE FOR 25 YEARS OF SERVICE TO THE WORCESTER HISTORICAL MUSEUM

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. MCGOVERN. Mr. Speaker, I rise today to join the community of Worcester, Massachusetts in honoring William Wallace for his 25 years of service as Executive Director of the Worcester Historical Museum as the institution celebrates its 125th Anniversary.

Founded in 1875 by Samuel Staples, the Worcester Historical Museum was designed to be a cultural organization ''not for today, but a hundred years to come.'' With the help of Mayor Clark Jillson, the museum incorporated in 1877. Originally, the museum consisted of two small rooms in the Worcester National Bank Building on Foster Street. The museum eventually moved to its own building on Salisbury Street fourteen years later.

When Mr. Wallace signed on as Executive Director 25 years ago, he and his staff faced the challenges of establishing an effective exhibition program for the Worcester Historical Museum and managing the length of time that the museum and its fine collections would be open to the public. Because of his tenacious dedication and leadership, Mr. Wallace was able to overcome these initial obstacles and oversee many changes. In April 1980, the museum leased the Salisbury Mansion, thereby creating the city's first historic house museum. Even today, Salisbury Mansion serves as a venue for house tours, lectures, concerts, and exhibitions. Most recently, the museum moved into the Georgian Revival building on Elm Street and showcases Worcester's industrial history and the experiences of its immigrant groups. I believe the energy and passion Mr. Wallace has for the museum has been a major factor in the museum's overall evolution into the fine institution it is today.

In addition to his duties at the museum, Mr. Wallace is currently on the Board of Trustees for the Friends of Hope Cemetery and served as founding president from 1992 to 1997. Mr. Wallace's interest in gravestones began through his work on his family's genealogy while he wrote a book on his great-great-grandfather, John Hubbard Spaudling. Mr. Wallace has also been an integral figure in organizing World Smile Day and is an avid collector of Mickey Mouse memorabilia. I can personally testify to this since every time I meet with Mr. Wallace, he is always wearing a Mickey Mouse tie! Clearly, Mr. Wallace approaches everything with the same vivacity and care that he does with his work at the museum.

Mr. Speaker, I am certain that the entire House of Representatives joins me in honoring Mr. Wallace for his many accomplishments as Executive Director of the Worcester Historical Museum and wishes him the best of luck in retirement.

HONORING SAM DUDLEY

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mrs. CAPPS. Mr. Speaker, yesterday I attended a special dedication of a mural at Santa Barbara Junior High in the memory of not only the 3,000 people who lost their lives on September 11, but additionally in the memory of the 10,000 that survived. Today, I would like to pay special tribute to the person responsible for that mural, Sam Dudley.

Sam Dudley is a student at Santa Barbara Junior High, who, like the rest of the country, was extremely affected by the events of September 11. Instead of exchanging Christmas gifts, Sam urged his family to take a trip to Ground Zero, so that he could observe directly how New Yorkers were impacted by that horrible day.

Upon visiting Ground Zero, Sam discovered the smoggy air, ashy streets and morose atmosphere that he had expected. Silence prevailed at the scene, only to be interrupted by the piercing noise of an ambulance's siren, which signified the passing of the vehicle, filled with the remains of victims. It was a sobering sight, and the missing posters that covered the walls, among tributes to the dead, left Sam with a somber, hopeless feeling. Yet when he began discussing the tragic day with bystanders, firefighters, police officers, and New York citizens, Sam realized that although the events of September 11 had caused 3,000 deaths, it had also produced 10,000 miracles.

Sam met one woman who had 11 family members at the World Trade Center on September 11. After the smoke had cleared, the woman was amazed to hear that she had not lost a single family member in the attacks. Another woman, Janet Warnock, had a son who worked in one of the towers, and another son and husband who were firefighters that arrived at the site on that fateful morning. Janet's family members also survived.

Upon returning to Santa Barbara, Sam wrote about his experience in New York. His essay was later published in the Santa Barbara News-Press, attracting the attention of his school principal, Gerrie Fawsett, who offered Sam the resources to paint a mural reflecting his experience. The 8th grade leadership class also expressed interest in the project, and the students proceeded to create this mural, entitled 3,000 Deaths, 10,000 Miracles.

On June 10, 2002, this mural was unveiled at Santa Barbara Junior High. Janet Warnock flew out from New York to be present at the ceremony. The mural is a wonderful piece of work, and it will serve as a reminder that although there were many tragedies on that fateful day, September 11 created many miracles as well.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for Roll Call No. 207, H.R. 4823, the Holocaust Restitution Tax Fairness Act. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 208, H.R. 4800, to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 209, on Approving the Journal. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 210, on Agreeing to the Conference Report on S. 1372, the Export-Import Bank Reauthorization Act. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 211, the Woolsey of California Amendment to H.R. 4664, Investing in America's Future Act. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 212, H.R. 4664, Investing in America's Future Act. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 213, on the Motion to Adjourn. Had I been present I would have voted no.

I was also unavoidably detained for Roll Call No. 214, to Table the Appeal of the Ruling of the Chair. Had I been present I would have voted yea.

A PROCLAMATION HONORING RICHARD SCHOLL

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. NEY. Mr. Speaker, whereas, Richard Scholl has reached the safety milestone of One Million Miles driven without a preventable accident; and

Whereas, Richard Scholl has been awarded the rank of ''Individual Million Mile Safe Driver'', a rank of accomplishment reached by only a few professional drivers; and

Whereas, Richard Scholl must be commended for his service to the community, providing safe transportation on our nation's highways;

Therefore, I join with the residents of the entire 18th Congressional District in recognizing Richard Scholl as a recipient of the Individual Million Mile Safe Driver award.

TRAFICANT TRIAL: A RAILROAD OF JUSTICE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. TRAFICANT. Mr. Speaker, the government presented a ten-count indictment against me on May 4, 2001. And, convicted me on those ten counts, Thursday, April 11, 2002.

Count Three—John J. Cafaro (The great anomaly—double jeopardy, perjury.)

This count surrounds a now bankrupt firm known as U.S. Aerospace Group Inc. of Manassas, VA. Like Lorena Bobbitt, they couldn't keep track of their appendages; in this case their corporate structure.

The owner of the company was John J. Cafaro. The president was his 21-year-old daughter, Capri. The COO was Richard Detore, who was later succeeded by Al Lange. The company was going bankrupt, but owned patent rights to an aviation safety device second to none, the laser flight navigation system. I arranged to have this laser system demonstrated for Aviation Subcommittee Chairman Jimmy Duncan of Tennessee and FAA Administrator Jane Garvey. Both were impressed. Ultimately there was $4 million appropriated for military testing and use of this system—MEANPALS.

This count was supposed to be a quid pro quo like the others. Truth of the matter is the only agreement I made with USAG was that (1) the manufacturing of any product would be in my district and (2) eventually the entire corporate headquarters and all umbrellas would be relocated to my district for the procurement of jobs for my constituents. In this venue, I might add, high-tech jobs.

J.J. Cafaro perjured himself in my trial to avoid charges of his previous perjured testimony in the RICO trial of former Mahoning County Sheriff, Phil Chance. In fact under cross-examination by myself, Mr. Cafaro admitted to ''lying but not perjuring'' himself, which is evidenced in the transcript.

Be advised that the testimony in the Chance trial dealt with an alibi, wherein Mr. Cafaro claimed to have given money to former Sheriff Chance, instead of mob-boss Lenny Strollo. Lenny Strollo later admitted that he had given the money to Chance. The same prosecutors in my trial called J.J. Cafaro in the Chance trial a ''liar'' and Cafaro admitted to that in his testimony. Mr. Cafaro perjured himself at my trial and paid for the perjured testimony of Al Lange, by providing for Al Lange's attorney's fees. In addition, I have come to find out that as an additional inducement for his testimony, Al Lange, who has been diagnosed with cancer, is being maintained by Mr. Cafaro's insurance, although the company has since gone bankrupt and Mr. Lange is no longer employed by Mr. Cafaro.

This whole quid pro quo also involves my boat. I had it for sale and was visited by J.J. Cafaro in my D.C. office one afternoon, where he handed me a book containing an evident bookmarker. When I opened the book I found that it was a bank draft for $26,000 to buy my boat. Mr. Cafaro was so thrilled that his company, which was on the brink of bankruptcy, was given life through my efforts by obtaining $4 million for MEANPALS.

I refused the money that Mr. Cafaro offered me and informed him that one of his employees, Al Lange, had a sincere interest in purchasing the boat and claimed he had bonus money coming from the company and that Mr. Lange would ''repair the boat and use it for water navigation purposes.'' J.J. Cafaro and Al Lange testified that the whole thing was a boat scheme to reward me for my appropriation of the $4 million. The problem is that they cannot overcome their lies with the following facts:

1. Al Lange had a professional boat survey done on the boat that showed that the value of the boat to be greater (without repairs) than I had been asking.

2. Richard Detore, then COO of USAG, was a witness to the boat transactions and said he ''would not lie'' even after tremendous pressure by the government to do so.

This information is evidence in a taped conversation I had with Mr. Detore on August 1, 2001. It states in pertinent part:

RD: What kind of witness does Cafaro really make when the reality comes out that the guy's lying . . .

JT: Well he's going to have Al Lange to make him look like he's telling the truth, but they can't handle the fact that you are so upright and upstanding a man of integrity, and it's going to blow their case; do you understand?

RD: Yeah, they tried to tear me apart, IRS. They tried saying that I committed fraud in order to obtain my house, which is nonsense because the bank told them I qualified for the house before I even moved. I was all prequalified. They tried to tell me that I was trying to support my wife's lavish lifestyle. They had no idea that my wife has worked 20 years, worked her way through college and that her family is very financially well off; and we have never sought money from anybody. And when I moved from New Jersey, I was carefully, carefully debt free and had no obligations to anybody; and the thing about having to commit fraud with a bank in order to obtain a mortgage is pure nonsense. That's where they've gone. They've gone after me in every way, shape and form.

JT: And Cafaro lied to you from day one, didn't he?

RD: Yes, he did.

JT: And everything he said was a lie?

RD: And I have numerous witnesses where he lied to them.

* * * * *

RD: Like I said, I can only tell the truth. I fear for my children's lives. I'm scared to death.

JT: You're going to be subpoenaed by me.

RD: Do it through the attorney.

JT: I will.

RD: The threats and intimidation; I'm willing to go to the media. I'm willing to go anyplace, you know.

JT: File your lawsuit and go to the media and say their zeal to get Traficant, they wanted me to lie. That's the bottom line; and they pressured me to lie and made it known very clearly from what you told me that if I lie, all my problems would go away.

RD: I didn't lie. They wanted me to. I refused. I just said keep calm. I've discussed with my wife. I discussed it with other associates. They said that I was (UNINTELLIGIBLE) with the IRS. I basically couldn't even speak and my family members sat there with me, and they said, Rick, we know you; you won't lie; you don't lie; don't lie. Don't be coerced into lying. I said they're telling me they're going to ruin my life if I don't.

I'm basically at my breaking point. I'm mentally running, I mean to tell you the truth; I'm ready to just go ahead and blow my head off. It is so bad, if it wasn't for my kids and the strain it would have on my kids, I'd be gone.

4. Mr. Detore, because he would not lie, was charged with a superceding indictment with me.

This information is evidenced in Mr. Detore's sworn declaration in his Motion to Dismiss filed with the court. It states in pertinent part:

''30. Mr. Morford attempted to pressure me [Detore] to change my statement that I knew of no acts of corruption involving Congressman Traficant, J.J. Cafaro, and USAG.''

5. Mr. Cafaro and Mr. Lange both testified that they bought me a welder and a generator, which is another lie, since I would have no use for these items having already owned a welder and generator. The welder and generator were given to me at my D.C. office to deliver to Brian Kidwell, a constituent of mine, who had stated to me and the officials at USAG, once he saw the first completed trailer, that he could ''build the trailers needed for the company at a great savings.'' He further stated that ''you [USAG]'' provide me with a welder for aluminum work and a quality generator and I'll save ''you up to 40% on trailer costs.''

Mr. Kidwell testified under oath that the generator perished in a fire and affirms that he has reported this information to his insurance company.

The welder was photographed and scheduled for delivery to the U.S. District court in Cleveland so it could be shown to the jury that it was unused. The welder was picked up at Mr. Kidwell's residence in Vienna, Ohio under extremely suspicious and threatening circumstances. The following affidavit by Mr. Kidwell describes the events:

AFFIDAVIT OF BRIAN KIDWELL

SATURDAY, APRIL 2, 2002

I hereby swear that the following accounts of events that occurred concerning an unused welder delivered to me from USAG by James A. Traficant, Jr. are true and accurate.

On Friday afternoon, March 22, 2002, at approximately 3:30–4:30 p.m. a dark blue Ford pick-up truck of a newer model pulled into my driveway at 1861 Youngstown-Kingsville Road, Vienna, Ohio.

There were three big white men in the truck.

They backed the truck up to the building where the USAG welder was stored and being prepared to be shipped to Cleveland as evidence in the Traficant Trial.

They proceeded to take the unused USAG welder out of the eastern garage door that the welder had been stored in. The door measured ten feet in height and nine feet in width.

They then loaded, by hand, lifting the welder onto the bed of the blue Ford pick-up truck. I did not help load the welder. It was my impression that it was a half-ton pick-up truck, single cab.

In addition, they had also taken all equipment pertaining to the welder and also my personal used yellow acetylene tank that was stored on the back of the unused welder.

They then asked me, after they loaded the unused welder, the equipment associated with it, and my used acetylene tank. if that ''blue pick-up truck that just pulled out'' belonged to my son.

I said, ''yes.''

I then told them that the welder was to be delivered to Cleveland.

They said, ''This welder is not going to Cleveland.''

Then they said, ''if you are asked, you did not see this welder going out of here.''

They proceeded to place a restraining nylon tie down strap over the welder to secure it to the truck bed. The restraining tie down nylon strap was my property and has not been returned.

I became very nervous and afraid when I realized that these men were not sent by Congressman Traficant for the purpose of having the welder delivered to the Cleveland Court.

I further became concerned and afraid for my three children since evidently, they knew my one son at least by asking about his blue Chevrolet pick-up truck, which had just left.

When I testified in Cleveland at the Traficant Trial, Monday, March 25, 2002, I was afraid to mention to Congressman Traficant what had occurred and led the Congressman to believe that the welder would be delivered to Cleveland for inspection.

I did this for the safety and concern of my three children.

The three men never identified themselves and by their behavior and intimidation I did not attempt to stop them.

After considering all possible circumstances, I decided to avoid everybody until the trial was over, since photographs had been take of the machine extensively by Dominic Marchese, photographs that I had truthfully identified for the Court on March 25, 2002.

My attempts to avoid any contact were interrupted by the unexpected visit of Congressman James A. Traficant, Jr. and Dominic Marchese on Saturday morning approximately 5:50 a.m. on April 6, 2002.

I then admitted what had occurred on listed above and asked Congressman Traficant to protect my family in any way he could so that I would not get into trouble for failing to report this. It was never my intention to break any laws, my concerns were for my children, especially Gary, whom the three men had alluded to as having owned a blue pick-up truck.

I never saw any identification. I never asked if they represented any company not the government, I just followed their instructions to ''stay out of this.''

The above is a true and accurate statement.

Sworn before a notary on April 6, 2002.

Since this ordeal, Brian Kidwell has been notified that there have been visits to his employer concerning activities at his workplace and now suspects that the government is behind this because of Mr. Kidwell's belief that the government illegally tampered with evidence by picking up the welder.

Another element in this count was that J.J. Cafaro alleged that he gave me $13,000 in cash while sitting in a car after a meeting outside of a building at Youngstown State University. Again, Mr. Cafaro perjured himself.

Former clerk to Chief Justice Thomas Lambros, Attorney Percy Squire, was asked by me to be a character witness. When Atty. Squire arrived for his court appearance, he said.

''Why do you want me as a character witness, I know first hand that Bucci and Cafaro are lying.''

Cafaro maintained that after a lengthy meeting at YSU that we (Cafaro and myself) ''waited until everyone left'' got into his car and ''drove around the block'' when he gave me $13,000 cash.

Atty. Squire testified that he was serving as an official advisor of a community group at the meeting and walked out with me and saw me immediately get into a green truck and the driver of the truck drove off. Brian Kidwell, who testified that he picked me up directly after the meeting, owned the truck.

I presented two witnesses to impeach the testimony of J.J. Cafaro, who the prosecutors had called a ''liar'' in a formed RICO trial and now suborns Cafaro's perjury and permits a conspiracy to continue between Cafaro and Al Lange to help them to gain a conviction against me.

Because of his participation in my conviction, I imagine that Mr. Cafaro's fate will probably resemble that of Anthony Bucci, who made three federal plea agreements and is working on his fourth, which has rewarded him with 6 weeks home detention and 2 years of probation for his crimes against the government.

Since the trial I have also learned that J.J. Cafaro wanted Al Lange to sign a demand note for money extended relative to my boat. I've also learned that Mr. Cafaro continues to pay for Mr. Lange's hospitalization to this date and continues to even though the USAG Company has since dissolved and Mr. Lange is not an employee of Mr. Cafaro's.

The question is . . . was Mr. Lange represented by his own attorney, or was he really represented by Mr. Cafaro's attorney? What is even more unusual is that Mr. Cafaro was the government's least credible witness, as evidenced by statements by the jurors, yet they threw out overt acts associated with other witnesses and left all the Cafaro garbage in.

Again, no physical evidence, no wiretaps, no tapes, no hidden microphones and no fingerprints on more than 1000 documents. How is it possible to reach a conclusion beyond a reasonable doubt with only circumstantial evidence and the testimony of felons, in a RICO case?

And next, as promised . . . Pinocchio, Attorney at Law.

TRIBUTE TO MASTER CHIEF ELECTRONICS TECHNICIAN (SUBMARINES) CURTIS DEAN HAGGARD, U.S. NAVY

HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to honor Master Chief Electronics Technician (Submarines) Curtis Dean Haggard, United States Navy. Master Chief Haggard will retire on Friday, 14 June 2002 after 24 years of faithful service to our Nation.

Master Chief Haggard enlisted in the United States Navy in Las Vegas, Nevada and reported to Basic Training in San Diego, California in 1978. Upon completion of Electronics Technician ''A'' School at Great Lakes, Illinois he returned to San Diego for a six-month tour as a radar technician aboard the destroyer USS *John R. Craig* (DD 885). He next reported to Naval Nuclear Power School in Orlando, Florida and then to the Naval Nuclear Propulsion Training Unit in Idaho Falls, Idaho.

In 1980 Master Chief Haggard arrived at Pearl Harbor, Hawaii for duty in Reactor Controls Division abroad USS *Tautog* (SSN 639). He completed deployments to the Western Pacific, Eastern Pacific, and Indian Oceans and to the North Pole. He qualified Engineering Watch Supervisor, Engineering Duty Petty Officer and Reactor Operator. In 1983, instructor duty followed at the *Trident* Prototype in Ballston Spa, New York where he qualified Engineering Officer of the Watch and Engineering Duty Officer, was certified as a Master Training Specialist and advanced to Chief Petty Officer.

Mr. Speaker, he next reported as one of the highly selective initial manning crew of the Pre-Commissioning Unit *Pennsylvania* at the Electric Boat Shipyard in Groton, Connecticut in 1987. After placing USS *Pennsylvania* (SSBN 735) into commission in 1989 in New London, Connecticut, he arrived with the Blue Crew in Kings Bay, Georgia and completed a five-year tour in *Pennsylvania*, including three Strategic Deterrent Patrols. He next reported to Trident Training Facility in Kings Bay, where he qualified Command Duty Officer and served as the Reactor Controls Division Officer in the Engineering Training Department and the Electronics Technician Maintenance School Supervisor.

In August 1995 Master Chief Haggard reported to USS *Hyman G. Rickover* (SSN 709) in Norfolk, Virginia as the Engineering Department Master Chief. During this tour *Rickover* completed two Operational Reactor Safeguards Examinations, two Tactical Readiness Evaluations and an extended deployment to the North Atlantic. In May 1997 he reported to the Deputy Chief of Naval Operations for Manpower and Policy in the Navy Bureau of Personnel in Washington, DC, as Quality Control Advisor for nuclear enlisted personnel.

Mr. Speaker, Master Chief Haggard is a graduate of the University of the State of New York in Albany, New York with a Bachelor of Science degree in Psychology. He earned a Master of Public Administration degree from

the Valdosta State University in Valdosta, Georgia where he was the 1993 Graduate Student of the Year. He also graduated with Military Honors from the Navy Senior Enlisted Academy in Newport, Rhode Island in 1995.

Mr. Speaker, Master Chief Haggard's contributions have had a direct and lasting impact on the overall readiness and effectiveness of Naval Nuclear Propulsion Program personnel. He is an individual of uncommon character and his professionalism will be sincerely missed. I am proud, Mr. Speaker, to thank him for his honorable service in the United States Navy, and to wish him ''fair winds and following seas'' as he closes his distinguished military career.

NATIONAL CHAMPIONS HAMMOND ROBOTICS TEAM

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. VISCLOSKY. Mr. Speaker, it is with great pride and enthusiasm that I congratulate the national champion Hammond Robotics Team. the team, which comprises students from all racial, cultural, and economic walks of life, finished in first place for the second consecutive year at the US FIRST national competition in Orlando, FL.

The members of the national champion Hammond Robotics Team are: Amanda Aldridge, Jasmine Barnett, Justin Clark, David Clinton, Ryan Gawron, Mike Goril, Ethan Grove, Eugene Hanas, Elyse Holguin, Khamicia Jarrett, Kristyn Kapetanovic, Kevin Kolodziej, Omar Martin, Sarah Michna, Luis Moreno, Amanda Morrison, Julia Novak, Shane Ostapchuk, Michael Phillips, Christina Polka, and Michael Smith.

US FIRST is an organization dedicated to motivating America's youth about science, technology, and engineering through hands-on methods. The program involves a unique blend of problem solving and competition that prepares students for real world situations. During the competition, teams face off against each other and are given a limited amount of time to devise both an offensive and defensive strategy for accomplishing a specific task. Team Hammond conquered the challenge. While nearly 1,000 teams nationwide were involved in the US FIRST competition, Team Hammond came out on top.

Although Team Hammond has enjoyed a high level of success through the years, the team's triumphs have not come without adversity. Though many of the teams at the National Competition enjoyed significant corporate financial underwriting, Team Hammond had to work extremely hard to secure funding for both the regional and national competition. Through numerous fundraising efforts and private sponsorships, Team Hammond took the necessary initiative and was able to secure the necessary funding for its worthy program.

However, perhaps the most applaudable aspect of Team Hammond's success is the various backgrounds from which the team members come. The team is comprised of students from all four of Hammond's high schools and reflects the diversity on which northwest Indiana prides itself. This diversity is, for the Hammond Robotics Program, the rule rather than the exception and it should be commended.

Mr. Speaker, it is with great pride that I congratulate Team Hammond for its second consecutive year as national champions and third national championship overall at the US FIRST national competition. The young men and women of the team worked hard towards a goal and their efforts paid off. I hope that the rest of my colleagues will join with me in applauding Team Hammond's commendable effort.

IT'S TIME

HON. KEN LUCAS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. LUCAS of Kentucky. Mr. Speaker, I rise today to speak to my colleagues about prescription drugs and Medicare. Specifically, I feel it is an outrage that our senior citizens are being forced to drive to Canada to get prescription drugs at reasonable prices, or even worse having to choose between buying food or medication.

This has gone on for far too long. As a couple in Maysville, KY, avowed, ''It is past time! And way overdue! Older people need help, perhaps not all of us, but many of us do.'' This is just one of the many comments that I received in the mail from Kentucky seniors. However, as I read their comments, I realize these are not just the voices of Kentucky's senior citizens, they are the voices of America's senior citizens. These senior citizens are veterans, they are mothers and fathers, they are grandparents, and they are men and women that have worked their entire life to make America a better place.

As representatives of the American people, we must work together to pass a meaningful drug benefit for our senior citizens. We need a bipartisan prescription drug plan that helps seniors afford the drugs their doctors are telling them they need. This is not a political issue. This is a quality of life issue. We need to get this done and get this done now. I would like to share with you some of the stories from Kentucky's senior citizens. However, when you listen to these stories from across the Fourth District of Kentucky, remember they are representative of the problems seniors are facing all across America.

From Crittenden, KY, ''It is getting so bad we are thinking about driving to Canada to stock up on our prescriptions.'' From Rush, KY, ''Seniors have worked all their lives and now can't enjoy pleasures because medicine is too high.'' From Pleasureville, KY, ''When is it going to end? Something surely needs to be done, people like myself are not going to be able to make it. Sometimes, I wonder do I pay my bills or buy my medicine.'' From Dry Ridge, KY, ''We are both 68 years old. My husband's prescription drug bills were about $600 a month after heart surgery. So we started getting prescription drugs from Canada. My cholesterol medicine is $80 a month from Wal-Mart. From Canada it is $31 a month and is exactly the same prescription drug.'' From Ashland, KY, ''I am 90 years old and it is a choice between food and Medicine.'' From Williamstown, KY, ''We need the medicine but we need to eat too. Sometimes we do not know which comes first. We need help with our prescription drugs.''

Mr. Speaker, it's time for us all to work together to enact a meaningful Medicare prescription drug benefit.

HONORING STANLEY ZIMMERMAN

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. SCHIFF. Mr. Speaker, I rise today to honor Stanley Zimmerman on the occasion of his 70th birthday and the Preview of the Automobile Driving Museum. For over 30 years, Stanley Zimmerman has been collecting, restoring, and showing classic automobiles, amassing nearly 40 cars. This life long passion will culminate with the opening of the Automobile Driving Museum in the fall of 2002.

Stanley's passion for automotive restoration began in the 1970s when he purchased a 1936 Packard Convertible Sedan which he painstakingly restored over the ensuing 28 years to award-winning, 100 point perfection. Since that time, his collection has expanded to include: Packards, Studebakers, Lincolns, Fords, Cadillacs, Chryslers, and a Stutz. Due to its uniqueness of variety and perfection, Stanley's collection has been shown around the country, winning awards and inspiring fellow collectors.

Over the last 30 years, Stanley Zimmerman's passion has contributed to the preservation of the history of automobile production in America as well as the histories of the famous Americans who drove them. His collection contains such historically significant automobiles as a 1955 Packard Caribbean, a car first purchased by Howard Hughes for his wife, Jean Peters, and a 1936 seven-passenger Packard Phantom, purportedly a gift from President Roosevelt to Joseph Stalin.

As a member of the Classic Car Club, The Packard Automobile Classics Club, the Antique Studebaker Club, the Lincoln Owners Club, the Walter P. Chrysler Club and the Earl C. Anthony Packard Club, Stanley has gained priceless knowledge about each of the cars he has restored and has thus been able to pass on this knowledge to countless other classic car owners and members of our national community. With his years of experience as his guide, Stanley will open the Automobile Driving Museum, the only car museum in the United States which allows visitors to ride in the classic cars on display.

I ask all Members to join me in congratulating Stanley Zimmerman for his devotion to the history and restoration of classic automobiles and in wishing him good fortune upon the opening of the Automobile Driving Museum.

IN RECOGNITION OF PASTOR FATHER PHILLIP G. RACCO

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mrs. JONES of Ohio. Mr. Speaker, I rise today to recognize Phillip G. Racco, Pastor of Holy Rosary Church in Cleveland, OH. On

June 11, 2002, Father Racco will celebrate the silver anniversary of his ordinance into the priesthood. Father Racco has devoted 13 years to ministering to the people of Holy Rosary and Little Italy. Father Racco has made Holy Rosary Church a great haven for the students at Case Western Reserve University and the many families and friends of patients at University Hospital and the Cleveland Clinic who visit the church daily. Father Racco has previously served as an assistant at St. John Bosco in Parma Heights, St. Margaret Mary in South Euclid and Pastor at St. Philomena in East Cleveland prior to being assigned Pastor of Holy Rosary Church in 1989.

Therefore, I join with the entire 11th District of Ohio in congratulating Father Phillip Racco for his 13 years of service to Holy Rosary Church and the city of Cleveland.

HONORING JOHN REYNOLDS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor John Reynolds on the occasion of his retirement from the National Park Service. I have had the pleasure of working with him in my capacity on the Resources Committee and as the Representative from the 19th District of California.

John is the son of a park ranger, having been born in Yellowstone National Park. He is the brother of a park superintendent who served around the country in superlative national parks. He has spent the last 37 years crisscrossing the country, changing assignments every couple of years, and charting the course of a moderate and flexible national park system. He will retire August 2 as regional director of the Pacific West Region.

His distinguished career began as a park planner and he developed a lifelong love of Yosemite National Park after serving as team captain for the first master plan. John has served the National Park Service diligently in numerous positions across the country. Among these John has acted as the Director of the Service Center located in Denver, Colorado, the Regional Director to the Mid Atlantic Region, in Philadelphia, and the Deputy Director of the National Park Service here in Washington, D.C. Throughout his career with the Service, John Reynolds has consistently demonstrated a level of care, commitment, leadership and vision of America's National Parks. I anticipate that John will continue to generously share his thoughts and vision for these treasures long into his retirement.

Mr. Speaker, I rise today to honor John Reynolds on his retirement. I invite my colleagues to join me in thanking John for his outstanding service to the nation's National Parks and in wishing him many more years of continued success.

INTRODUCTION OF OFFICIAL TIME REPORTING ACT

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. DAN MILLER of Florida. Mr. Speaker, I rise to discuss legislation I have introduced today. The ''Official Time Reporting Act'' is a much needed effort to bring sunshine to the mysterious world of ''official time.''

This bill would require the Office of Personnel Management (OPM) to collect and report to Congress on the use of official time by federal union workers.

Official time is the use of federal government paid time to attend to union related business. The use of official time by union members for the participation in collective bargaining and Federal Labor Relations Act authorized activities is a matter of statutory right. Using official time for other union activities is negotiated between the agency and the union.

However, critics note that official time has ambiguous definitions that leave it open for abuse such as through the use of ''no-show'' jobs or government funded union advocacy. Nevertheless, the bill I am introducing today has nothing to do with the merits of official time, it simply tries to quantify the use of it within the federal government.

There are over 1.8 million federal workers currently working for the government. This large workforce is continuing to grow especially with the war on terror adding to its roles. However, there is no method to tell what federal resources (salary, equipment, etc.) are used for purely union related work as opposed to federal work.

Currently, only the Social Security Administration (SSA) collects and reports this information.

The information currently collected by the SSA includes:

(1) The number of hours of official time that employees spent on union activities;

(2) Number of employees who used official time for union activities;

(3) Number of employees who spent 100 percent of their time on union activities;

(4) Dollar value of the official time spent on union activities;

(5) Dollar value of the office space, equipment, telephone use and supplies provided to unions; and

(6) Benefits and disadvantages of using official time for union activities.

My bill would simply make every federal agency report this information to the OPM.

Extrapolating from the currently provided SSA data, official time usage could be at least a $400 million a year federal government-wide expense. When we are talking about hundreds of millions of dollars, Congress should not have to guess.

Furthermore the previous administration's OPM was ordered by Congress to examine this issue in 1998. In its 1998 report, OPM calculated a figure of roughly $110 million using different criteria than the SSA. So as you can see official time is not cheap.

This bill puts sunshine on the issue of federal worker productivity and will be an important tool for Congress to use to understand how the money it appropriates is being spent and for the Executive Branch to understand how it is allocating resources.

The General Accounting Office (GAO) has tried to study how much official time is being used but has been stymied by the lack of data on this issue. In testimony before the Civil Service Subcommittee of the House Government Reform and Oversight Committee in June 1998, GAO concluded: ''our work has shown that if decision makers hope to resolve the question of the extent to which federal agencies use official time and other resources to support employee union activities, better data will be needed.''

This bill will remedy this important GAO concern.

The Official Time Reporting Act is different than an official time bill that I introduced in 1998 called the Workplace Integrity Act. Whereas the 1998 bill contained restrictions on official time, this bill solely concentrates on reporting and disclosure issues. The Official Time Reporting Act has no restrictions on the use of official time. It is a bill introduced in the spirit of openness and good government. I am hopeful this good government disclosure bill will be acted upon by Congress in an expeditions manner.

I urge my colleagues to co-sponsor this important bill and I thank the Speaker for yielding me this time.

CELEBRATING 120 YEARS OF SERVICE AND SPIRITUAL GUIDANCE

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mrs. WILSON of New Mexico. Mr. Speaker, I would like to share the story of the Grant Chapel Church in my hometown of Albuquerque, New Mexico. The church was founded in 1882 as the ''Colored Methodist Mission'' by a group of local African Americans. It was built as a place for them to worship in dignity and respect. As one of the oldest African American churches in the Southwest, the church has provided spiritual guidance and refuge to Albuquerque communities for many years.

In 1883, the New Mexico Township, Inc. awarded several plots of lands to businesses and churches to promote development in the town that has become the Albuquerque we know today. The Colored Methodist Mission was only one of five churches to receive this gift from the city.

The Grant Chapel Church has changed hands over the years and has had some fifty ministers serve its congregation throughout the 120-year history. In 1905, the church was renamed for Bishop Abram Grant, the presiding prelate of the 5th Episcopal District. The faithful members of this congregation built a church house in a Southwestern style in 1952 and served the community there for nearly fifty years before moving to a new location in 1990, where it remains today and continues to serve.

Mr. Speaker, please join me in congratulating this church for 120 years of service and spiritual guidance to the Albuquerque communities.

HONORING MARCUS THAMES, THE LOUISVILLE SLUGGER, MISSISSIPPI'S LATEST SPORTS LEGEND

HON. RONNIE SHOWS

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. SHOWS. Mr. Speaker, I rise today to share with my colleagues the exploits of baseball's, and Mississippi's, newest hero, Marcus Thames, rookie outfielder for the New York Yankees.

Yes, Mr. Speaker, we Mississippians can speak kindly about New York, as long as it is really about another Mississippian!

On Monday, June 10, Marcus Thames of Louisville, Mississippi, made his Major League Baseball debut against the defending World Champion Arizona Diamondbacks. And whom should he face on the pitchers' mound? None other than Cy Young Award winner, World Series MVP and future Hall of Famer Randy Johnson, that's who! All 6 feet, 10 inches of him!

Did Marcus Thames, this proud Mississippian, crumble under the pressure of the moment? Did he let the sound of almost 50,000 cheering fans get to him? No, of course not, he's from Mississippi. Marcus Thames slugged the first big league pitch he ever saw over the fence for a home run!

This graduate of East Central Community College in Decatur, Mississippi, is the 82nd player in baseball history to go deep in his first career at-bat, and the 32nd to do it on the first pitch of his career.

But Marcus Thames won't let stardom go to his head. Like all good Mississippi boys, the first thing he did after the big game was to call his mama, Veterine, back home in Mississippi.

Mr. Speaker, I salute Marcus Thames, baseball's newest hero from Louisville, Mississippi. The good people of Louisville and East Central Mississippi already know about him, and no doubt all Americans will become very familiar with the newest Louisville Slugger for years to come.

ATHLETES UNITED FOR PEACE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to offer my congratulations to the Athletes United For Peace (AUP), a nonprofit organization based in Berkeley, California, which is committed to promoting peace, education, friendship, and understanding through programs and events for young people.

AUP is a member of the United Nations Department of Public Information's worldwide team of non-governmental organizations (NGO), and represents the voice of young people throughout the Bay Area counties of Alameda and Contra Costa. Some of the organization's duties as an NGO include attending international conferences; developing programs; and disseminating information on the United Nations' current issues, initiatives and projects to constituents in the Bay Area through workshops and media projects. AUP regularly conducts media projects in partnership with the United Nations Children's Fund (UNICEF) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

In 1997, AUP established the Digital Technology Academy, a ten-week summer media arts program that trains inner-city young people in the ever-growing field of digital technology with an emphasis on digital video production and multimedia integration. The program was designed by the AUP staff to address the growing concerns and issues surrounding the ''Digital Divide'' in relation to access and training for disadvantaged youth in the East Bay. The AUP membership association with the United Nations has offered members of the Digital Technology Academy opportunities to engage in interactive teleconference and media presentations to the UN General Assembly.

In 1999, the Contra Costa County's Employment and Human Services Department's Service Integration Program (Martinez) formed a partnership with AUP to conduct the Digital Technology Academy for groups of economically disadvantaged teens from the county's unincorporated and under-served communities of North Richmond and Bay Point. In addition to receiving comprehensive training in the areas of digital camera operation, audio, lighting, script writing and desktop editing, each of the teen participants were required to conduct research on the history of their respective communities. Research performed by the teen groups at the public libraries and local historical societies was refined and developed into scripts for the academy's series of award-winning community history documentary film projects.

The current documentary film ''An Exploration of Our History: The Story of East Contra Costa County,'' was produced during the Summer/Fall of 2001 and competed in the Spring of 2002. The documentary objectively examines the areas history from 1900–1944 from both social and economic perspectives. Presentation of the historical content was conducted through on-camera interviews with several residents and local historians from the Contra Costa County, Pittsburgh and Concord historical societies.

During this period of East Contra Costa County's community history, several events of national prominence occurred. The most notable events include:

(1917) Walnut Creek Land developer Robert N. Burgess received a $20 million contract from the federal government in Washington, D.C., to build 10 cargo ships for the war effort during World War I. The ships were built at his Pacific Coast Shipbuilding Company located at the deep water port in Bay Point next to the Southern Pacific and Santa Fe transcontinental railroads.

(1942) The United States Army constructs Camp Stoneman military base in Pittsburgh, which served as one of the largest embarkation centers for soldiers preparing for combat during World War II in the Pacific.

(1942) The United States Navy constructs the Naval Ammunition Depot in the town of Port Chicago, where enlisted African American sailors (material handlers) unloaded and loaded ammunition that was transshipped by rail onto cargo ships at the deep-water port facility.

The U.S. Justice Department's Relocation Order in February of 1942 forced hundreds of Italian residents of the East Contra Costa County area to relocate away from the newly built Camp Stoneman military based in Pittsburgh. All Italian residents who were not legal citizens of the United States were labeled ''enemy aliens'' and deemed a threat to national security by the government.

On Tuesday, June 11, 2002, ''An Exploration of Our History: The Story of East Contra Costa County'' will be presented at the Amborse Recreation Center in Bay Point, California. Athletes United For Peace is thankful to Contra Costa County's Service Integration Program and the local historical society for having an opportunity to train young people in digital technology for the purpose of documenting and preserving the community's history through this innovative intergenerational program that blends multimedia integration and education.

COMMENDING THE KING'S KIDS OF AMERICA

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. FORBES. Mr. Speaker, I rise to commend the King's Kids of America, Inc. for their outstanding service to our nation and the young people of America. Founded in Suffolk, Virginia in 1989, the King's Kids of America has selflessly worked to develop our youth into well-rounded young adults. The King's Kids of America is a volunteer, non-profit community outreach program for all of America's youth. Their motto is: ''striving to make a positive difference.''

Unfortunately, the evidence is all around us that our young people today need some extra care and support. Our youth today face challenges and obstacles that I never dreamed about when I was growing up. We know that one caring adult can make a world of difference in the life of a child. The King's Kids of America is committed to making sure that our youth make wholesome decisions that will lead to positive outcomes in their future. America and Virginia need the King's Kids of America now more than ever.

Through the tireless efforts of the King's Kids of America over the years, and its numerous programs dedicated to developing our youth, the world is a better place. I applaud the King's Kids of America's history, and herald its future. I join with the citizens of the Commonwealth of Virginia and my colleagues in the House of Representatives in thanking the King's Kids of America and all its members for their service, dedication, and contributions to our state.

THE HEPATITIS C CRISIS

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. PASCRELL. Mr. Speaker, I rise today to call attention to the health care crisis posed by Hepatitis C infection, and to highlight promising news about awareness of the need for

testing and the development of new treatment options. As the attached article from The New York Times demonstrates. Hepatitis C, estimated to affect more than 4 million Americans, is a growing public health threat that rivals that of AIDS. Although new infections are decreasing, the incidence of Hepatitis C virus (HCV) infection is increasing as individuals who were infected years ago are just now learning of their infection. Even as recently as last week, a Boston Globe article discusses significant increases in Hepatitis C cases, noting that public awareness campaigns encouraging people to get tested are having an impact.

Hepatitis C is a blood-borne disease that can lead to liver scarring, liver failure or cancer. It is the leading diagnosis leading to liver transplantation. Hepatitis C affects people from all walks of life, although veterans, individuals who received blood transfusions prior to 1992, intravenous drug users, health care and emergency workers and hemophiliacs are at greatest risk of infection. Because of the long period of time between HCV infection and the onset of symptoms, health experts believe that the incidence of known Hepatitis C infection will continue to increase substantially in the coming years. The costs associated with Hepatitis C, estimated at $5.6 billion in 1997, can also be expected to rise.

The good news is, as more people become tested and learn of their HCV infection, medical science has made important treatment advances. In the early 1990's treatment for Hepatitis C was only moderately successful at eliminating the virus from the bloodstream. Advances in the past decade have made marked improvements. The Hepatitis Foundation International estimates that currently 50 to 60 percent of patients respond to treatment initially and that lasting clearance of the virus occurs in about 10 to 40 percent of patients. Additionally, some patients who are not cured find that treatment can delay the need for a liver transplant, an important consideration given the critical shortage of organs available for transplant.

Despite these advances, new treatment regimens are desperately needed in this area. Other options are in various stages of research and development for these patients and I have sent a letter with several of my colleagues to the Secretary of Health and Human Services to encourage him to expedite review of such products as determined appropriate by the Food and Drug Administration. In addition, I have also sent a letter to the Labor, Health and Human Services, Education, and Related Agencies Appropriations Subcommittee requesting the Centers for Disease Control and Prevention (CDC), the National Institute of Allergy and Infectious Diseases (NIAID), and the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) to include language that will recognize and address the intensity of Hepatitis C and language that encourages research for better treatment options for those in high-risk populations.

In the meantime, a growing number of Americans, like the patient described in The Times article, will discover their infection in the coming decade. I am hopeful that medical science, together with sound public policy, will do everything possible to help these Americans fight their disease and continue to lead productive lives.

[From the New York Times, May 14, 2002]

MORE ARE FINDING PERMANENT CURES FOR HEPATITIS C

(By Julie Bain)

Five years ago, R. Scott Bromley, then 57, was returning from a trip to Sicily with friends when he felt a nagging pain in his right side. he was scheduled for an annual checkup the next day, and he learned from a blood test that his liver enzymes were elevated.

Not a big drinker, Mr. Bromley, a New York architect, told the doctor that while in Italy, ''You have a little wine before dinner on the piazza, a little wine during dinner, a little wine after dinner,'' and suggested maybe that was the cause of the unusual numbers.

Two weeks later he was tested again, with the same result. He was referred to a specialist in liver disease and, after further tests, hepatitis C was diagnosed. The doctor told him he could have been harboring the virus for 30 years or more with no symptoms. What's more, the disease could be life threatening. Mr. Bromley was devastated.

More than four million people have hepatitis C in the United States, five times as many as are infected with H.I.V.

''It's the bulk of my practice,'' said Dr. Hillel Tobias, the medical director of the Liver Transplant Service at New York University Medical Center.

The reason is not that new cases are being contracted. New cases have declined 80 percent in the last decade, mainly because blood transfusions have not been risk factors in that period, thanks to testing for the virus. But because the disease takes so long to progress, more patients are learning that they have hepatitis C while in their 40's and 50's and that they contracted the virus many years ago.

The annual death toll, about 10,000 a year in the United States, is expected to increase for another decade to as many as 30,000 before declining, according to the American Liver Foundation.

Unlike hepatitis A and B, there is no vaccine for hepatitis C, and the virus can lead to serious liver disease, like cirrhosis or liver cancer. Hepatitis C patients make up the largest percentage of people requiring liver transplants. But with new treatments, more are now finding permanent cures.

Some misconceptions exist about the way the hepatitis C virus is spread, said Dr. Eugene R. Schiff, a professor of medicine and the director of the Center for Liver Disease at the University of Miami School of Medicine. ''The unequivocally major mode of transmission is blood to blood,'' he said. An estimated 300,000 Americans now infected got the disease from a transfusion before 1990.

''Sexual transmission has been way overplayed,'' he said. ''So has transmission from mother to baby. It's uncommon, probably less than 3 percent for either of those, quite the opposite from hepatitis B.''

Drugs injected by needle also pose blood-to-blood risks. ''The classic hepatitis C patient today is a very upstanding 50-year-old lawyer who once tried a needle when he was in college,'' Dr. Tobias said. ''In the 70's, a lot of kids in college tried needles once.''

Tattoo needles can also spread the disease.

Because of the lack of symptoms, many cases go undetected until the disease is advanced, although a test can detect antibodies to the virus before it affects the liver.

Starting in 1992, the treatment of choice was alpha interferon, injected three times a week for a year. This antiviral protein can kill the virus, as well as boost the immune system. The rate of permanent viral clearance was 8 to 10 percent, Dr. Tobias said. About five years ago, this treatment was combined with ribavirin, another antiviral agent. With both drugs taken together, a permanent cure rate of about 25 percent was achieved. One reason the rate was not higher was that the interferon was cleared out of the blood so quickly.

Current treatment is pegylated interferon, a long-acting form of the treatment that maintains a sustained blood level for a week. Approved by the Food and Drug Administration in 2001, it brought the cure rate up to about 50 percent. ''And if you add ribavirin to it,'' Dr. Tobias said, ''you get to over 60 percent.''

Five years ago Mr. Bromley began treatment with alpha interferon, and within two and a half months he was down to a level of zero virus. But the side effects were devastating. ''I didn't sleep well, my sex life was all screwed up, I lost 40 pounds and the interferon changed my whole personality,'' he said.

Then, just a year after he was off the drug, the virus rebounded, even higher than it was before.

There is no clear correlation between the viral count and what's going on in the liver, the real danger zone.

''I have patients with advanced liver disease whose viral counts are fairly low,'' Dr. Tobias said, ''and I have patients with very little liver disease whose viral counts are very high. Similarly, there are people who have normal enzymes and still have significant hepatitis C.''

That's why a liver biopsy is usually required to help determine treatment.

For Mr. Bromley, whose tests showed little damage to his liver, it was a tough decision whether to undergo a second treatment. But a year and a half later, he began 48 weeks of interferon and ribavirin, and this time the side effects were even worse. ''I couldn't sleep,'' he said. ''I began forgetting things. I would fall down in the middle of the street. I became very depressed.''

But the treatment worked, and Mr. Bromley has been free of the virus for more than three years.

Other patients refuse a second treatment, saying the side effects, including flulike symptoms and depression, aren't worth it.

''But,'' said Dr. Tobias, ''they should be retreated with the pegylated interferon because a significant number of them will respond to it.''

Those who previously did not respond with interferon have about a 20 percent chance of being cured if they are retreated with the pegylated interferon. Those who have relapsed after successful treatment have a chance of receiving a permanent cure of greater than 50 percent. Evidence also suggests that even if a patient doesn't lose the virus, the anti-inflammatory activity of the pegylated interferon slows the progression of the disease. Some patients who have advanced liver disease go on lifetime reduced-dose interferon, which can delay the need for a liver transplant.

New treatments in development may replace interferon an ribavirin, or be added to them in a drug cocktail, similar to AIDS and H.I.V. treatments. Vertex and Eli Lilly recently announced that they were developing a protease inhibitor that could prevent the virus from making infectious copies of itself. Even more promising, say doctors, is a polymerase inhibitor, which may also stop the virus from replicating. Another possibility is a ribozyme, which may cut the hepatitis C virus ''like a scissors,'' said Dr. Schiff.

None of these treatments, however, will be available for several years.

A vaccine remains a challenge because hepatitis C has eight different molecular configurations that are constantly changing and mutating. A vaccine would require developing an immune response to a part of the

virus that is relatively stable across all the variations.

IN RECOGNITION OF FIRST NATIONAL THROCKMORTON REUNION

HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Ms. PRYCE of Ohio. Mr. Speaker, I rise today to recognize the first national Throckmorton Reunion, to be held in Williamsburg, Virginia from June 16th through the 20th. The Throckmorton family's legacy in the United States is as storied and proud as any lineage in our nation's history. From the settlement of Jamestown in 1607 to the present, the Throckmorton name has embodied public service and patriotism. They were involved in the founding of our country from early colonial times through the Revolution, into the Civil War and Reconstruction. Throckmortons from around the U.S. will meet in the colonial city of Williamsburg to celebrate their illustrious heritage and retrace the steps of their forefathers as founders of Virginia and Colonial America.

Their story in America begins with the travels of Kellam Throckmorton to Jamestown, Virginia in 1607. Kellam was among the settlers of England's first colonial establishment on our soil. Kellam was sadly among the brave adventurers who did not survive the harsh winter of that first year in Virginia. Even Sir Walter Raleigh, a founder of Virginia, was connected to the Throckmortons; marrying Elizabeth Throckmorton the daughter of Queen Elizabeth's Ambassador to France. The next chapter of the Throckmorton legacy was the following generation and the travels of John Throckmorton with Roger Williams. Admitted as a Freeman on May 18, 1631 in Salem, Mass., John, along with Williams, settled most of Rhode Island and other parts of New England in the 1630's and 40's.

Several family members were guests of George and Martha Washington's and served under him in the Continental Army during the Revolutionary War. Families such as the Throckmortons are more than worthy of recognition for their immeasurable sacrifices to our nation's birth and cause.

The Civil War era saw two prominent politicians and soldiers from this family. James Webb Throckmorton was a soldier in the Mexican War and a Confederate general from Texas. He worked closely with American hero Sam Houston as a Texas state senator leading up to the war. Although he fought for the South, Throckmorton was one of seven delegates who voted against the 1861 Texas Secession Convention. After the war, James Webb Throckmorton was elected governor of Texas and later served for over a decade in the House of Representatives before his passing in 1894. This era also includes the services of Oliver Hazard Perry Throckmorton as Governor of Indiana and as a close advisor of President Ulysses S. Grant in 1872. Oliver Throckmorton served as an American envoy to Great Britain as well.

More recently, the proactive work of Mrs. Clare McClaren-Throckmorton and Dr. Caroline Throckmorton Lewin, a psychologist from my district in Ohio, has been commendable. It's important to remember the bravery and service of others to our country throughout history. The Throckmorton reunion in Williamsburg, Virginia is a gathering of a great American family and a salute to times past. I'm confident that generations from now the Throckmortons will continue to be a proud family of patriots. It's my honor and privilege to recognize the Throckmorton family, and extend my best wishes to them all. The United States is in their debt.

IN HONOR OF THE HEROISM OF JOHNNY SHERRILL

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to and honor the heroism of a brave civil servant, Mr. Johnny Sherrill of New Castle, Delaware. His bravery and heroic actions resulted in a life being saved.

Mr. Sherrill, a mail carrier with the United States Postal Service, deserves a hero's recognition for his actions that save the life of 95-year-old Elsmere resident Almira Francisco. While on his delivery route, Mr. Sherrill heard a smoke detector alarm and noticed smoke coming from Mrs. Francisco's residence. Mr. Sherrill alertly checked on the residence, escorted Mrs. Francisco safely outside, and called the Elsmere Fire Department. After waiting for emergency personnel to arrive, Mr. Sherrill simply continued on with his delivery route.

Mr. Sherrill displayed a quality that all Delawareans should look for in a role model—selfless concern for fellow citizens. We should all hope to emulate Mr. Sherrill's actions. In times like these, America needs everyday heroes who display courage and bravery when called upon to help their fellow citizens. I am proud to say that Mr. Sherrill exemplified these qualities with his actions, and his recognition, Mr. Speaker, is duly deserved.

Ordinary people, like Johnny Sherrill from my great State of Delaware, are the true heroes in today's world, and are the true role models for the next generation of leaders, both inside and outside of Delaware's borders.

TRIBUTE TO MR. ANDREW KAMEI

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. HONDA. Mr. Speaker, I rise today in honor of the achievement of Mr. Andrew Kamei of Bishop, California. Andrew Kamei was awarded first place in the Junior Historical Research Paper category at the California State History Day competition held in San Jose, California. Having accomplished this, Andrew has earned the honor of representing California in the National History Day Competition this month, an event honoring the scholarship and creativity of students across the nation.

Andrew Kamei is a 12-year-old seventh grader with an inspirational work ethic and a remarkable understanding of history. His award winning research paper, titled ''In Times of War the Laws are Silent': The Fair Play Committee, Heart Mountain Relocation Camp, Wyoming, 1944'' is a written testament to these qualities. The paper describes the experiences of the Fair Play Committee, a group of Japanese Americans who were sentenced to extended terms in federal prison for refusing to appear for draft induction while being held in internment camps as potential enemies of the United States.

The sixty-three members of the Fair Play Committee unanimously agreed to serve in the military on the condition that their constitutional rights be restored, a remarkable historical event that Andrew Kamei explored with tremendous determination. By talking to former internees, scouring state archives, and meeting with surviving members of the Fair Play Committee, Andrew has put together a research paper of the highest caliber. Furthermore, Andrew draws on his own experiences as a Japanese American and the son of a man born into internment to give his work an added depth and gravity. The result is an important historical document worthy of competing in the National History Day Competition.

Mr. Speaker, I commend Andrew Kamei for his spirited pursuit of academic excellence and historical perspective. Balancing national security and civil liberties is an important issue, one that Andrew can continue to study and apply to what will certainly be a bright academic and professional future.

IN HONOR OF THE 90TH ANNIVERSARY OF TEMPLE EMANU-EL

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the 90th Anniversary of Bayonne's Temple Emanu-El. This momentous event took place on Sunday, June 9, 2002, at Temple Emanu-El, and featured the television personalities, ''The God Squad'', Msgr. Thomas Harman and Rabbi Marc Gellman.

Initially formed in 1911 as a response to the Conservative Movement of America, Temple Emanu-El, with its modern outlook, has served and continues to serve as a inviting place of worship for Bayonne's Jewish community. In a departure from the Orthodox practice, in 1913, it was decided that men and women should sit together, demonstrating the Temple's enlightened vision, as well as its commitment to the congregation.

The Temple's first President was Hyman Lazarus, followed by many outstanding leaders, all of whom contributed greatly to making Temple Emanu-El the esteemed place of worship it is today. The Temple's first building was purchased in 1912 and completed in 1913. In 1953, the building was completely renovated, and continues to serve as the congregation's meeting place.

Over the past nine decades, Temple Emanu-El has established itself as Bayonne's leading Jewish religious institution with a beautiful house of worship, exceptional religious instruction for its students, and countless social functions for its congregants and their family and friends.

Today, I ask my colleagues to join me in honoring Temple Emanu-El for ninety years of Jewish religious guidance, the congregation's contributions to the community of Bayonne, and its success at making Bayonne a more prosperous and spiritual community.

A PROCLAMATION RECOGNIZING TRINITY CHRISTIAN ACADEMY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. NEY. Mr. Speaker, Whereas, Trinity Christian Academy participated in National Make a Difference Day, Good Deeds Literacy Contest in October 2001; and

Whereas, Trinity Christian Academy collected children's books to be sent to the children of New York Police and Fire Fighters affected by the tragic events of September 11th, 2001; and

Whereas, Trinity Christian Academy has demonstrated a commitment to the community and whole Nation by helping others in need, and

Whereas, Trinity Christian Academy is to be commended for its hard work and dedication;

Therefore, I join with the residents of the entire 18th Congressional District in honoring Trinity Christian Academy for its outstanding dedication to others.

PAYING TRIBUTE TO DANNY COLLINS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to a man whose unrelenting spirit, and passion for life, have personally touched me during our many years of friendship: Danny Collins. I grew up with Danny and have been impressed by his infectious joy since we first met. Danny's ongoing struggle with the effects of Down Syndrome has been an inspiration to me from a very young age; to watch him undertake this battle with a constant smile on his face has been a reminder of the many ways in which we all take our lives for granted.

Danny was born in Glenwood Springs, CO, in 1953, though he was raised for much of his early life in nearby Carbondale. At the age of ten, Danny Collins returned to Glenwood Springs, where we both spent our childhood. From a young age, it was clear that Danny was a very special person. Though he has Down Syndrome, Danny has been a constant source of light in the lives of others: he has never allowed his challenges to dampen his contagious spirit for life.

In 1978, Danny became a client at Mountain Valley Developmental Services of Glenwood Springs, where he received invaluable care and attention from their many skilled practitioners. He moved into their first group home on Hager Lane and benefited from the camaraderie and love that Mountain Valley Developmental Services had to offer. Danny currently works as a weaver at Mountain Valley Weavers, where he has developed remarkable skill in the trade, adding a little piece of himself to each item he weaves.

Having spent his entire life in Colorado, Danny has been an avid Denver Broncos football fan for many years. Like many Broncos fans, Danny is an admirer of former Quarterback John Elway. To express his love and appreciation for Elway and his exploits on the field, Danny recently wove bright orange mug mats and a glass case for John Elway and his family—yet another example of Danny's big heart and selfless nature.

Mr. Speaker, I bring my friend Danny Collins to the attention of this body of Congress not because of the particular accomplishments he has achieved during the course of his life, but rather for the infectious spirit and indomitable will that have been his hallmark since childhood. I am proud to pay tribute to a good friend and fellow Coloradan. The love and joy that Danny reflects was absorbed from his caring family who have swarmed around him like angels from the time he was young. Though Danny's parents have sadly passed away recently, I know their affection for Danny lives on in the lives of his three siblings. I echo their admiration for Danny as I pay tribute to him today here on the floor of this distinguished Chamber—he is a truly remarkable man.

CELEBRATING THE BIRTH OF HARRISON BECKETT LAZAR

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. HILLEARY. Mr. Speaker, over 2,000 years ago, Cicero, the Roman statesman, philosopher and politician, noted, ''Of all nature's gifts to the human race, what is sweeter to a man than his children?'' A rhetorical question of course to which the answer is nothing. It remains as true today as it was when Cicero said it two millennia ago.

Children are the greatest gift God can bestow upon us. They bring pride and joy, humility and unconditional love and so much more. Most of what we do is fleeting, but the values and principles we teach our children are lasting. Whatever we may do in life, our children and their progeny are our most important legacy.

Craig and Andrea Lazar welcomed their first child into the world last week. Harrison Beckett Lazar arrived at 8:30 a.m. on Thursday, May 30.

His life will be enriched by a large and caring extended family. Harrison's maternal grandparents are Christine Hessong and Keith Hessong. His paternal grandparents are Charles Lazar, and Linda Lazar. Harrison has five great-grandparents: Don and Angus Hessong, Max and Helen Beloff and Katherine Lazar.

I join them in celebrating the birth of Harrison Beckett Lazar. Harrison's birth, as does those of all children born today, holds the promise of our future. We welcome him to a world that we constantly strive to make better so his future will be a little brighter, more secure and full of promise, and so when the time comes when his own child is born, he may revel in the sweetest gift that can be bestowed upon us.

CHILD HEALTH CARE AFFORDABILITY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. PAUL. Mr. Speaker, I am pleased to help working Americans provide for their children's health care needs by introducing the Child Health Care Affordability Act. The Child Health Care Affordability Act provides parents with a tax credit of up to $500 for health care expenses of dependent children. Parents caring for a child with a disability, terminal disease, cancer, or any other health condition requiring specialized care would receive a tax credit of up to $3,000 to help cover their child's health care expenses. The tax credit would be available to all citizens regardless of whether or not they itemize their deductions.

The tax credits provided in this bill will be especially helpful to those Americans whose employers cannot afford to provide their employees health insurance. These workers must struggle to meet the medical bills of themselves and their families. This burden is especially heavy on, parents whose children have a medical condition, such as cancer or a physical disability, which requires long-term or specialized health care.

As an OB–GYN who has had the privilege of delivering more than four thousand babies, I know how important it is that parents have the resources to provide adequate health care for their children. The inability of many working Americans to provide health care for their children is rooted in one of the great inequities of the tax code: Congress' failure to allow individuals the same ability to deduct health care costs that it grants to businesses. As a direct result of Congress' refusal to provide individuals with health care related tax credits, parents whose employers do not provide health insurance have to struggle to provide health care for their children. Many of these parents work in low-income jobs; oftentimes their only recourse to health care is the local emergency room.

Sometimes parents are forced to delay seeking care for their children until minor health concern that could have been easily treated become serious problems requiring expensive treatment! If these parents had access to the type of tax credits provided in the Child Health Care Affordability Act, they would be better able to provide care for their children, and our nation's already overcrowded emergency room facilities would be relieved of the burden of having to provide routine care for people who otherwise cannot afford it.

According to research on the effects of this bill done by my staff and legislative counsel, the benefit of these tax credits would begin to be felt by joint filers with incomes slightly above $18,000 dollars a year, or single income filers with incomes slightly above $15,000 per year. Clearly this bill will be of the most benefit to low-income Americans balancing the demands of taxation with the needs of their children.

Under the Child Health Care Affordability Act, a struggling single mother with an asthmatic child would at last be able to provide for her child's needs; while a working-class family will not have to worry about how they will pay the bills if one of their children requires

lengthy hospitalization or some other form of specialized care.

Mr. Speaker, this Congress has a moral responsibility to provide tax relief for low-income parents struggling to care for a sick child, in order to help them better meet their child's medical expenses. Some may say that we cannot enact the Child Health Care Affordability Act because it would cause the government to lose revenue, but who is more deserving of this money, Congress or the working parents of a sick child?

The Child Health Care Affordability Act takes a major step toward helping working Americans meet their health care needs by providing them with generous health care related tax cuts and tax credits. I urge my colleagues to support the pro-family, pro-health care tax cuts contained in the Child Health Care Affordability Act.

PAYING TRIBUTE TO DANIEL AARON ROMERO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. McINNIS. Mr. Speaker it is with a solemn heart but also great pride that I honor the life and memory of Daniel Aaron Romero. Known to his family as Aaron, this young man responded to his country's call for help and gave his life for its security. On the seventeenth of March, Aaron was killed in Afghanistan while involved in an ordinance disposal operation. Like many young men and women today, Aaron believed that our nation needs her citizens to stand up and fight for our ideals and values, and like Aaron, several will have to pay the ultimate price. Aaron knew the risks, but believed in our cause, and today he reminds all Americans of the courage and selflessness that allows us the freedoms we cherish today. I can think of no better way to honor Aaron then to recognize his achievements and service before this body of Congress and this nation today.

Aaron was born in Longmont, Colorado and grew up in the town of Lafayette. In 1991, he fulfilled a lifelong dream of joining the military. He joined the Army and attended basic, advanced, individual, and eventually, airborne training. He excelled in his role as a soldier, and through hard work and dedication, he joined the prestigious ranks of the Special Forces. He was an esteemed member of B Company of the 5th battalion 19th Special Forces Group of the Colorado Army National Guard, and served as the valuable Communications Chief for his unit.

As member of the U.S. Army, Aaron traveled the world frequently in defense of his country, and after long periods of separation from his family, he was assigned the National Guard Post in Pueblo. He enjoyed spending time with his family and will be remembered as a wonderful person.

Mr. Speaker, Aaron's dedication to excellence is reflected in his decorations which include the Army Service Ribbon, the Non-Commissioned Officers Ribbon, the National Defense Service Medal, the Colorado Emergency Service Ribbon, the parachute badge, and the Special Forces tab. His dedication to this nation, his bravery, and his courage, serve as an example to us all. In the wake of the tragedies of 9/11, Aaron's passing is just one more reminder of the price that we pay for freedom. Mr. Speaker it is my profound honor to bring such a man to the attention of this body of Congress and a grateful nation. Thank you Aaron, for all that you gave in defense of your state and your nation. As his family mourns his loss, I would like to extend my deepest sympathies.

DR. GEORGE BASS

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. BRADY of Texas. Mr. Speaker, I rise today to honor an outstanding researcher from my district, Dr. George Bass. On Wednesday, June 12, 2002, Dr. Bass, a retired professor emeritus from Texas A&M University, will receive the National Medal of Science for his work in nautical archeology. This discipline is dedicated to understanding human existence through the discovery and study of ships and the cultures that constructed them.

Dr. Bass, known as the ''father of nautical archeology,'' is internationally recognized as a leader in his field. Dr. Bass is credited for conducting the first excavation of an ancient shipwreck entirely on the seabed. This event took place in 1960. Since that time, Dr. Bass has conducted excavations in the United States, Turkey, and the Caribbean.

In 1973, Dr. Bass established the Institute of Nautical Archeology. Today, this institute conducts research on four continents. The information obtained from this research allows us to better understand how ancient societies conducted commerce, educated their children, and organized their lives.

For his contributions to his field, Dr. Bass has received numerous awards and decorations including the Gold Medal for Distinguished Archeological Achievement in 1986. Additionally, he was honored by the Society for Historical Archeology in 1999 and the American Academy of Achievement in 2001.

Although retired from Texas A&M, Dr. Bass is not retired from expanding our understanding of the past. He continues to be actively involved in his research institute and continues to publish in scholarly journals. For his contributions to human knowledge, I am forever grateful.

DIGITAL TELEVISION

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. BROWN of Ohio. Mr. Speaker, I rise today in support of an exciting new technology. Local television broadcasters across the country are undertaking their biggest advancement in years: the transition to digital television. These stations aim to provide new services to their viewers, our constituents. Digital TV opens the door to new possibilities like High Definition TV, interactive television, and expanded programming options.

Two Cleveland stations already serve my district with digital signals: WEWS, a Scripps Howard Station and WKYC, a Gannett owned station, are leading the charge into the digital future.

Across the country, local broadcasters have made substantial investments in new transmitting facilities, new production equipment, and in some cases, new broadcast towers. Collectively, the broadcast industry has invested over one billion dollars in this new technology.

While local broadcasters are doing their part to propel the digital television transition forward, all the pieces of this transition have yet to fall into place. The transition will accelerate significantly once cable companies begin to carry local broadcasters' digital signals. 70% of U.S. television households receive their TV through cable. American consumers will begin to reap the full benefits of this revolution once digital television is available on cable.

I hope that Congress can work with these different groups: broadcasters and cable operators, and other interested parties on remaining issues. Until then, however, I am confident the future of television is digital. And that future is bright.

PAYING TRIBUTE TO BRET KELLY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I take this opportunity to pay tribute to the life of Bret Kelly, who recently passed away at the age of 79. Bret was a pillar of the Pueblo, Colorado community and, as his family mourns his loss, I think it is appropriate that we remember his life and celebrate the work he did on behalf of others.

Born in Rocky Ford, Colorado, Bret attended Centennial High School in 1940. After graduating, he enrolled at the University of Colorado, though his studies there were interrupted when he answered the call to serve our nation in the US Army infantry in World War II. Bret's service in the war included fighting in the historic Battle of the Bulge, in which he suffered severe shrapnel wounds to his arm and back. At the conclusion of his time in the armed forces, Bret was awarded both the Silver Star and Bronze Star with Oak Leaf Cluster for the uncommon valor that he displayed in the service of our nation.

Bret was a shining example of a man thoroughly involved in his community. He was named Citizen of the Year in 2001 by the Greater Pueblo Chamber of Commerce and was lauded for having a profound influence on the entire Pueblo community. As a member of the Pueblo Board of Water Works and over a dozen community organizations, Bret's passion and involvement in the lives of his neighbors was an inspiration to all who knew him. His early financial support of the Pueblo Hispanic Education Fund made a difference in the lives of countless students. As the head of Steel City Agencies, Inc., Bret took an active interest in each of his 46 employees, promoting their continuing education and encouraging them to join him in giving back to their community.

Mr. Speaker, it is my privilege to pay tribute to Bret Kelly for his contributions to the Pueblo area. Bret's dedication to his community, employees and family certainly deserves the recognition of this body of Congress. Although

Bret has left us, his good-natured spirit lives on through the lives of those he has touched. I would like to extend my thoughts and deepest sympathies to Bret's family and friends during this difficult time.

FAMILY CHRISTIAN ACADEMY GRADUATION

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. HILLEARY. Mr. Speaker, last month, a group of home school students from Tennessee won the National Mock Trial Championship. The team represented Family Christian Academy, a network of home schoolers based in Tennessee.

This Saturday, Family Christian Academy will hold a commencement ceremony for over 100 graduates. These graduates are part of a growing movement in Tennessee and across the nation. In our country, over 850,000 children are being educated at home.

Home schooled students come from all walks of life, and more often than not, they are excelling in academics. In May, the Wall Street Journal noted, ''In recent years, homeschoolers have been disproportionately represented in spelling and geography bees. But their victory this month in the National High School Mock Trial Championship, held in St. Paul, Minn., is more intriguing still, because this contest—designed to foster appreciation for the U.S. system of law cannot be written off as an exercise in mere memorization. As the competition's Web page states, it is based on 'critical thinking, reading, speaking, and advocacy.' ''

I believe one of our highest priorities is to make sure every child has the opportunity to receive: a quality education, one that will allow each to pursue his or her dreams. The genius of America is that we provide a free public education to everyone while also giving people the freedom to pursue other forms of educational excellence, whether it be in private, parochial, charter or home schools.

Home schooling has proven itself to be a very good option for educating our children and youth. I congratulate the graduates of Family Christian Academy, and I pay tribute to their parents and the many others who have provided them with strong educational foundations that give them the tools they need to pursue their dreams.

PAYING TRIBUTE TO JUDI HAYWARD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Judi Hayward, an exceptional individual who has selflessly devoted her time and energy to the betterment of the community. I applaud her outstanding character, and her desire to support her community. Judi Hayward demonstrates amazing qualities worthy of such praise.

Judi so much admired the majestic mountains of Colorado, she moved from the Midwest to Battlement Mesa in 1980, where she met her beloved husband the late Lee Hayward. Judi actively contributed to the community of Battlement Mesa, beginning to work at the American Heart Association in 1986. After she married, Judi became her husband's humanitarian colleague, and aided her husband with his duties at the National Park Service. Not surprisingly, she later deservingly became the President of the Grand Valley Parks Association.

Judi has actively assisted the Historical Society with their plans to renovate an old school house, and develop a small museum. Because Judi strongly believes in the idea of neighborhood unity, she diligently worked with the Junior College School board, towards the improvement of local community Colleges. Judi's selfless contributions over the past few decades continue with each responsibility she undertakes. Judi currently sits on the Zoning Commission board in Parachute, Colorado, and she looks to help improve future neighborhood growth.

Mr. Speaker, it is with great pride, I honor such an amazing individual before this body of Congress and this nation. Words will never express the gratitude that I have for Judi, but I will state my sincerest appreciation for her efforts. Judi, thank you for your hard work in our country, and I anticipate great future achievements from you.

BAD TAX POLICY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. PAUL. Mr. Speaker, I wish to call my colleagues' attention to the following article entitled ''Bad Tax Policy: You Can Run . . .'' by Daniel Mitchell, McKenna Senior Fellow at the Heritage Foundation. Mr. Mitchell discusses the practice of companies reincorporating in foreign jurisdictions to reduce their tax liability. As Mr. Mitchell points out, reincorporation benefits shareholders and American workers. This is because reincorporation In a low-tax foreign jurisdiction makes companies more competitive, thus enabling the companies to create new and better jobs for working Americans. Furthermore, reincorporation helps protect American companies from corporate takeovers by foreign investors. America's anticompetitive tax system is a major reason why several US companies have been taken over by foreign business interests.

In the vast majority of cases, when a company moves its corporate headquarters to a foreign jurisdiction, it maintains its physical operations in America. In fact, Mr. Speaker, Stanley Company, whose recently-announced decision to incorporate in Bermuda has caused much handwringing over reincorporation, will not be laying off a single American worker as a consequence of their action!

Though reincorporation benefits American investors and workers, some of my colleagues have objected to reincorporation because this action deprives the government of revenue. Some have even gone so far as to question the patriotism of companies that reincorporate. However, there is nothing unpatriotic about trying to minimize one's tax burden to enhance economic competitiveness. In fact, it could be argued that since reincorporation helps companies create new jobs and expand the American economy, those who reincorporate are behaving patriotically.

One also could argue that it is those who oppose reincorporation who do not grasp the essence of the American system. After all, two of the main principles underlying the Constitution and the Declaration of Independence are limited government and respect for private property. In contrast, opponents of reincorporation implicitly assume that the government owns all of a nation's assets; therefore taxpayers never should take any actions to deny government what the politicians have determined to be their ''fair share.'' Mr. Speaker, this philosophy has more in common with medieval feudalism than with the constitutional republic created by the drafters of the Constitution.

In conclusion, Mr. Speaker, I once again urge my colleagues to read Mr. Mitchell's article, which forcefully makes the case that taxing offshore income is economically destructive. Such taxation also is Inconsistent with the respect for individual liberty and private property rights which forms the foundation of America's constitutional republic, as well as a threat to the sovereign right of nations to determine the tax treatment of income earned inside national borders. I hope my colleagues will reject efforts to subject companies that reincorporate overseas to burdensome new taxes and regulations. Expanding Federal power in order to prevent companies from reincorporating will only kill American jobs and further weaken America's economy.

[From the Washington Times, May 8, 2002]

BAD TAX POLICY: YOU CAN RUN . . .

(By Daniel Mitchell)

The worst Supreme Court decision of all time? One of the leading candidates has to be the infamous 1857 Dred Scott decision, in which the Supreme Court ruled that slaves did not gain freedom by escaping to nonslave states.

Instead, they were considered property and had to be returned to their ''owners.''

Some U.S. companies soon may be treated in a similar manner, thanks to legislation being touted by Sens. Max Baucus, Montana Democrat, and Charles Grassley, Iowa Republican.

It all starts with the Internal Revenue Code, which forces U.S.-based companies to pay an extra layer of tax on income earned in other countries.

In an effort to protect the interests of workers, shareholders and consumers, some of these companies are escaping bad U.S. tax law by rechartering in Bermuda.

This is a win-win situation for America. We get to keep factories and headquarters in America, and our companies remain on a level playing field with businesses based in Europe and elsewhere.

Not so fast, Sens. Baucus and Grassley are saying. They want to stop ''corporate expatriations,'' even though they keep American jobs in America and help U.S. companies compete with their counterparts in Europe and Asia.

Their legislation would forbid U.S. companies from re-chartering in countries with better tax laws.

The politicians who support this are acting as if these companies belonged to the government. Yet when House Minority Leader Richard Gephardt, Missouri Democrat, for instance, accuses them of being ''unpatriotic,'' he never explains what's so patriotic

about higher taxes and noncompetitive tax policy.

Republicans are doing their share of business-bashing, too. Mr. Grassley claims that corporate expatriations are ''immoral,'' as if companies would be moral if they instead kept their U.S. charters and fired some of their workers.

If politicians are upset that some companies want to recharter, they should blame themselves for trying to tax ''worldwide'' income. An American firm competing against a Dutch firm for a contract in Ireland, for instance, must pay a 35 percent tax on its income—and the lion's share goes to the IRS.

The Dutch firm, by contrast, pays only the 10 percent Irish tax on its Irish-source income because the Netherlands doesn't tax income earned outside its borders.

Before giving the IRS more power, politicians should consider the following:

Expatriation helps control government waste. High-tax California can't stop companies from moving to low-tax Nevada. Knowing this helps deter the big-spenders in the state capitol from wasting even more money. The politicians in Massachusetts must exercise some restraint because they know local businesses can flee to low-tax New Hampshire. Nations also should be subject to market discipline. This is why Washington politicians shouldn't stop companies from escaping bad U.S. tax law.

Expatriation protects American jobs. Rechartering in another jurisdiction doesn't mean factories will go overseas. Nor does it require a company to move its headquarters. It simply means a company is chartered under the laws of a different jurisdiction, much as many American companies are chartered in Delaware, but operate factories and have their home offices in other states. In the case of expatriations, the newly formed foreign company still maintains its U.S. operations, but now won't have to fire workers since it can compete more effectively with overseas businesses.

Expatriation is not tax evasion. All corporations, regardless of where they're based, pay tax to the IRS on all profits they earn in the United States. This is true of U.S.-based companies, and it's true of all foreign-based companies—including those that expatriate. All that chances is that expatriating companies no longer have to pay taxes on income earned outside America's borders. Since worldwide taxation is misguided tax policy, this is a positive result. Indeed, every tax reform plan, including the flat tax, is based on this common-sense principle of ''territorial'' taxation.

Now is hardly the time, with the economy in the midst of recovery, for Washington politicians to make U.S. companies less competitive. Nor is it the time to give the IRS the power to prohibit businesses from rechartering in jurisdictions with more sensible tax laws. Instead of treating companies as if they're federal property, Sens. Grassley and Baucus should be fixing the problems in the tax code.

PAYING TRIBUTE TO MARTIN HERSHEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of Martin Hershey, who honorably devoted his life to serving this great nation. Martin, as he was commonly referred to, upheld America's liberty and regrettably passed away in April of this year. Today we mourn the loss of a great citizen, and a courageous leader who proudly served his family and community.

Martin moved with his family to Colorado in 1974, and accepted the position as the Assistant District Attorney in Colorado Springs. Nine months later, Martin moved to Aspen as the Police Chief, bringing with him experience and ideas that would change and mold new standards for the Aspen Law Enforcement Division. From day one, Martin vowed to make Aspen Law Enforcement different in its principles, but strong in its quest to achieve excellence.

The intelligence and ingenious demeanor Martin carried inspired his colleagues to perform to their fullest potential. Martin was a strong leader and an exceptional role model, so its not surprising he was elected to the Aspen City Council. His deeply rooted devotion to the town of Aspen made him an outstanding, respected city council member. He left Aspen in the late 1980's, and went to New York but continued to be involved in law enforcement returning to teach skiing after retiring as a New York Judge. His achievements continued in 1991 when he was appointed to the New York Criminal Court bench.

Martin's calm, outgoing personality highlighted his tremendous achievements. His strength and wisdom extended to all whom he encountered, and today we remember this man for all the joy and smiles he provided.

Mr. Speaker, it is with great honor I stand here and praise the achievements of Martin before this body of Congress and this nation. Martin Hershey will be missed tremendously, and although we will grieve the loss of this incredible individual, we will rejoice over this man of great character and conduct. I express my sincerest condolences to his family and friends, and I salute Martin, a person who selflessly contributed to our society.

HONORING BUCK KNIVES 100TH ANNIVERSARY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. HUNTER. Mr. Speaker, I want to commend a business, located in my district, for producing quality products for 100 years. Buck Knives of El Cajon, California, is a fourth generation family-owned and operated business. From making their first knives using worn-out file blades, Buck Knives has become arguably the most well-known, respected, and famous American-made knives in the world.

In 1902, the first Buck knife was made by a young apprentice blacksmith from Kansas, Hoyt Buck. Making each knife by hand, Hoyt combined innovation with experience to produce a better tempered steel so it would hold a sharper edge longer.

During World War II, Hoyt contributed to America's war effort by substantially increasing his output to ensure that our troops were adequately supplied. Following the war, Hoyt moved to San Diego where he, and his oldest son Al, formed H. H. Buck and Son in 1947. Hoyt passed away in 1949 and Al took over the company. H. H. Buck and Son had only been in business for two years when Al took the helm and led it through the next critical twelve years, eventually incorporating the business in 1961.

Innovators since the beginning, Buck Knives has continued to develop trendsetting knives and processes. Beginning with a revolutionary new blade and continuing through today with new designs, this company has continued to set the standard in the knife industry.

The family tradition continues today. Chuck Buck followed his father Al as president, serving until 1999 when he handed the reigns over to his son C.J., who is the current president and CEO. While Chuck stepped down as president, he still serves as an integral part of the family business as chairman of the board.

With more and more companies choosing to relocate overseas for low-wage workers and tax breaks, Buck Knives remains in the United States and is an active partner and friend of the entire San Diego community. Buck Knives employs individuals with disabilities from the local Home of the Guiding Hands to work in their factory. They allow groups within the community, such as the Boy and Girl Scouts and local churches, to utilize their facility for meetings and activities. Additionally, Buck Knives donates products for nationwide fundraising events to police and firefighters, as well as the National Turkey Foundation, just to name a few. In their quest to make our community a better place, Buck Knives has been a perpetual advocate and friend.

Given their longevity in the business and their trend setting designs, it is easy to understand why when you think of a knife, you think of a Buck knife. Mr. Speaker, please join me in congratulating Buck Knives in its centennial celebration.

12TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mrs. McCARTHY of New York. Mr. Speaker, the Americans with Disabilities Act will celebrate its 12th anniversary on July 26, 2002. The importance and significance of this Act, and its impact on the lives of individuals with disabilities, is certainly remarkable and noteworthy.

Prior to the passage of the Act, it was common place to dismiss qualified job applicants on the grounds of their disability, or for disabled individuals to be effectively excluded from the mainstream of American life. With the passage of the Americans with Disability Act 12 years ago, however, we now have the most comprehensive Federal civil-rights statute protecting the rights of people with disabilities.

This Act ended the discrimination faced daily by the disabled by requiring employers to make reasonable accommodations for affected workers and assisted the disabled to become an active member of society by requiring public services, such as mass transportation, to be just as accessible to people with disabilities as they are to able-bodied people.

Since its inception, the Act has withstood various attacks based on myth and half-truth, the very basis of which affirms the need for

the ADA. I was pleased to learn that a 1996 poll by the United Cerebral Palsy Foundation indicated that 75% of respondents believed public attitudes towards disabilities and the disabled had changed since the Act was introduced. The greatest barrier to many talented individuals achieving their goals is the very perception of their disability, and that is why we must continually work to remove these barriers.

As a nurse for 30 years, I agree more needs to be done to remove barriers that prevent people with disabilities from fully participating in society. I understand that although education and employment opportunities have improved since the Act's inception, our work is not yet finished. I congratulate those who worked so hard to make the Act a reality as well as the continued efforts of so many to press for further improvements.

Mr. Speaker, whether in the case of an athlete, a school child or an adult pursuing a new career path, I believe this Act has been an invaluable tool and a demonstration of a more mature, compassionate and understanding, American society. I am honored to be in a position to celebrate the Americans with Disabilities Act and to play a part in ensuring its continuing legacy remains.

PAYING TRIBUTE TO MARY STEINBRECHER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to a Glenwood Springs, Colorado community activist Mary Steinbrecher, an exceptional individual who has selflessly devoted her time and energy to the betterment of the community. I applaud her outstanding character, and her desire to support and enhance our society's way of life. Mary demonstrates such impressive qualities, it is fitting she received the 2002 Athena award in recognition of her humanitarian efforts.

Mary is an individual who performs any task, large or small, with astounding precision and perfection. Her vision to improve and enhance situations and circumstances provides a level of excellence to any organization or establishment she assists. She was instrumental in obtaining the new Glenwood Springs Community Center, and her tireless, selfless efforts finished the project ahead of schedule. Even though Mary's achievements in Glenwood extend to every citizen, Mary humbly accepts her praises with dignity.

Mr. Speaker, it is with great pride I honor such an outstanding individual before this body of Congress and this nation. Mary contributed so much, and she was so thoughtful, words will never express our appreciation for her. Mary, thank you for your hard work in our community, and I anticipate great future achievements from you.

CONGRATULATIONS TO KENNAMETAL INC.'S MINING AND CONSTRUCTION DIVISION FOR 50 YEARS OF OPERATION

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate Kennametal Inc.'s Mining and Construction Division for celebrating 50 years of operation and being inducted in the Bedford County Chamber of Commerce Business Hall of Fame. The manufacturing facility that houses this division, which opened its doors on April 7, 1958, is the oldest manufacturing facility in Bedford County and has been an example of business excellence since its conception. The Bedford facility boasts an impressive record of sales accomplishments that include, being ranked number one in the world for the sale of construction and mining tools and shipping and selling their products to more than 31 countries around the world. Their total sales are projected to be approximately $150 million by the end of the fiscal year, June 30, 2002.

Great companies can only continue down the path of success if they are lead by dedicated and reliable employees. Kennametal is an example of how the people make the institution great. The Bedford plant began in 1952 with 12 employees and now hosts 388 employees that are involved in all aspects of the plant's operational success and contribute to the betterment of their community as well. Over the past 20 years, the employees of Kennametal have given more than $70,000 to Bedford Area charities and community organizations. President George W. Bush, in his last State of the Union Address, challenged all of us to give two years or 4,000 hours of service over our lifetimes. The employees of Kennametal are meeting this challenge by serving as active volunteers for many organizations such as volunteer fire companies, emergency medical services, church groups, youth athletics and more.

This country was built on ingenuity, hard work, and the desire to succeed; all necessary ingredients to be a successful business in today's market. These businesses are a vital component to the fabric of society because they contribute resources, jobs, and products that help develop good communities for not just the employees, but their neighbors as well. It is important for our businesses to be responsible citizens, by sharing their success, they help communities prosper along with industry. Kennametal, over the last 50 years, has demonstrated how this type of partnership can allow progress within the company and the community.

I congratulate Kennametal's Bedford Facility for 50 years of success and I wish them many more in the future.

PAYING TRIBUTE TO JEAN WILLIAMS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. McINNIS. Mr. Speaker, it is my honor today to recognize the hard work and dedication of Dr. Jean Williams. Jean has given Pueblo, Colorado a lifetime of service through her two careers and has continued to do so into her seventies. For over fifty years Jean dedicated her life to improving public, environmental, and industrial health. In 1981 she retired and became a full time volunteer as a board member of the Senior Resource Development Agency, known as SRDA. She has brought her expertise and experience to this organization, and in honor of her dedication to improve the lives of her peers, she is being honored this year with the Senior Citizen of the Year award.

In addition to her work with the SRDA, Jean has put her medical expertise to work as well through volunteering her time to two separate programs: the Senior Link/Community Link and the Home Health Care. Both enable senior citizens to live full and independent lives by providing help in areas like yard work and transportation and helping to create networks to support active seniors. Jean is an energetic volunteer in both programs and looks after the health of the seniors involved. Jean has selflessly put in countless hours in order to improve the lives of others.

In addition to her efforts as a volunteer, Jean is also a proactive member of her community in other ways as well. She is a proud member of the board of the Pueblo League of Women Voters, the Pueblo Area Council of Government's environmental policy advisory board, the citizens reuse advisory board of the Pueblo Chemical Depot and the School District 60's equal employment opportunity and affirmative action committee. In addition to her official duties, Jean regularly attends the Pueblo Area Council of Government and the Southeastern Colorado Water Conservancy District to keep up on the issues.

Jean continues to work tirelessly to improve her community. Her courage and dedication to service are examples to us all. Mr. Speaker, I am privileged to pay tribute to Dr. Jean Williams before this body of Congress. Thank you Jean for all that you have done.

THE LIFE STORY OF JOHN A. DROST

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. DAVIS of Illinois. Mr. Speaker, one of the basic axioms of democracy, one of democracy's fundamental philosophical underpinnings is the notion that the life, work, and opinion, of every person counts, or, at least, ought to count.

I firmly believe in that notion: that every person counts and I believe in its corollary: that every person can make a difference.

I want to offer up a life story as illustration of that belief—the life story of John A. Drost.

John Drost was born in 1909 in Czechoslovakia. He went through school there earned a Juris Doctor degree in 1932.

He served in the Czechoslovakian army in the Judge Advocate General's Department and assisted in the mobilization of the Czech Army.

He became associated with a law firm with ties to the exiled Czechoslovakian Government in London representing the interests of Jewish clients.

As a result of his legal work he was arrested jailed and sentenced to a Nazi labor camp.

John, and his new bride Doris, eluded the Gestapo and went underground until the end of the war.

After the war he was pursued by the Communist government and John and Doris escaped to Austria where John began work for the Church World Organization. Eventually John and his family emigrated to the United States.

John found work as Church Administrator for St. Paul's United Church of Christ in Chicago. With the urging and support of church members he returned to night school and earned a law degree at the John Marshall Law School in Chicago.

John became the attorney for the Austrian Consulate and also did work for the German Consulate General.

John's own life experiences left John with a feeling of special responsibility for families and for family support.

As a result of his work with St. Paul's Church John became acquainted with Uhlich Children's Home—a home which has been supporting children and families for over 130 years.

John assumed a series of ever more responsible positions on the Uhlich board where, as a result of his leadership, the board was renewed and reenergized and the work of Uhlich was likewise strengthened and expanded.

John passed away in January of this year. But his son, George, and others carry on with the mission of providing support and services to troubled children and troubled families and which allows every child to reach his, or her, fullest potential.

John Drost made a difference for thousands and he leaves a legacy of making a difference.

Mr. Speaker, I believe an important part of his legacy is the example he has left us.

As John was fond of saying,, ''In a country that gave us a beautiful life . . . we had to reciprocate.''

PAYING TRIBUTE TO FRANK S. CORTESE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. MCINNIS. Mr. Speaker, I rise to take this opportunity to recognize an outstanding individual who has dedicated his life to serve and protect the citizens of the State of Colorado. Corporal Frank S. Cortese of the Pueblo Police Department has faithfully served his fellow Coloradans for over thirty years. After a long and successful career as one of Colorado's finest, Frank announced his retirement from the force in December of last year. As Frank looks forward to retirement, I would like to take this time to highlight his service to his community.

Frank has faithfully served the Pueblo Police Department in various capacities throughout his long career. During his service he was active in the Homicide Division as a juvenile investigator. In this capacity, he was often called upon to study and investigate homicides among our youth and was instrumental in solving many crimes throughout the community. For many years Frank worked tirelessly to protect our youth by preventing the escalation of violence among our teens, notably amongst gangs and groups that commonly threaten our nation's youngest generation. His most recent service has been to defend our roadways and streets by actively pursuing individuals who injure our citizens in traffic accidents and speed away to avoid the penalties and consequences. I am confident that Frank's expertise in protecting our youth from violence will be greatly missed not only by the department, but a grateful community.

Mr. Speaker, as a former law enforcement officer I am well aware of the dangers and hazards our peace officers face today. These individuals work long hours, weekends, and holidays to guarantee their fellow citizen's rights and protection. They work tirelessly with great sacrifice to their personal and family lives to ensure our freedoms remain strong in our homes and communities. Their service and dedication deserve the recognition and thanks of this body of Congress and nation and that is why I bring the name of officers like Frank Cortese to light today. I wish you all the best Frank and good luck in your future endeavors. Thanks for your service to Pueblo, Colorado.

INTRODUCING A BILL TO EXCLUDE GIFTS WHEN CALCULATING SUPPLEMENTAL SECURITY INCOME

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mrs. MINK of Hawaii. Mr. Speaker, today I introduce a bill to exclude gifts worth less than $100 when calculating a person's income for Supplemental Security Income (SSI).

A constituent in Hawaii who helps disabled individuals obtain SSI benefits brought this problem to my attention. He explained how a person who received SSI was penalized for accepting gifts.

This individual was given money for a birthday and Christmas, which she reported to Social Security. Social Security treated the gifts as income. Because she accepted gifts while her SSI claim was being adjudicated, the gifts were deducted from the retroactive benefits that she deserved. These gifts were not income and should not be treated as income.

My bill excludes gifts worth less than $100 from income when calculating SSI benefits. The bill will refocus the Social Security Administration's needs tests on true income generating activities.

I urge my colleagues to cosponsor this bill and help eliminate a penalty on poor and disabled individuals who receive small gifts from their friends and relatives.

TRIBUTE TO AMBASSADOR MAXWELL RABB: A MAN WITHOUT BORDERS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to my dear friend, Ambassador Maxwell M. Rabb, who died in New York, on Sunday, June 2, at the age of 91.

Ambassador Rabb was a distinguished lawyer, secretary to the cabinet in the Eisenhower Administration, ambassador to Italy in the Reagan Administration and held a variety of positions in government and in service to civil society.

On Wednesday, June 12, he will be funeralized at the Congregation Emanu-el in New York, where he served as president from 1973 to 1981.

Born in Boston, where he was educated at Harvard College and Harvard Law School, Ambassador Rabb was a most uncommon man in talents and accomplishments. In service to his country, he demonstrated an extraordinary ability to overcome differences between nations, religions, and the races. Exhibiting qualities instilled from childhood, he had a unique empathy, an ability to feel as others felt, and thus engender trust.

Such was the case in his dealings with my predecessor, Congressman Adam Clayton Powell who, as the political leader of the civil rights movement in the 1950's, had ongoing dealings with Rabb. It seemed impossible that a first generation Jewish American with roots in the old country in Europe and an elitist Boston education could succeed at his assignment as the Eisenhower administration's point man on civil rights. How could this modest unassuming man relate to the provocative, flamboyant and street-smart Congressman-preacher from Harlem?

Somehow, Maxwell Rabb did succeed, winning Powell's trust and admiration along the way. Indeed, Rabb enhanced a long list of credits by quietly writing himself into the annals of the great movement for civil rights.

More than an intermediary for the Eisenhower administration, Rabb was an honest broker and deal-maker with Powell in the Congressman's successful struggle to desegregate U.S. military facilities. In a sense, Rabb—by tempering the Congressman's brickbats—guided the battering ram which brought down a dehumanizing racist practice.

The two had met on Capitol Hill, when Rabb, as a young lawyer, worked as an aide to Senator Henry Cabot Lodge. After service in the Navy during WWII, he joined the Eisenhower Administration where he served in various posts, including secretary to the cabinet and liaison to Jewish groups, labor and civil rights.

In the 1960's, he was president of the U.S. Committee for Refugees and was active in securing the release of Americans in detention in communist East Germany. In the 1980's he served with great distinction as ambassador to Italy in the Reagan Administration, repairing damaged relations with one of our most important allies following the hijacking of the Achille Lauro.

In his lifetime, the Ambassador applied his considerable talents to difficult and sensitive situations around the world—never forgetting the lot of the less fortunate, whether in South Asia, Israel, Eastern Europe or the United States.

Ambassador Maxwell Rabb, a man without borders, had a heart big enough to reach out to people whom he resembled, in color and background, not in the least—with respect, compassion and love.

I extend my deepest sympathy to his wife Ruth, and his children, Bruce, Sheila

Weidenfeld, Emily Livingston and Priscilla Ayres, and I call on my colleagues to join me in tribute.

ON THE 20TH ANNIVERSARY OF THE CAPTURE OF ZACHARY BAUMEL

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. WEINER. Mr. Speaker, on June 11, 1982, during a battle with Syrian and Palestinians forces on the Israeli-Lebanese border, five Israeli soldiers were captured by Syrian forces. Several years later, two of the captured soldiers were returned to Israel in prisoner exchanges with Syria. But today, twenty years later, we still know nothing of three of these soldiers, Zachary Baumel, Tzvi Feldman, and Yehuda Katz.

One of these soldiers, Zachary Baumel, is a U.S. citizen, and a former resident of my congressional district.

On a number of occasions, I have met with Zachary's parents, and listened to them tell me of the years of effort to gain any information about their son. For the most part, this has been a fruitless quest. But the greatest injustice is not that they have been unable to discover any information about the well-being of their son. The greatest injustice is that there are those out there who know where Zachary is, and yet, they refuse to share this information.

Mr. Speaker, the United States must not permit those who know the whereabouts of Zachary Baumel to keep this information to themselves. In 1993, PLO Chairman Yasser Arafat delivered one-half of Zachary Baumel's dog tag to Israeli Government. Clearly he has a connection to those who are holding him, yet he has done nothing to assist in bringing Zach home.

Mr. Speaker, we must increase the pressure on Syria, Iran and the Palestinian Authority and any other nation that has information regarding these prisoners. That is why I, along with the Gentleman from California, Mr. LANTOS, have led a coalition of members in sending a letter, which I will submit for publication in the CONGRESSIONAL RECORD, to the Secretary of State, urging him to raise this matter with Syrian Foreign Minister Farouk Shara when he comes to Washington later this month.

Mr. Speaker, this nightmare has lasted long enough, it's time to bring Zachary Baumel and all of the other missing Israeli soldiers home.

CONGRESS OF THE UNITED STATES,
Washington, DC, June 7, 2002.

Secretary COLIN L. POWELL,
U.S. Department of State,
Washington, DC.

DEAR SECRETARY POWELL: Syrian Foreign Minister Farouk Shara is scheduled to meet with you in Washington, D.C. this week. You may be aware that his visit will coincide with the 20th anniversary of the capture of American citizen and Israeli soldier Zachary Baumel who, along with four other Israeli soldiers, was taken captive on June 11, 1982 during battles with Syrian forces near the Lebanese village of Sultan Ya'akub. We urge you to take advantage of the concurrence of these events to reinvigorate efforts to obtain information regarding the whereabouts of these and other missing Israeli soldiers, and to secure their release.

Since the founding of the State of Israel in 1948, more than four hundred Israeli soldiers have been declared ''Missing in Action'' (MIA). Only six of these cases are officially listed as ''soldiers missing but presumed to be alive.'' Three of the soldiers: Zachary Baumel, Tzvi Feldman and Yehuda Katz were captured in 1982. The fourth, Ron Arad, was captured in 1986. Recently, two more names were added to the list of the missing; on August 17, 1997, Guy Hever went missing from his army base in the Golan; on October 15, 2000, Hizbullah announced that another Israeli citizen, 54 year-old Elchanan Tannenbaum (Col. res.), had also been taken captive.

As you are no doubt aware, Public Law 106–89, authored by Congressman Lantos of California, directs the Department of State to raise the issue of missing Israeli soldiers with officials of Syria, Lebanon, the Palestinian Authority and other governments in the Middle East. It specifies that US aid to these governments should take into consideration their willingness to assist in locating and securing the return of these soldiers. It also directs the Department of State to report to Congress on these efforts. We hope that you will use the occasion of your meeting with Foreign Minister Shara to further the goals of Public Law 106–89.

If the Syrian government is to become a responsible member of the international community, it must take all necessary measures to provide the fullest possible accounting for Zachary Baumel and all other Israeli hostages held under Syrian control. We urge you to convey this message to the Syrian Foreign Minister and to redouble your efforts to secure the long overdue release of these soldiers.

Thank you for your consideration. We look forward to your response.

Sincerely,

Anthony D. Weiner; Tom Lantos, Benjamin A. Gilman; Henry A. Waxman; Janice D. Schakowsky; Eliot L. Engel; Carolyn B. Maloney; Nita M. Lowey; Gary L. Ackerman; Shelley Berkley; Jerrold Nadler; Robert Wexler; Barney Frank; Eric Cantor; James R. Langevin; Peter Deutsch; Howard L. Berman; Steve Israel; Tammy Baldwin; Joseph Crowley; Adam B. Schiff; Benjamin L. Cardin; Jim Saxton.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 13, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 14

9:30 a.m.
Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold hearings to examine increasing of options and awareness concerning the screening of newborns.
SD–430

JUNE 18

9:30 a.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings to examine steroid use in professional baseball and anti-doping issues in amateur sports.
SR–253

10 a.m.
Finance
To hold hearings to examine the protection of seniors from abuse and neglect.
SD–215

Banking, Housing, and Urban Affairs
Business meeting to markup the proposed Public Company Accounting Reform and Investor Protection Act of 2002.
SD–538

Judiciary
To hold hearings to examine proposals to reform the death penalty.
SD–226

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings on S. 198, to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land; S. 1846, to prohibit oil and gas drilling in Finger Lakes National Forest in the State of New York; S. 1879, to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska; S. 2222, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation; S. 2471, to provide for the independent investigation of Federal wildland firefighter fatalities; and S. 2482, to direct the Secretary of the Interior to grant to Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road.
SD–366

Environment and Public Works
To hold hearings to examine water resources development programs within the U.S. Army Corps of Engineers.
SD–406

JUNE 19

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 2473, to enhance the Recreational Fee Demonstration Program for the National Park Service; and S. 2607, to authorize the Secretary of the Interior and the Secretary of Agriculture to collect recreation fees on Federal lands.
SD–366

Health, Education, Labor, and Pensions
Business meeting to consider S. 2184, to provide for the reissuance of a rule relating to ergonomics; S. 2558, to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries; S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; S. 1115, to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis; S. 710, to require coverage for colorectal cancer screenings; and pending nominations.
SD–430

Commission on Security and Cooperation in Europe
To hold hearings to examine the current human rights atmosphere in Kosovo, focusing on the rights of ethnic minorities to return home, human trafficking, and the rising tensions between the region's ethnic minorities.
SD–124

10 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to examine future sufficiency and stability of the Universal Service Fund.
SR–253

10:30 a.m.
Judiciary
Crime and Drugs Subcommittee
To hold hearings to examine penalties for white collar offenses.
SD–226

Governmental Affairs
To hold hearings on the nomination of Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency.
SD–342

1:45 p.m.
Health, Education, Labor, and Pensions
To hold hearings on proposed legislation authorizing funds for the National Science Foundation, focusing on math and science research, development, and education in the 21st century.
SD–430

2:30 p.m.
Foreign Relations
Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee
To hold hearings on S. 1017, to provide the people of Cuba with access to food and medicines from the United States, to ease restrictions on travel to Cuba, to provide scholarships for certain Cuban nationals.
SD–419

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine the National Aeronautics and Space Administration, focusing on education programs.
SR–253

JUNE 20

9:30 a.m.
Commission on Security and Cooperation in Europe
To hold joint hearings to examine human rights in Greece, focusing on minority rights, religious liberty, freedom of the media, human trafficking, and domestic terrorism.
334, Cannon Building

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine global climate change, focusing on the U.S. Climate Action Report.
SR–253

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings on S. 139/H.R. 3928, to assist in the preservation of archaeological, paleontological, zoological, geological, and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City, Utah; S. 1609/H.R. 1814, to amend the National Trails System Act to direct the Secretary of the Interior to conduct a study on the feasibility of designating the Metacomet-Monadnock-Mattabesett Trail extending through western Massachusetts and central Connecticut as a national historic trail; S. 1925, to establish the Freedom's Way national Heritage Area in the States of Massachusetts and New Hampshire; S. 2196, to establish the National Mormon Pioneer Heritage Area in the State of Utah; S. 2388, to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era; S. 2519, to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System; and S. 2576, to establish the Northern Rio Grande National Heritage Area in the State of New Mexico.
SD–366

JUNE 27

9:30 a.m.
Appropriations
Transportation Subcommittee
Commerce, Science, and Transportation
Surface Transportation and Merchant Marine Subcommittee
To hold joint hearings to examine cross border trucking issues.
SR–253

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S5391–S5463

Measures Introduced: Four bills and one resolution were introduced, as follows: S. 2613–2616, and S. Res. 283. **Page S5454**

Death Tax Elimination Act: Senate continued consideration of H.R. 8, to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period. **Pages S5398–S5435**

During consideration of this measure today, Senate also took the following action:

By 44 yeas to 54 nays (Vote No. 149), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 311 of the Congressional Budget Act with respect to Reid (for Dorgan) Amendment No. 3832 (to Amendment No. 3831), to amend the Internal Revenue Code of 1986 to make permanent the estate tax in effect on December 31, 2009, to increase the exclusion amount to $4,000,000 in 2009, and to provide a full family-owned business interest deduction in 2003. Subsequently, the point of order that the amendment was in violation of section 311 of the Congressional Budget Act was sustained, and the amendment thus fell. **Pages S5398–S5412**

By 38 yeas to 60 nays (Vote No. 150), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 311 of the Congressional Budget Act with respect to Conrad Amendment No. 3831, in the nature of a substitute. Subsequently, the point of order that the amendment was in violation of section 311 of the Congressional Budget Act was sustained, and the amendment thus fell. **Pages S5398–S5434**

By yeas to nays (Vote No. 151), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 311(a)(2)(B) of the Congressional Budget Act with respect to Gramm/Kyl Amendment No. 3833, to permanently repeal the death tax. Subsequently, the point of order that the amendment was in violation of section 311(a)(2)(B) of the Congressional Budget Act was sustained, and the amendment thus fell. **Pages S5412–34**

Pursuant to the order of April 23, 2002, the bill was returned to the Senate calendar. **Pages S5434–35**

Terrorism Risk Insurance Act Agreement: A unanimous-consent agreement was reached providing for consideration of S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, at 10 a.m., on Thursday, June 13, 2002. **Pages S5435–41**

Executive Reports of Committees: Senate received the following executive report of a committee:

Report to accompany Optional Protocol No. 1 To Convention On Rights Of The Child On Involvement Of Children In Armed Conflict (Treaty Doc. 106–37A) and Optional Protocol No. 2 To Convention On The Rights Of The Child On The Sale Of Children, Child Prostitution And Child Pornography (Treaty Doc. 106–37B). (Ex. Rept. 107–4) **Pages S5453–54**

Messages From the House: **Page S5452**

Measures Referred: **Page S5453**

Measures Placed on Calendar: **Page S5453**

Executive Reports of Committees: **Pages S5453–54**

Additional Cosponsors: **Pages S5454–55**

Statements on Introduced Bills/Resolutions: **Pages S5455–62**

Additional Statements: **Pages S5448–52**

Amendments Submitted: **Page S5462**

Authority for Committees to Meet: **Pages S5462–63**

Record Votes: Three record votes were taken today. (Total—151) **Pages S5412, S5434**

Adjournment: Senate met at 9:30 a.m., and adjourned at 6:52 p.m., until 9 a.m., on Thursday, June 13, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5463).

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—DEFENSE

Committee on Appropriations: Subcommittee on Defense concluded hearings on proposed budget estimates for fiscal year 2002 for the Department of Defense and related programs, after receiving testimony from certain public witnesses.

MEDICARE MEDICAL SUPPLIES PAYMENTS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education concluded hearings to examine fraud, waste and abuse related to Medicare reimbursement for medical equipment and supplies, and ways to improve the process, including creating supplier standards, centralizing claims processing, reducing oxygen reimbursement, and introducing a more competitive bidding process, after receiving testimony from Janet Rehnquist, Inspector General, and Thomas A. Scully, Administrator, Centers for Medicare and Medicaid Services, both of the Department of Health and Human Services; Leslie G. Aronovitz, Director, Health Care-Program Administration and Integrity Issues, General Accounting Office; and David T. Williams, Invacare Corporation, Elyria, Ohio.

INTERNET MANAGEMENT: ICANN GOVERNANCE

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space concluded hearings to examine reform and privatization issues of the Internet Corporation for Assigned Names and Numbers (ICANN), focusing on clarifying the mission and responsibilities, ensuring accountability, and developing an effective advisory role for governments, after receiving testimony from Nancy J. Victory, Assistant Secretary of Commerce for Communications and Information; Peter Guerrero, Director, Physical Infrastructure Issues, General Accounting Office; M. Stuart Lynn, Internet Corporation for Assigned Names and Numbers, Marina del Rey, California; Karl Auerbach, Internet Corporation for Assigned Names and Numbers Board of Directors, San Jose, California; Roger J. Cochetti, VeriSign, Inc., and Alan B. Davidson, Center for Democracy and Technology, both of Washington, D.C.; and Cameron Powell, SnapNames, Portland, Oregon.

NATIONAL PARKS

Committee on Energy and Natural Resources: Subcommittee on National Parks concluded hearings on S. 1257/H.R. 107, to require the Secretary of the Interior to conduct a theme study to identify sites and resources to commemorate and interpret the Cold War, S. 1312/H.R. 2109, to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach, Florida, for possible inclusion in the National Park System, S. 1944, to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, H.R. 38, to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, H.R. 980, to establish the Moccasin Bend National Historic Site in the State of Tennessee as a unit of the National Park System, and H.R. 1712, to authorize the Secretary of the Interior to make adjustments to the boundary of the National Park of American Samoa to include certain portions of the islands of Ofu and Olosega within the park, after receiving testimony from Senator Bill Nelson; Representatives Faleomavaega, Meek, and Wamp; P. Daniel Smith, Special Assistant to the Director, National Park Service, Department of the Interior; Steve Ririe, Silent Heroes of the Cold War National Memorial Committee, Las Vegas, Nevada; and James O. Mills, Friends of Moccasin Bend National Park, Chattanooga, Tennessee.

CLEAN POWER ACT

Committee on Environment and Public Works: Committee concluded hearings on S. 556, to amend the Clean Air Act to reduce emissions from electric power plants, after receiving testimony from Representative Kucinich; Ronald C. Methier, Georgia Environmental Protection Division, Atlanta, on behalf of the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials; Robert Page, TransAlta Corporation, Calgary, Canada; William F. Tyndall, Cinergy Services, Inc., Cincinnati, Ohio, on behalf of the Edison Electric Institute; David G. Hawkins, Natural Resources Defense Council, Washington, D.C.; Lee P. Hughes, Bayer Corporation, Pittsburgh, Pennsylvania, on behalf of the American Chemistry Council; Don Barger, National Parks Conservation Association, Knoxville, Tennessee; and J. Thomas Mullen, Catholic Charities Health and Human Services, Cleveland, Ohio.

CHILDHOOD VACCINE SHORTAGE

Committee on Governmental Affairs: Committee concluded hearings to examine the causes and extent of the current shortage of childhood vaccines, their expected duration and impact, and the Federal government's role in maintaining the supply, after receiving testimony from Lester M. Crawford, Deputy Commissioner, Food and Drug Administration, and Walter Orenstein, Director, National Immunization Program, Centers for Disease Control and Prevention, both of the Department of Health and Human

Services; Timothy F. Doran, Greater Baltimore Medical Center, Baltimore, Maryland, on behalf of the American Academy of Pediatrics; Mary Anne Jackson, Children's Mercy Hospitals and Clinics, Kansas City, Missouri; and Wayne Pisano, Aventis Pasteur North America, Asbury, New Jersey, on behalf of the Pharmaceutical Research and Manufacturers of America.

DEATH PENALTY

Committee on the Judiciary: Subcommittee on Constitution concluded hearings to examine issues with respect to reducing the risk of executing the innocent, focusing on the Report of the Illinois Governor's Commission on Capital Punishment, after receiving testimony from Illinois Governor George H. Ryan, and Matthew R. Bettenhausen, Illinois Deputy Governor for Criminal Justice and Public Safety, and Executive Director, Illinois Governor's Commission on Capital Punishment, both of Springfield; Druanne D. White, Solicitor, Tenth Judicial Circuit, Anderson, South Carolina; Donald Hubert, Hubert, Fowler, and Quinn, and Scott Turow, Sonnenschein Nath and Rosenthal, both of Chicago, Illinois, both members of the Illinois Governor's Commission on Capital Punishment; John J. Kinsella, First Assistant State's Attorney, DuPage County, Illinois; Lawrence C. Marshall, Northwestern University Law School Center on Wrongful Convictions, Chicago, Illinois; and Kent Scheidegger, Criminal Justice Legal Foundation, Sacramento, California.

House of Representatives

Chamber Action

Measures Introduced: 15 public bills, H.R. 4914–4928; and 2 resolutions, H. Con. Res. 417, and H. Res. 442 were introduced. **Pages H3513–14**

Reports Filed: Reports were filed as follows:

H.R. 3130, to provide for increasing the technically trained workforce in the United States, amended (H. Rept. 107–505, Pt. 1); and

H.R. 3936, to designate and provide for the management of the Shoshone National Recreation Trail, and for other purposes, amended (H. Rept. 107–506). **Page H3513**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Simpson to act as Speaker pro tempore for today. **Page H3455**

Prayer: The prayer was offered by the guest Chaplain, Rev. Kent Williams, Sunnybrook Christian Church, of Stillwater, Oklahoma. **Page H3455**

Recess: The House recessed at 10:06 a.m. and reconvened at 2:56 p.m. **Page H3456**

Joint Meeting to Receive the Prime Minister of Australia: The House and Senate met in the House Chamber to receive the Honorable John Howard, Prime Minister of Australia. The Prime Minister was escorted into the Chamber by Representatives Armey, Watts of Oklahoma, Hyde, Bereuter, Gephardt, Pelosi, Frost, Lantos, and Faleomavaega and Senators Daschle, Nelson of Florida, Lott, Nickles, Hutchinson of Texas, Craig, and Lugar. Agreed that the proceedings of the joint meeting be printed in the Record. **Pages H3456–58**

Recess: The House recessed at 3:40 p.m. and reconvened at 4 p.m. **Page H3462**

Supplemental Appropriations: The House disagreed with the Senate amendment to H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002, and agreed to a conference. Appointed as conferees: Chairman Young of Florida, Regula, Lewis of California, Rogers, Skeen, Wolf, Kolbe, Callahan, Walsh, Taylor of North Carolina, Hobson, Istook, Bonilla, Knollenberg, Obey, Murtha, Dicks, Sabo, Hoyer, Mollohan, Kaptur, Visclosky, Lowey, Serrano, and Olver. **Pages H3459–62**

Rejected the Obey motion to instruct conferees to insist, for each item directly related to the war on terrorism or homeland security, on the higher dollar amount in either the House bill or the Senate amendment and to disagree to any item that appropriates additional funds earmarked for a specific project not related to the war on terrorism or homeland security by a yea-and-nay vote of 181 yeas to 235 nays, Roll No. 224. **Pages H3471–72**

Securing America's Future Energy Act: The House disagreed with the Senate amendment to H.R. 4, to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and agreed to a conference. Appointed as conferees: From the Committee on Energy and Commerce, for consideration of the House bill and the Senate

amendment, and modifications committed to conference: Chairman Tauzin and Representatives Bilirakis, Barton of Texas, Upton, Stearns, Gillmor, Burr of North Carolina, Dingell, Waxman, Markey, Boucher, Gordon, and Rush. **Pages H3462–72**

From the Committee on Agriculture, for consideration of section 401 of the House bill and sections 265, 301, 604, 941–948, 950, 1103, 1221, 1311–1313, and 2008 of the Senate amendment, and modifications committed to conference: Chairman Combest and Representatives Lucas of Oklahoma and Stenholm. **Page H3472**

From the Committee on Armed Services, for consideration of sections 401 and 6305 of the House bill and sections 301, 501–507, 509, 513, 809, 821, 914, 920, 1401, 1407–1409, 1411, 1801, and 1803 of the Senate amendment, and modifications committed to conference: Chairman Stump, Weldon of Pennsylvania and Skelton. **Page H3472**

From the Committee on the Budget, for consideration of section 1013 of the Senate amendment, and modifications committed to conference: Chairman Nussle and Representatives Gutknecht and Moore. **Page H3472**

From the Committee on Education and the Workforce, for consideration of section 134 of the House bill and sections 715, 774, 901, 903, 1505, and 1507 of the Senate amendment, and modifications committed to conference: Representatives McKeon, Norwood, and George Miller of California. **Page H3472**

From the Committee on Financial Services, for consideration of Division D of the House bill and sections 931–940 and 950 of the Senate amendment, and modifications committed to conference: Chairman Oxley and Representatives Roukema and LaFalce. **Page H3472**

From the Committee on the Judiciary, for consideration of sections 206, 209, 253, 531–532, 708, 767, 783, and 1109 of the Senate amendment, and modifications committed to conference: Chairman Sensenbrenner and Representatives Smith of Texas and Conyers. **Page H3472**

From the Committee on Resources, for consideration of sections 401, 2441–2451, 6001–6234, and 6301–6801 of the House bill and sections 201, 265, 272, 301, 401–407, 602–606, 609, 612, 705, 707, 712, 721, 1234, 13&–1352, 1704, and 1811 of the Senate amendment, and modifications committed to conference: Chairman Hansen and Representatives Cubin and Rahall; Provided, that Representative George Miller of California is appointed in lieu of Representative for consideration of sections 6501–6512 of the House bill, and modifications committed to conference. **Page H3472**

From the Committee on Science, for consideration of sections 125, 152, 305–6, 801, Division B, Division E, and section 6512 of the House bill and sections 501–507, 509, 513–516, 770–772, 807–809, 814–816, 824, 832, 1001–1022, Title XI, Title XII, Title XIII, Title XIV, sections 1502, 1504–1505, Title XVI, and sections 1801–1805 of the Senate amendment, and modifications committed to conference: Chairman Boehlert and Representatives Bartlett of Maryland and Hall of Texas. Provided, that Representative Costello is appointed in lieu of Representative Hall of Texas for consideration of Division E of the House bill, and modifications committed to conference. Provided, that Representative Woolsey is appointed in lieu of Representative Hall of Texas for consideration of sections 2001–2178 and 2201–2261 of Division B of the House bill, and modifications committed to conference. **Page H3472**

From the Committee on Transportation and Infrastructure, for consideration of sections 121–126, 151, 152, 401, 701, 2101–2105, 2141–2144, 6104, 6507, and 6509 of the House bill and sections 102, 201, 205, 301, 701–783, 812, 814, 816, 823, 911–916, 918–920, 949, 1214, 1261–1262, and 1351–1352 of the Senate amendment, and modifications committed to conference: Chairman Young of Alaska, Petri, and Oberstar: Provided, that Representative Costello is appointed in lieu of Representative Oberstar for consideration of sections 121–126 of the House bill and sections 911-916 and 918–919 of the Senate amendment, and modifications committed to conference. Provided, that Representative Borski is appointed in lieu of Representative Oberstar for consideration of sections 151, 2101–2105, and 2141–2144 of the House bill and sections 812, 814, and 816 of the Senate amendment, and modifications committed to conference. Provided, that Representative DeFazio is appointed in lieu of Representative Oberstar for consideration of section 401 of the House bill and sections 201, 205, 301, 1262, and 1351–1352 of the Senate amendment, and modifications committed to conference. **Page H3472**

From the Committee on Ways and Means, for consideration of Division C of the House bill and Division H and I of the Senate amendment, and modifications committed to conference: Chairman Thomas and Representatives McCrery and Rangel. **Page H3472**

For consideration of the House bill and Senate amendment, and modifications committed to conference: Representative DeLay. **Page H3472**

Agreed to the Markey motion to instruct conferees to ensure that no provision of the bill will create a

deficit in the non-social security portion of the Federal budget during any year of the 10-year budget estimating period unless there are sufficient offsets under the bill so that there is no net deficit during such 10-year period by a yea-and-nay vote of 412 yeas to 1 nay with 2 voting "present", Roll No. 223. **Pages H3463–71**

Tax Limitation Amendment to the Constitution: The House failed to pass H.J. Res. 96, proposing a tax limitation amendment to the Constitution of the United States by a ⅔ yea-and-nay vote of 227 yeas to 178 nays, Roll No. 225. Agreed to H. Res. 439, the rule that provided for consideration of the joint resolution by voice vote. **Pages H3472–87**

Responsible Fatherhood: The House agreed to H. Res. 442, supporting responsible fatherhood and encouraging greater involvement of fathers in the lives of their children, especially on Father's Day. **Pages H3487–92**

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings of the House today and appear on pages H3470–71, H3471, and H3486–87. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 12 p.m.

Committee Meetings

MILITARY CONSTRUCTION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Military Construction approved for full Committee action the Military Construction appropriations for fiscal year 2003.

U.S. NUCLEAR STOCKPILE PERFORMANCE

Committee on Armed Services: Subcommittee on Military Procurement held a hearing on the Safety, Security, Reliability, and Performance of the U.S. Nuclear Stockpile. Testimony was heard from Gen. John A. Gordon, USAF (Ret.), Administrator, National Nuclear Security Administration, Department of Energy; Rear Adm. John T. Byrd, USN, Director, Plans and Policy, U.S. Strategic Command, Department of Defense; Michael R. Anastasio, Deputy Director, Strategic Operations, Lawrence Livermore National Laboratory; John C. Browne, Director, Los Alamos National Laboratory; C. Paul Robinson, Director, Sandia National Laboratory; and public witnesses.

CITIZEN SERVICE ACT

Committee on Education and the Workforce: Ordered reported, as amended, H.R. 4854, Citizen Service Act of 2002.

HELP U.S. CITIZENS HELD AGAINST THEIR WILL IN SAUDI ARABIA

Committee on Government Reform: Held a hearing on "Should the United States Do More to Help U.S. Citizens Held Against Their Will in Saudi Arabia?" Testimony was heard from the following officials of the Department of State: Dianne Andruch, Deputy Assistant Secretary, Overseas Citizen Services; and Ryan Crocker, Deputy Assistant Secretary, Near Eastern Affairs; Hume Horan, former U.S. Ambassador to Saudi Arabia; and public witnesses.

HEALTH CARE LITIGATION REFORM

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law held an oversight hearing on Health Care Litigation Reform: "Does Limitless Litigation Restrict Access to Health Care?" Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on the following measures: H. Con. Res. 408, honoring the American Zoo and Aquarium Association for their continued service to Animal Welfare, Conservation Education, Conservation Research and Wildlife Conservation Programs; and H.R. 4807, the Susquehanna National Wildlife Refuge Expansion Act. Testimony was heard from Nancy Gloman, Chief, Division of Conservation Planning and Policy, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

NATIONAL FORESTS—PROCESS GRIDLOCK

Committee on Resources: Subcommittee on Forests, and Forest Health held an oversight hearing on Process Gridlock on the National Forests. Testimony was heard from Dale Bosworth, Chief, Forest Service, USDA.

SMALL EXPORTERS—EFFECT OF OVERVALUED DOLLAR

Committee on Small Business: Held a hearing on the Effect of the Overvalued Dollar on Small Exporters. Testimony was heard from public witnesses.

MARITIME DISASTER FAMILY ASSISTANCE ACT

Committee on Transportation and Infrastructure: Subcommittee on Coast Guard and Maritime Transportation held a hearing on H.R. 2228, Maritime Disaster Family Assistance Act of 2001. Testimony was heard from Representative Green of Wisconsin; Rear Adm. Harvey Johnson, USCG, Director, Operations Capability, U.S. Coast Guard, Department of Transportation; and public witnesses.

Joint Meetings

9/11 INTELLIGENCE INVESTIGATION

Joint Hearing: Senate Select Committee on Intelligence held joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001.

Senate Select Committee will meet again tomorrow.

COMMITTEE MEETINGS FOR THURSDAY, JUNE 13, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Interior, to hold hearings on proposed budget estimates for fiscal year 2003 for the Department of the Interior, 10 a.m., SD–124.

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation, to hold hearings on the Transportation Equity Act for the 21st Century, 10 a.m., SD–538.

Committee on Finance: business meeting to consider H.R.7, to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets; S. 2498, to amend the Internal Revenue Code of 1986 to require adequate disclosure of transactions which have a potential for tax avoidance or evasion; and S. 2119, to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, 10 a.m., SD–215.

Committee on Foreign Relations: to hold hearings on the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980 (Treaty Doc. 96–53), 10 a.m., SD–419.

Full Committee, business meeting to consider S. 2525, to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria, 2:15 p.m., S–116, Capitol.

Committee on Health, Education, Labor, and Pensions: to hold hearings to examine the implementation of Reading First and other reading programs and strategies, 10 a.m., SD–430.

Select Committee on Intelligence: closed business meeting to consider the events surrounding September 11, 2001, 2:30 p.m., SH–219.

Committee on the Judiciary: business meeting to consider pending calendar business, 10 a.m., SD–226.

Full Committee, to hold hearings on the nomination of John M. Rogers, of Kentucky, to be United States Circuit Judge for the Sixth Circuit; the nomination of David S. Cercone, to be United States District Judge for the Western District of Pennsylvania; the nomination of Morrison C. England, Jr., to be United States District Judge for the Eastern District of California; the nomination of Kenneth A. Marra, to be United States District Judge for the Southern District of Florida; and the nomination of Lawrence A. Greenfeld, of Maryland, to be Director of the Bureau of Justice Statistics, Department of Justice, 2 p.m., SD–226.

House

Committee on Agriculture, Subcommittee on Department Operations, Oversight, Nutrition and Forestry, hearing on National Fire Plan and Outlook for 2002 Wildfire Season, 2 p.m., 1300 Longworth.

Committee on Armed Services, Special Oversight Panel on the Merchant Marine, hearing on vessel operations under ''flags of convenience'' and their implications on national security, 10 a.m., 2212 Rayburn.

Committee on Energy and Commerce, to consider the following bills: H.R. 4888, Mammography Quality Standards Reauthorization Act of 2002; H.R. 1784, Women's Health Office Act of 2001; and H.R. 3609, Pipeline Infrastructure Protection to Enhance Security and Safety Act, 9:35 a.m., 2123 Rayburn.

Subcommittee on Oversight and Investigations, hearing entitled ''An Inquiry into the ImClone Cancer-Drug Story,'' 9:30 a.m., 2123 Rayburn.

Committee on Government Reform, Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, hearing on ''Medicaid Claims: Who's Watching the Money?'' 10 a.m., 2154 Rayburn.

Committee on International Relations, hearing on the Developing Food Security Crisis in Southern Africa, 11 a.m., 2172 Rayburn.

Subcommittee on Africa, hearing on Angola: Prospects for Durable Peace and Economic Reconstruction, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, to mark up H.R. 4598, Homeland Security Information Sharing Act, to continue markup of H.R. 3215, Combatting Illegal Gambling Reform and Modernization Act; and to mark up the following bills: H.R. 1452, Family Reunification Act of 2001; H.R. 4623, Child Obscenity and Pornography Prevention Act of 2002; H.R. 4477, Sex Tourism Prohibition Improvement Act of 2002; and H.R. 4679, Lifetime Consequences for Sex Offenders Act of 2002, 10 a.m., 2141 Rayburn.

Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing on ''The CART (Copyright Arbitration Royalty Panel) Structure and Process,'' 2:30 p.m., 2141 Rayburn.

Subcommittee on Crime, Terrorism, and Homeland Security, to mark up H.R. 4864, Anti-Terrorism Explosives Act of 2002, 9:55 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, hearing on H.R. 4781, to reauthorize the Marine Mammal Protection Act of 1972, 2 p.m., 1334 Longworth.

Subcommittee on National Parks, Recreation and Public Lands, hearing on the following bills: H.R. 2534, Lower Los Angeles River and San Gabriel River Watershed Study Act of 2001; H.R. 4530, Blue Ridge Heritage and Cultural Partnership Area Study Act of 2002; and H.R. 4822, Upper Missouri River Breaks Boundary Clarification Act, 10 a.m., 1334 Longworth.

Committee on Small Business, Subcommittee on Regulatory Reform and Oversight, hearing on the TRI Lead Rule: Costs, Compliance and Science, 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings and Emergency Management, hearing on the John F. Kennedy Center for the Performing Arts Access Study and Plaza Authorization, 10 a.m., 2253 Rayburn.

Subcommittee on Water Resources and Environment, hearing on Water Quality Trading—An Innovative Approach to Achieving Water Quality Goals on a Watershed Basis, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Health, hearing on the health care of Filipino World War II veterans within the Department of Veterans Affairs, 3 p.m., 334 Cannon.

Committee on Ways and Means, Subcommittee on Select Revenue Measures, to continue hearings on the Extraterritorial Income (ETI) Regime, 10 a.m., 1100 Longworth.

Next Meeting of the SENATE

9 a.m., Thursday, June 13

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond 10 a.m.), Senate will consider S. 2600, Terrorism Risk Insurance Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, June 13

House Chamber

Program for Thursday: Consideration of H.R. 4019, Permanent Marriage Penalty Relief Act of 2002 (modified closed rule, one hour of general debate).

Extensions of Remarks, as inserted in this issue

HOUSE

Barr, Bob, Ga., E513, E516
Berkley, Shelley, Nev., E522
Capito, Shelley Moore, W.Va., E509
Crowley, Joseph, N.Y., E512
Davis, Tom, Va., E507
DeLauro, Rosa L., Conn., E519
Dicks, Norman D., Wash., E520
Dingell, John D., Mich., E518
Dooley, Calvin M., Calif., E513
English, Phil, Pa., E510
Hastings, Alcee L., Fla., E508
Horn, Stephen, Calif., E511
Isakson, Johnny, Ga., E512
Issa, Darrell E., Calif., E521
Kucinich, Dennis J., Ohio, E521
McCollum, Betty, Minn., E519
McGovern, James P., Mass., E522
McInnis, Scott, Colo., E522, E523
Maloney, Carolyn B., N.Y., E523
Manzullo, Donald A., Ill., E515, E517
Morella, Constance A., Md., E507
Norton, Eleanor Holmes, D.C., E508
Pallone, Frank, Jr., N.J., E508
Paul, Ron, Tex., E512
Payne, Donald M., N.J., E513, E515, E518
Portman, Rob, Ohio, E521
Roemer, Tim, Ind., E520
Roukema, Marge, N.J., E509
Saxton, Jim, N.J., E511
Schakowsky, Janice D., Ill., E514, E517
Shaw, E. Clay, Jr., Fla., E515, E518
Shuster, Bill, Pa., E518
Skelton, Ike, Mo., E519
Slaughter, Louise McIntosh, N.Y., E514
Smith, Christopher H., N.J., E510
Stark, Fortney Pete, Calif., E509
Thompson, Bennie G., Miss., E509
Udall, Mark, Colo., E514, E516
Visclosky, Peter J., Ind., E518
Walsh, James T., N.Y., E507
Wilson, Heather, N.M., E507

Congressional Record The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed at one time. ¶Public access to the Congressional Record is available online through *GPO Access,* a service of the Government Printing Office, free of charge to the user. The online database is updated each day the Congressional Record is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through GPO Access at www.gpo.gov/gpoaccess. Customers can also access this information with WAIS client software, via telnet at swais.access.gpo.gov, or dial-in using communications software and a modem at (202) 512–1661. Questions or comments regarding this database or GPO Access can be directed to the GPO Access User Support Team at: E-Mail: gpoaccess@gpo.gov; Phone 1–888–293–6498 (toll-free), 202–512–1530 (D.C. area); Fax: 202–512–1262. The Team's hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m., Eastern Standard Time, except Federal holidays. ¶The Congressional Record paper and 24x microfiche will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $211.00 for six months, $422.00 per year, or purchased for $5.00 per issue, payable in advance; microfiche edition, $141.00 per year, or purchased for $1.50 per issue payable in advance. The semimonthly Congressional Record Index may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: bookstore.gpo.gov. Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or phone orders to (866) 512–1800 (toll free), (202) 512–1800 (D.C. Area), or fax to (202) 512–2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. ¶Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the Congressional Record.