

the average investor would not want to invest in. Investors want their companies to be run by people who know more about finance than they do, just as they want our homes built by people who know more about construction than they do. Sure, it is good to know the broad outlines about how a house is built. But we expect construction workers to use their specialized knowledge, knowledge that is difficult to convey to a layperson.

The same holds true in the world of corporate management. Even after these accounting reforms are up and running, accounting is still going to sound like a foreign language to most people, and plenty of run-of-the-mill business decisions are going to sound complex to outsiders. Critics will accuse anything with a footnote of being a loophole, just another example of "crony capitalism." They will put pressure on America's businesses to simplify their businesses so that it can be "transparent" to outsiders. But we cannot give in to the urge to insist that corporate finance be intelligible to high-school students, and we cannot allow pressure groups to dictate how to organize a business.

We have seen unjustified awards destroy the careers of many good doctors who can no longer get malpractice insurance just because juries end up being swayed by emotion and genuine human suffering rather than by the difficult medical issues at hand. We cannot let the same thing happen to corporate America.

Finally, I want to address an overarching question: Do we really live in a world where a couple of crafty and unscrupulous executives can destroy an entire Fortune 500 company? Is our market economy really a house of cards that needs the ever-present support of the Federal Government to keep from falling down? I do not believe the evidence supports these pessimistic conclusions. The companies that have been in the news made bad business decisions generated by what Chairman Greenspan called "infectious greed," which they covered up with accounting chicanery. It was the bad business decisions that were the root cause here, made far worse by the fact that the mistakes were successfully covered up for so long.

By tightening the auditor's scrutiny of business decisions, we expect that in the future, bad decisions will be uncovered sooner, before too much damage is done to the company and to its stock price. But business decisions will continue to be made, both good and bad, and companies will continue to rise and fall as customers and shareholders vote with their dollars. That, as Secretary O'Neill noted, is the "genius of the market."

And that brings me to my final point. If auditors uncover a serious problem with a company's books, who will fix it? Surely, in most cases, the board of directors will act aggressively to sack the problem executives and install a

new team that will work hard to put things right. Especially with the incentive of stock options and stock ownership, the new management team, facing auditor scrutiny, will have strong reasons to do the best they can to boost shareholder value. The punishments dealt by the stock market are already giving corporations a strong incentive to reform, as stockholders press for clarity and boards of directors interrogate their CEOs and demand answers.

But what about those occasional situations where the directors are either incompetent or out of touch? In practice, it is very difficult for shareholders to replace directors on their own. There are sometimes millions of individual shareholders, each of whom has little incentive to put in the time and effort of replacing their directors. It is almost always easier to sell the badly-performing stock than it is to replace incompetent directors. At this point, our last best hope is that much-maligned character from the 1980s, the hostile takeover artist.

The Sarbanes bill uses the phrase "protection of investors" over 20 times. But who protects investors better than someone who invests a large sum of cash into a failing company, kicks out the old, ineffective, perhaps even corrupt management, and installs new leaders dedicated to maximizing long-run shareholder value? But while we have seen numerous large mergers over the last decade, why have we not seen as many genuinely hostile takeovers? The answer, of course, is legislation. In this case, it was not federal law but state laws that stemmed the tide of hostile takeovers, as laws made it easier for sloppy management to fend off takeover advances. So even if improved audits uncover corporate incompetence or worse, shareholders could still be left with bad managers and worthless investments.

The accounting reform legislation on which we have worked will break new ground in the realm of investor protection. It will increase transparency and punish wrongdoers. But that is only half the battle against corporate mismanagement. The second half of the battle comes when directors and shareholders take action to purge the ineffective executives and restore the profitability of their investments. In time, I hope Congress takes action to assist them. The combined calls by the President and the Senate for directors with greater independence is a strong step in that direction.

In closing, I want to draw attention again to the true foundation of our nation's prosperity—our nation's workers, the most productive in the world. Whether they work in a factory, behind a desk, or on a farm, the American worker can produce more in an hour than any other worker in the world. That is because they have access to better tools, better knowledge, better education, and in particular, better organizations. From old-economy stal-

warts such as Ford to new-economy innovators like Intel to our ever-modernizing agribusiness sector, our economy's large organizations help to coordinate the activities and innovations of countless numbers of people so that we can accomplish more with our scarce time. The quality of American automobiles, the speed of American-designed microprocessors, and the produce of America's farms keep increasing each and every year. I am confident that our accounting reforms, if enforced prudently, will help to strengthen the American corporation's ability to innovate. And by doing so, all Americans will reap the rewards.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 812, which the clerk will report.

The bill clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Hagel Amendment No. 4315 (to amendment No. 4299, as amended), to provide Medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs.

AMENDMENT NO. 4315

The PRESIDING OFFICER (Ms. LANDRIEU). Under the previous order, there will now be 120 minutes for debate on the Hagel amendment No. 4315, with 60 minutes each under the control of the Senator from Nebraska, Mr. HAGEL, or his designee, and the Senator from Massachusetts, Mr. KENNEDY, or his designee.

Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I will yield myself such time as I might use.

Madam President, yesterday we had a very important debate, and we also had the Members of the Senate voting on two important measures for the prescription drug program. I am a strong supporter of the proposal that was offered by the Senator from Florida, Mr. GRAHAM, and Senator MILLER from Georgia. That amendment achieved 52 votes in the Senate. A majority of the Members voted in favor of a program based upon the Medicare system, a program that closes the great loophole that is part of our Medicare system, which so many of our seniors are faced with every single day.

We had a good debate on that measure. And we had a good debate on the Republican alternative, which I believe, as I expressed during the course of the debate, falls well short of meeting the needs of our seniors. The alternative plan is inadequate, full of loopholes, and fails to address the overarching issue of prescription drugs for our seniors. But, nonetheless, we had a good debate.

There are those who supported that program. Obviously, their interpretation differed with my interpretation of the program, and they believed—and continue to believe strongly—that their program was the best way to achieve the objective of universal coverage of seniors in this country. We did not have a difference in terms of the underlying concept, we had a difference in terms of approach. I believed—and still believe—we would be unable to guarantee protections for our elderly under the Republican proposal. But that was the matter of the debate. The Senate spoke. And it spoke more favorably of the proposal offered by Senator GRAHAM than the Republican proposal.

Now we have an entirely different proposal before the Senate. I, quite frankly, believe—even though I was highly skeptical of what they call the tripartisan proposal—that this does not even measure up to the tripartisan proposal.

What we are attempting to do in the Senate is to pass a program that will reach all of our seniors, and do it in a way that is going to be affordable for our seniors. That is one of the great features of the underlying proposal, which we all support on this side of the aisle. And it does include measures that have been accepted both in our HELP Committee, as well as on the floor of the Senate that deal with the issue of the cost of prescription drugs.

We want to make prescription drugs affordable, we want to make them accessible, and we want to build on a system in which the seniors have confidence. That is why, quite frankly, we find that virtually all the seniors groups have supported the proposal of Senator GRAHAM and Senator MILLER. They all support that proposal. Virtually none of them support the tripartisan program. And virtually none of them support this particular proposal.

It seems to me, as we stated yesterday, our seniors—who have fought in the wars, brought us out of the Depression, and built this Nation up to be the great country that it is—are entitled to more than crumbs in terms of the prescription drug program.

They are living longer, thankfully, and families are blessed by the presence of their parents and grandparents. These days, a number of generations—three or four generations—can be alive at the same time. That is all very good.

I cannot understand, for the life of me, why the Senate would be willing to accept the amendment which is being offered now, which is so inadequate

that it does not even deserve to be called prescription drug coverage under Medicare. It is a step backwards, not forwards, in mending the broken promise of Medicare and providing senior citizens the health security they deserve.

It provides no real cost containment for the explosive growth of prescription drugs. That is a major problem. We have had good debate on those measures, but this proposal has no cost containment. Its funding is so inadequate that it would pay about a dime on the dollar toward prescription drug costs of the elderly—a dime on the dollar. One of the things we want to avoid in the Senate is telling our seniors that we are doing something meaningful for them in terms of prescription drugs and then failing to meet that test. When you are down to a dime on the dollar for prescription drugs, I believe this amendment fails to live up to a prescription drug coverage for the elderly.

It is a catastrophic-cost-only plan. We tried that once, and the elderly, themselves, rejected it. I was here in the Senate when we tried the catastrophic program for the elderly, and they, themselves, rejected it. We can come back to that discussion later on if we want to.

Under this amendment, a poor senior citizen with an income of less than \$9,000 a year would have to pay \$1,500—17 percent of their income—before they got any help.

A low-income senior with an income of only \$18,000 a year would have to pay \$3,500—20 percent of their meager income—before they got any help.

A moderate-income senior citizen with an income of \$35,000 would have to pay \$5,500—16 percent of their income—before they got any help.

This isn't insurance, and this isn't Medicare. If it were to become law, senior citizens would still be choosing between whether they are going to put food on the table or take the medicines they need to survive. If it were to become law, senior citizens would still face the prospect of having their lifetime savings swept away by the high cost of prescription drugs. If it were to become law, the broken promise of Medicare would remain broken.

Beyond the simple fact that this benefit is inadequate, it violates a basic principle of Medicare, by effectively imposing a means test. Medicare is one of the most beloved and successful programs ever created. The reason it has such broad public support is that it is universal social insurance. Everyone contributes, and everyone benefits.

Republicans have wanted to turn Medicare into a welfare program ever since it was created. This plan is, I believe, just another step in that direction. The American people rejected that approach in 1965, and I think they still reject it today.

This bill is more inadequate than the House Republican bill. It is more inadequate than either of the two bills just

voted on by the Senate. It is not supported by a single organization of the elderly or the disabled. And it does not deserve the support of the Senate.

If we are going to take steps to try to respond to the needs of the elderly, it seems to me we ought to be able to gain the support of those groups. We have to ask ourselves, each time we consider legislation, who benefits? Obviously, we also have to ask, who pays? The taxpayer. Who benefits from this program, and how do they react to this program? The elderly, and they are not in support of the program.

The fight for a real Medicare prescription drug benefit did not end yesterday. We will continue to fight until senior citizens have the protections they deserve.

A vote for this bill is a vote to substitute a political fig leaf, a very small fig leaf, for the real protection the elderly need.

I withhold the remainder of my time. The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Madam President, I yield 5 minutes to my colleague from Tennessee.

Mr. FRIST. Madam President, I rise in support of the Hagel-Ensign bill because it really strikes right at the heart of what seniors expect from our Government as they look at their health care and as they look to their future.

When I talk to seniors as I travel around the great State of Tennessee and the country, they tell me a very simple and straightforward message regarding prescription drugs: Please, when you go back to Washington, enact a prescription drug benefit and do it now. Do not do it 3 or 4 years from now—implementing the program in 7 or 8 years. What I want is something now; do it now.

The beautiful thing about the Hagel-Ensign bill—and I congratulate the authors and sponsors and cosponsors—is that it is the only bill that has come to the floor of the Senate that enacts a prescription drug benefit now. Our seniors deserve an affordable, immediate prescription drug coverage. That is No. 1: Do it now. This is the only bill we have considered that accomplishes that.

No. 2: do it responsibly. That is where the debate has changed a lot compared to 2 years ago or 4 years ago or even prior to the last election a year and a half ago. Our seniors today, individuals with disabilities and the future generation of seniors say: Do it now, but do it responsibly. Responsibly means to have a bill on the table that can be sustained over time, which does not sunset or have a narrow window of applicability. Do it now; do it responsibly.

Yesterday, we talked about bills on the floor that cost \$800 billion or, over a full 10-year period, \$1 trillion, and that did not pass. Additionally, we debated a bill that cost about \$370 billion. That bill did not have sufficient votes for the point of order. Today, we are

talking about a bill that costs less than \$200 billion—well within what we have budgeted.

Even more importantly than cost, is that this particular bill captures the power of what is called competition or the marketplace. What that means is what we pass today in terms of benefits, in terms of the prescription drug card, and in terms of the catastrophic coverage will be able to be sustained over time. When you capture the element of competition in the delivery, what you say is that there will be prudent tradeoffs, and decisions made regarding—whether it is inpatient hospital care, acute care, chronic care, preventive care, or prescription drugs.

When I say “tradeoffs,” I don’t mean lessening of the benefits. I mean bringing people to the table so rational decisionmaking can take place, given that the benefits that are promised need to be matched with the resources that are available.

The Hagel-Ensign bill is immediate, affordable, and permanent. It is not promised just for a period of time. Finally, it is market based—capturing the power of competition so that it can continue to deliver the benefits over time.

For that reason, I am excited about this bill. I urge my colleagues to support this bill. We will have the opportunity to debate and discuss the details over the next 2 hours. In short, it is a prescription drug card where every senior who participates can get a discount instead of paying retail for drugs. Additionally, there is a cap as to how much they will have to pay out of pocket. This cap provides seniors with security and peace of mind that in the event they are struck by a lymphoma, heart or lung disease and have to buy prescription drugs that they will only have to pay a certain amount. For those reasons, I urge support for this immediate, affordable, permanent, and market-based plan.

The PRESIDING OFFICER. The Senator has used 5 minutes. Who seeks recognition? Who yields time?

Mr. HAGEL. Madam President, I yield my colleague from Nevada 5 minutes.

Mr. ENSIGN. Madam President, I want to talk about a couple of philosophies that deal with this bill. We currently have a health care system that has evolved over time where we have low deductible policies and we have usually a small copay involved. That low deductible coverage over time has taken the patient out of the accountability loop.

Somebody goes into the office. They have an annual deductible. They don’t pay attention. They go in and they start getting their health care coverage. The doctor tells them whatever they should do. The doctor is trying to rush people through. They don’t think the patient is paying for the care. So they don’t take the time to explain why certain tests cost money. They know somebody else is paying for it.

They don’t think about the patient’s cost because it isn’t the patient. It is an insurance company that is paying the cost.

By taking that patient out of the accountability loop, costs have skyrocketed in the United States. That is the fundamental flaw to the insurance system we have in our health care delivery system today. It would be akin to having homeowners insurance that paid for doing the landscaping around your house or painting the trim. We don’t expect that. We expect those normal maintenance costs to be paid out of pocket.

But if something like a fire happens to your house or some kind of other horrible thing happens—for example, I recently had a hose break in our washing machine. We ended up with probably about \$30,000 worth of damage. Unfortunately, we had gone on vacation when the hose in the washing machine broke. We came home. There was all kinds of damage. We had to have floors replaced, walls; it was about \$30,000 worth of damage. Our insurance kicked in. But I didn’t expect my homeowners insurance to pay for repainting the trim on my house or landscaping or things like that.

That is normal expenses in everyday life. That is why homeowners insurance has remained relatively inexpensive over the years. Health care insurance has not, because the patient doesn’t think about the cost.

Our plan says: Let’s keep the patient accountable. Let’s keep the senior citizen accountable. Senior citizens don’t want to put a huge burden onto young people. Yes, they would like prescription drug coverage.

The Senator from Massachusetts mentioned that seniors don’t want to lose what they have saved for all the years. They want to make sure they have some security in their assets.

We have said: Let’s keep the patient in the accountability loop. Low-income seniors in our bill will pay the first \$1,500 or about \$120 a month out of pocket. They are going to pay that. Seniors can afford to pay that. They are willing to do that. After that, the Government is going to pay—other than a small copay—is going to pay so that the senior who has diabetes, a heart condition, cancer, that senior is going to be covered under our plan and is going to keep from losing all of their valuable assets.

So because the first dollar coverage is paid by the senior instead of the Government, our plan is much more fiscally responsible to the next generation. That is why, when Senator FRIST talked about it being a sustainable plan, our plan, in the future, will be sustainable because the patients—the senior citizens themselves—will shop for medicine; they will not just take whatever the doctor says. They will ask: what about generics? Is there a generic for that? They will do that because they are paying the first dollars out of their pockets. They will also

ask: Do I need that medication? I am taking four medications. Do I need all four? Maybe the doctor would say: I forgot about the other medication you were taking.

So this brings the patient back into being accountable for their own health care. That is critically important to our health care system and especially to this new prescription drug coverage that we want to add to Medicare.

Madam President, I urge my colleagues to look at this very reasonable proposal. It is something that can be done, and can be done now, and it can be made permanent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I think we ought to have at least some understanding about what the challenge is. We make decisions in the Senate, and this is basically a question of priorities. The issue that is before us, in the broader context, is whether we believe it’s a priority to do something to keep the costs down in terms of prescription drugs for our senior citizens, our fellow citizens.

Now, our good friends on the other side say: Look, we want to do something, but we are not going to do very much. It is better than doing nothing at all.

I would like to believe we are capable of doing something more for those Americans who have been called the greatest generation. Rather than giving them crumbs, it seems to me we ought to give them a decent benefit package that is built upon the Medicare system. That is what is supported by all of the elderly groups.

The question is, do we have the will? Or are we going to just trim something off the edges and give them a little something? If you are making \$8,000 or \$9,000, you are going to have to spend \$1,500 before you ever get anything at all.

It seems to me this is a question of priorities here in the Senate for the greatest generation, for our senior citizens: Are we prepared to make a commitment that will ensure them a benefit package that is equal to the request by this President for tax cuts this year—\$600 billion? I don’t hear any proposals from the other side saying, let’s defer that \$600 billion tax cut and put it in here for prescription drugs. Let us not try to shortchange our senior citizens.

There are two issues which are underlying all of this. One is the issue of cost, which is clearly demonstrated by this chart. The yellow represents the consumer price index, the gradual increase in inflation, and the blue represents the drug costs that are going up every year. There is nothing in the Hagel proposal that does anything to get a handle on these costs. Those costs are going to continue to go up. There is no proposal in there that does anything about cost. But there is another very important proposal that we

have before the Senate—and we welcome the support of our Republican colleagues—that can make a difference in terms of cost.

Our Democratic program deals with the issues of cost and also with the issues of coverage. Cost is going up. Our seniors need help. Let's just look at what we are facing globally in the United States in terms of prescription drugs and our seniors and where they are.

We have 13 million who have virtually no coverage at all; 10 million have coverage in employer-sponsored programs—we will come back to that—13 million have none, and 10 million are in employer sponsored programs; 5 million are in the Medicare HMO; 2 million are in Medigap; 3 million are in Medicaid, and another million have other kinds of public coverage. The only seniors who are protected in this whole group are the ones with Medicaid. They are the ones who are guaranteed. The rest of them are not, and we will see very quickly why they are not protected.

Remember now, 13 million have none and 10 million are employer sponsored, 5 million in HMOs, and 2 million in Medigap. Let's take the employer-sponsored group. Look at what happened in the employer-sponsored programs. This chart shows what has been happening in the employer-sponsored programs. Firms offering retiree health coverage dropped 40 percent between 1994 and 2001. That line is going down through the cellar of the Senate. Those 10 million who were covered by employer-sponsored plans are going right on down. They are being dropped every single day. Make no mistake about it.

Under the Republican proposal that was before the Senate yesterday, this decrease would have been accelerated for 3 million seniors in that program because the employers would not receive any of the assistance they need to retain them.

So the 10 million who have the employer sponsored are going down. We have the 13 million who have none and 10 million who are employer sponsored. They are increasingly at risk every single day.

Well, you say, we still have 4 million who have HMO coverage. Look at the bottom line here. Look at the Medicare HMOs, reducing the level of drug coverage. This is going down every single year—70 percent of the HMOs limit their drug coverage to \$750. So even if you have some coverage up to \$750, you are paying higher and higher costs. That wasn't the case 5 or 7 years ago, but it is the case now. Fifty percent of the Medicare HMOs with drug coverage only pay for generic drugs. So this is what is happening now. The HMOs the 4 million people who have some kind of coverage are being restricted, they are being limited, they are being conditioned every single day.

Increasing numbers of our seniors are not being taken care of. This is what we are facing in our country. The an-

swer we had before the Senate yesterday was a comprehensive program built upon Medicare, which is affordable, which is dependable, which is reliable, which is defensible, and which the overwhelming majority of the elderly support. We have 52 votes for it. We would like to build on that. We are attempting to do so. Now, with the Republican program—as I pointed out, I didn't agree with it, I didn't support it. But at least those who did support it made the case that it was going to be able to provide universal coverage. They said, look, we can do it through the private sector, and if the private sector won't provide the coverage in remote areas, we are going to continue to fund them until at last they do.

I suppose at the end of the day you can find someone who will sell a prescription drug program in a remote area of Alaska if you pay them enough to do so. Our concern is that with the amount of money we are spending to pay the private sector, we ought to be using it in the benefit package, ought to be enhancing the benefit package, providing additional kinds of relief for our senior citizens.

Now along comes a proposal that is opposed by the AARP. Here is a letter that was circulated yesterday. It says:

Given these concerns, the AARP opposes your amendment.

The reason the seniors oppose it is they don't really believe that this will be any substantial or significant help, or even a little help, to the seniors in this country. They believe what we ought to do is build upon the Medicare system, a system that has been tried and tested, and has performed over the test of time. As the leading organization of the elderly finds, this proposal is completely inadequate. At least we ought to live up to our hopes and our dreams for our seniors, and that is to cover all of them.

We ought to cover all of them. What happens to those seniors who are making \$7,000 or \$8,000, \$9,000? They have to pay out \$1,500. Think of this: An elderly person who has worked all of his or her life and has \$9,000 in income. Now they have to pay out all of this money. They have to pay out \$1,500 before they get any assistance at all. On what are they going to live? Think of the difficult choices and decisions they have to make to come up with that \$1,500. Then they will have to pay a copay after that.

A low-income person with only \$18,000 in income will have to pay \$3,500, 20 percent of their meager income before they get any help. This is well above what any average senior citizen is paying at this time. The average citizen is paying somewhere around \$2,000. A person with an income of \$18,000 will have to pay \$3,500. They are making \$18,000 a year and we are calling that moderate income.

How do people get along with \$18,000 a year to pay for a mortgage, pay for the heating of their home, pay for their food, pay perhaps for a summer camp

for their children or grandchildren? How do people get along on that \$18,000? The fact is, people are hard-pressed, and I think for us in this body to accept the concept that we have done something for our seniors with this is a complete misstatement. I just do not see how we can support this proposal.

Nothing in this proposal deals with the cost of prescription drugs—this limited program is unworthy of what we in this body ought to be about. 52 Members of the Senate on our side, and 48 Members on the Republican side voted for a universal plan. Now, we are back in less than 24 hours talking about a catastrophic program that will only reach a small number of people and will put people through the wringer to do so. I think this institution, this body, can do better.

I strongly believe that seniors, who are faced with this national challenge and who are suffering and experiencing these extraordinary choices every single day deserves a great deal better. That is why I hope eventually that this amendment will not be accepted.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. Madam President, I am the designee of the Senator from Nebraska. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, I wish to address some of the concerns of the Senator from Massachusetts. First, there are many States, at the income levels he is talking about—\$9,000, \$10,000, \$11,000, and even in my State of Nevada up to the \$22,500 a year level—that are already providing some help for senior citizens.

The Republican Governor of my State was very visionary and put together something called the Senior Rx Program using part of the money from the tobacco settlement. For people with an income of \$21,500 or less—they are non-Medicaid-eligible people—as long as they have been a resident of Nevada for at least 12 months, they can have a maximum benefit of \$5,000 a year. They have no premium. They pay \$10 for generic drugs and a \$25 copay for preferred drugs.

In the State of Nevada, that person Senator KENNEDY was talking about who makes \$9,000 a year is taken care of. In fact, that person does very well. That person does better than under the Democrat proposal—much better.

Also, if you go out and talk to seniors—I have been in a couple of very time-consuming and all-encompassing campaigns 2 out of the last 4 years—I talked to seniors all over our State, and if you say to them they are going to be limited to about \$100, \$120 a month of out-of-pocket expenses for those low-to moderate-income people, they are ecstatic; they will jump at that. They will say: Sign me up, as long as they are limited from losing everything or from being bankrupted

based on prescription drugs or not being able to pay their rent.

I say to the Senator from Massachusetts that maybe he ought to encourage the people in his State to take a look at what the people in the State of Nevada have done for their seniors, because the seniors in Nevada who truly need help, under this plan, are taken care of.

Those who are higher income seniors—by the way, most seniors have their mortgages paid for. Most of them have their cars paid for, compared to young people. That is what a lot of this argument is about. Tell someone who is making \$30,000 a year and has a couple of kids that in the future they are going to have to pay a lot higher taxes; they are already paying high taxes now, but in the future they are going to pay higher taxes because of what we are setting up today, especially if the plan the Senator from Massachusetts supports became law. If the plan the Senator from Massachusetts supports became law, taxes in the future are guaranteed to go up, otherwise our Medicare system will be bankrupt.

Part of that is because of what I already talked about. When you take the patient out of any kind of accountability for what they are receiving, costs are going to skyrocket. We have seen that in our health care system today. A lot of the issues about which the Senator from Massachusetts was talking and the charts he was showing with drugs going out of sight is because people are not accountable for what they are getting. Insurance is taking care of it.

Let us look at what we have before us today. Let us do something for those seniors, and I want to give a couple of examples. I want to show you real-life examples of senior citizens with real-life diseases who are paying real dollars out of their pockets for prescription drugs.

The first example I want to use is a guy named James. He is about 68 years old with an income of about \$16,000 a year. He is taking these following medications: Glucophage, Glyburide, Neurontin, Protonix, Lescol, and Zoloff, for a total cost of close to \$500 a month, \$5,700 a year.

Under the three major competing proposals, that person with \$16,000 in income, under the plan the Senator from Massachusetts supports, would pay \$2,900 a year out of pocket. Under the tripartisan plan, \$2,340, and under the Hagel-Ensign plan, \$1,923 a year. That is what this person would pay. So this person who is really sick who needs the help the most is actually going to get the benefit they need, but yet will still have some accountability, and that is the balance in the plan that we have done.

We feel this kind of an example is the reason that people should support our plan.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, to correct my colleague and friend, he mentioned \$8,000 or \$9,000. That falls within 135 percent of poverty. So under our program, they would not be paying any out-of-pocket expenditures.

Mr. ENSIGN. If the Senator will yield.

Mr. KENNEDY. Beyond this, he mentioned his own program in his own State as support. We are representing all the people of all the States. Quite frankly, I do not intend to get into a debate about his program in Nevada, although there are people who have talked about that program. Some of our colleagues who are former insurance commissioners have talked about the history of that particular program.

I do not happen to get into that program. Let me point out my program in the State of Massachusetts. The annual out-of-pocket spending limits for deductibles and copays are \$2,000, or 10 percent of income, whichever is less, and everyone over 65 is eligible for it.

This program is better than the Hagel-Ensign program. No one would benefit from that program in Massachusetts. I do not know which States or individuals would benefit and which would not benefit.

We are concerned about all of our seniors. That is what we are trying to address. Even if one State does a little better and one State does worse, we are looking at the challenge which all of our seniors face. I must say that I think I could go to places in Nevada or places in Massachusetts or any State, to find hard working, decent people, who play by the rules and were guaranteed, through Medicare, that their health care would be secure. That is what we said in 1965. No ifs, ands, or buts; it will be guaranteed. But it is not guaranteed, and the principal reason it is not guaranteed is because we do not have prescription drug coverage. That is the reason. We want to try to deal with that.

Thinking you are giving health security to people who have incomes of \$9,000 who are going to still have to pay out the \$1,500—and people with incomes of \$18,000 who will have to pay \$3,500—does not measure up. I know the Senator and I differ on that, but it just does not seem to measure up.

We are not talking about a comparison of particular States. We should be trying to look at this generation and what happens to people who move from State to State.

Speaking about the overutilization of health care, the people who overutilize it are the wealthy individuals. Most people who are working 40 hours a week and taking care of their children do not have time to sit in a doctor's office or the resources to pay a copay. I can give study after study that reflects that.

The greatest overutilization of health care and prescription drugs is by wealthy individuals who can take all the time in a day to go to the doctor's office and who have unlimited re-

sources to pay for the prescription drugs.

Five dollars still makes a big difference to people in my State down in New Bedford, Fall River, and Holyoke. They have seen their water bills go up because of the pollution that has been done over a period of years, and this administration has backed out of making the polluters pay and is now shifting that onto the backs of those water users and water rate payers.

They are seeing their fixed incomes dwindling gradually as they pay out and try to deal with those issues. They see the prescription drug costs going up and the Senator is not doing anything. The Senator is not talking about it. The Senator has not even talked about the escalation of costs. What is he going to do about that?

When are we going to see from the other side an amendment that is going to bring prices down? Where is it? We are waiting for it. We have been on this bill for 5 days. We have not had a single amendment from that side to do something about the costs of prescription drugs—not one. We have not had any. We have had complaints and criticisms of efforts that have been made on this side of the aisle to do something about those prescription drugs. Now we are being asked to sign onto a program that will be presented to the people in my State, or the people that could not afford it, to show that we have done something for them. But this program is not as good as the one in my own State. We ought to be dealing with this program for all Americans. That is what a majority of the Senate voted on yesterday, and almost a majority voted for the Republican program. Not trying to take the small numbers of individuals who are paying every single year was universal across the board.

I would ask the Senator, this is not a lifetime expenditure, is it? They are going to have to pay \$1,500 this year, \$1,500 next year, \$1,500 the year after—\$1,500, \$1,500, \$1,500 every single year, or \$3,500, \$3,500, \$3,500. Does anybody believe people on fixed incomes at those levels can afford that kind of expenditure? They cannot.

So I hope we keep our sights higher in terms of trying to meet the challenges and needs of our people.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Madam President, I ask that I be notified when I have spoken for 5 minutes.

The PRESIDING OFFICER. The Senator will be so notified.

Mr. HAGEL. Madam President, I want to cover some areas of concern and questions that have been addressed, appropriately so, regarding the amendment, but let me generally make a comment in response to my friend from Massachusetts.

One of the results the distinguished senior Senator from Massachusetts is not factoring in in our amendment is the discount that all Medicare beneficiaries would derive. The estimates of

those discounts, which are real, which, in fact, are in existence now, those discount card programs, are anywhere from 25 to 40 percent. That is one piece of this that has not been addressed, and it is important to factor that back in. That is but one part of our complete prescription drug program. Obviously, another part is the catastrophic cap.

I have been asked about pharmacies and how this legislation might affect pharmacies, because, as the Senator knows, we do not invent a new bureaucracy. I am sorry to have to say that again to some people who like big government, who think big is better, and the more money we throw at anything always makes everything better. That is aside from the debate about deficits in this country, which I hear an awful lot about in this body, about irresponsible spending.

We do have to ask a question about the affordability. That may be painful for some of my colleagues but, in fact, that is reality. This program is not just about addressing what we must address—and the senior Senator from Massachusetts is exactly right; we need to address this. For too long we have deferred it. It is not just about addressing the problem.

The other end of that is, who pays for the program? Who eventually is going to wind up paying the bill for the program? We have tried to develop a program that focuses on those who need it most.

I know most people would like to have a program where they pay nothing; let somebody pay for it all. Well, that is not a bad life, I suppose, but the reality is someone is going to pay for this. When we look at the huge numbers that we are dealing with in this country today on entitlement programs, everybody better stop for a moment and think through the consequences of what we are doing. There is a consequence to whatever action we take, and the consequence is going to be on the next generation and the next generation, as we add a new entitlement program to Medicare.

We need to do this, but it must be done in some way that is responsible and accountable for those who now have no say in it but we are saddling them with this burden. We cannot just merrily skip along and say, well, we have given you everything free, aren't we great, let's send out a press release out and hold a press conference: oh, Senator HAGEL, you are so good to us.

I have a 9-year-old and an 11-year-old. Many of my colleagues have children and grandchildren. They are the ones who will pay. When we look at the numbers—Senator GRAMM was on the floor yesterday, talking about those numbers—they are significant. With a \$2 trillion Federal budget today in this country, about two-thirds is consumed by entitlement programs. We cannot do anything about that. The growth path we are on, even if we do not add any new programs, is immense. I don't know how we are going to ask this next

generation and the generation after that to carry that burden. Something will happen. The choices are either that you cut benefits at some point or you continue to raise taxes on the workers, the young people, to pay for my drugs.

We have tried to accomplish some center of gravity, some responsible balance in addressing the problem. It is real. We need to address it but at the same time address the consequences. Who pays? That is the painful part of this process. Who pays? We don't like to talk about that.

When I talk about using a market system in place, not developing or building a new Government program, what do I mean? I mean using the market system in place. It is imperfect. Absolutely. But it is the market system in place today that has given America this remarkable lifestyle, quality of life, longevity. Imperfect and flawed? Absolutely. Are there people who do not benefit from some of this because they are at the bottom? Absolutely; that is what we are trying to deal with. But do not destroy the system that has produced this remarkable quality of life. Why would we throw out a market system that works pretty well?

We use the existing structure in place: Pharmacies, pharmacy benefit managers, insurance policies, systems, programs, administrators to administer the program at the direction of the Secretary of Health and Human Services. Pharmacies are a big part of this. They must be a big part of it. In this system, we have worked with the pharmacist. We preserve that beneficiary/pharmacy relationship. Seniors and other Medicare beneficiaries will continue to get most of their drugs at the pharmacy.

Any proposal that seriously disrupts that relationship would not work for Medicare beneficiaries. I point this out because beneficiaries' relationships with pharmacies will be strengthened. A system such as this could not work without bringing in the pharmacies. There will be a greater emphasis on discounts provided by pharmaceuticals and manufacturers than the pharmacy discounts. It is the pharmaceutical companies that provide the discounts. Those are negotiated by the private plans at the direction of the Secretary.

Pharmacies would be free to choose whether or not to participate. It would be voluntary. Right now, pharmacies are involved in many of these discount drug plans. They do well. It brings in traffic. They have consulting fees. They are a big part of the process. Our bill would make them more a part of a process.

Our legislation prohibits mail-order-only programs; therefore, it does not eliminate pharmacists. That is an option. Pharmacies could directly compete as administering entities. Pharmacies, as some pharmacies do today, could administer these programs. I make this point because there have

been questions raised about the role of pharmacies. I understand that. We have spent a lot of time listening to pharmacists from all over the country. I understand their concern. The way we have crafted this, it would enhance the pharmacists.

I yield the floor to my colleague from Nevada for 3 minutes.

Mr. ENSIGN. Madam President, I will address a couple of matters the Senator from Massachusetts talked about. First of all, the Senator said the plan in Massachusetts was more generous than this plan. It is a different plan in that it is a first-dollar coverage plan. I don't know if the numbers have been updated, but according to the report from the GAO, in Massachusetts, if you are 150 percent of poverty or below, you are covered up to a maximum out of pocket of \$1,250. That is according to this report.

The bottom line is the difference is Massachusetts covers the first dollars, but it caps the amount that Massachusetts will pay. Our plan caps the amount the seniors will pay. That is the difference. If they want to do first-dollar coverage in Massachusetts—and that is what we do in the State of Nevada—that is up to the State. What we want to do is say to the seniors, you will have the amount capped that you can actually pay out of your pocket so you don't end up going into poverty.

Why didn't the State of Massachusetts make a more generous benefit? They only did it up to 150 percent of poverty. Why? Are people making more than \$12,000 a year rich? Can they afford some of the outrageous drug costs? Of course they cannot. The reason they did that is because that is all the State of Massachusetts believed they could afford at the time.

Do what you can with the money you have. The Federal Government is not unlimited in its resources. We have to be fiscally responsible to the next generation.

Yesterday the amendment that the Senator from Massachusetts supported was outlandish. It would bankrupt this country and bankrupt Medicare. I believe it was irresponsible in the long run to the next generation. This bill we present today is responsible, but it provides the coverage seniors really need. When you combine it with the help the States are giving, those low-income seniors, those sad stories we have heard, those people are truly going to be helped.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. Thirty-two minutes.

Mr. KENNEDY. Madam President, first of all, I ask my good friend from Nevada to get current with regard to the Massachusetts plan. I will try and get current with regard to his if he gets current with regard to ours.

Massachusetts residences not on Medicaid, 65 or older, are eligible.

Every one is eligible. The annual out-of-pocket spending for deductible and copay is limited to \$2,000 or 10 percent, whichever is less for individuals.

It is a good deal different from what the Senator described.

I am not here to offer this as an amendment. Some States do a little better than other States. Massachusetts is clearly a good deal better than what we are being offered with the amendment of Senator HAGEL and Senator ENSIGN. Senator HAGEL has pointed out the real problem is the issue of cost. Now we have cut to the bone. There are a lot of costly programs. Medicare is costly. Yet this country made the decision that for our elderly, who was going to try to offset the cost for frail elderly men and women who worked hard all during their lives? Would it be the individuals who will have an average income of \$13,000, and two-thirds below \$25,000, or are we going to recognize that as a nation we are going to provide help and assistance?

We made the judgment and decision that we would do that as a country. We did the same on Social Security. Many believe we ought to do it on prescription drugs. My good friends do not believe so.

What are we asking? There was a comment that some of the elderly are asking for something for nothing. Who are these people? They are parents, people who took care of everyone in this room. Asking for nothing? These are the people who fought in the wars. They are the frail elderly, asking for nothing, who have sacrificed for this country, sacrificed for their children, sacrifice, sacrifice, sacrifice. And they are accused in the Senate of trying to get away with something for nothing.

Are you asking them to give up going to the movies once in a while? Or taking their grandchildren out to dinner once in a while? How much can you squeeze from someone with a \$9,000 income? How much can you squeeze them?

Defend the market system. Defend the market system. Defend the market system. Prescription drug companies are violating the market system by jiggling the patent system so that there cannot be competition.

Why aren't we hearing something about the market system over there on the underlying amendment? No, we don't hear anything about that. We just hear something about the frail elderly trying to get something for nothing.

What about States being able to use the power of all their people to try to get a better drug price? That is the market system. We don't hear anything about that. No, no, we don't hear about that. We just hear about these frail elderly, all these greedy elderly senior citizens who are trying to rip off the system. Come on. That is the heart of the Republican program. You just heard it out here.

That is what this decision is about. It is priorities, whether you want to have

a massive tax cut that is going to go to the wealthy, or do we as a country and society put the value of our senior citizens ahead of that. It is a value issue. And I believe it is a moral issue as well, as long as we can do something about it and help these senior citizens. That is what the issue is about. We just heard it. We just heard it.

Somehow, we are against the market system when we are trying to stop the kind of violations of patents to let competition get in? We are in violation of the market system when we are trying to let States get better deals for their fellow citizens? We are against the market system?

Senator, that is just wrong. I do not know how much more we can do in terms of our senior citizens; how much more we can squeeze them; how much more, when they are paying out that 15 percent, 18 percent, 20 percent of their income every single year, watching their total life savings go right on down. How much more can we squeeze them so we can give tax breaks for the wealthiest individuals, who have had the greatest profitability over the period of recent years? How much more can we squeeze these men and women who have built the country, suffered, and done such an extraordinary job?

This country has been built by our parents and our grandparents. If it is a great country, and it is, it is because of them. They are the ones who are frail. They are the ones who need the help and assistance. And I reject the fact that we are trying to speak of them as individuals who are trying to rip off the system and get something for nothing. That is not what this debate is about, and it should not be.

I yield 10 minutes to the Senator from New York.

Mr. SCHUMER. I came after the Senator from North Dakota so, if it is OK, I will take my 10 minutes after him.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I joined my colleague earlier on the third floor of the Capitol at a press conference to talk about the generic bill. That bill is very important and one about which I have held a hearing.

In terms of prescription drugs, we need to do two things that are important. We need to have a prescription drug benefit, and we need to do something that puts some downward pressure on prescription drug prices. We must find a way to put a prescription drug plan in the Medicare Program, one that works, works for all beneficiaries, and provides them with the ability to access the medicine they need when they need it.

I said earlier that there is nothing lifesaving about drugs if you cannot afford them. There are no miracles in miracle drugs if you can't afford them.

I just heard my colleague talk about those people who helped build this country. Tom Brokaw's book described some of them who went to war in the

Second World War as "the greatest generation."

I had a fellow come to a meeting a while back, who is a member of the greatest generation. He served in the Air Corps in the Second World War. He was in his late seventies and he needed new teeth and didn't have any money for them.

I arranged for a dentist and I also helped him get some teeth. Here is a fellow who fought in the Second World War, who ends up with nothing, who needs a new set of teeth and has to come nearly begging people to help him get his new teeth.

Senator KENNEDY is right. We have a lot of people in this country who have needs. They reach their declining income years, their retirement years, and they discover the things they need such as new teeth or prescription drugs, cost a fortune.

Senior citizens are 12 percent of America's population and they consume one-third of all prescription drugs. Is it because they want to be sick? Is it because they like to take prescription drugs? I think not.

You meet them at town meetings and various locations around the State, and they come up to you and say: You know, Mr. Senator, I am 80 years old and I have diabetes. I have heart trouble. I have to take seven different prescription medicines. Mr. Senator, I can't afford it. I don't have the money. I wish I didn't have to take the drugs, but I need them and can't afford them.

A doctor in Dickens, ND, told me one day about a cancer patient who had breast cancer, a senior citizen. After the surgical removal of her breast he told her about the drugs she was going to have to take to try to minimize the chance of recurrence of her cancer.

He said she looked at me and said: Doctor, what will these prescription drugs cost? And when he told her what they would cost, she said: Doctor, I couldn't possibly afford those prescription drugs. I don't have the money. I'll just have to take my chances. I'll just have to take my chances.

We can do better than that. We need to put a prescription drug plan in the Medicare Program, one that works—one that really works. At the same time as we do that, it has to be complemented by a couple of other provisions we—the generic bill offered by my colleague, Senator SCHUMER and the Canadian reimportation bill, both of which will put downward pressure on prices. If we do not do that, we just break the bank. I am not interested in breaking the bank, hooking a hose up to the tank and just sucking all the money out. We can't do that. I am interested in making sure we have a prescription drug benefit plan that works. No, not some sliver of a plan, that says to a poor person: By the way, spend a lot of your money first, and then we'll give you a little help.

No. 1, let's have a plan that works; No. 2, a plan that includes in it downward pressure on prices, not just for

senior citizens but for all Americans. That is why this is so important.

I imagine some members of this body could come up with a dozen reasons not to do this. In fact, the negative side of the debate is always the easiest. I think it was Mark Twain who was asked if he would engage in a debate of some sort. He said: Of course, as long as I can take the negative side.

When it was pointed out to him that he hadn't been told the subject of the debate, he said: It doesn't matter. The negative side takes no preparation.

It is easy to take the negative side. It is much more difficult to come up with a positive approach. That is what we are trying to do here. Yesterday, 52 Senators in a very important vote, for the first time in over 40 years, said we would like to put a prescription drug benefit in the Medicare Program. Fifty-two Senators said that. It takes 60 votes.

The question now is, Will the minority of the Senate block it in the next couple of days? The answer is, I hope not. I hope all Members of the Senate understand this is not just some run-of-the-mill issue. This is not just some issue of convenience. This is life or death issue for those who have reached their declining income years. Those who in many cases are living in or near poverty and who are told by their doctor they must take five or seven different kinds of prescription drugs. And they do not have the ability to pay for those drugs. That is why this issue is important.

Let's do this and let's do it right. Let's not take slivers of policy here or there and pretend that we have constructed something meaningful. Let's put a real plan together, one that adds up, one that makes sense, and one that provides real benefits.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. SCHUMER. I thank my colleague. He spoke so poignantly of the doctor in Dickinsin and the senior citizen who had breast cancer and could not afford the drugs.

Again, I appreciate the approach that my colleagues from Nebraska and Nevada have taken. It is an honest approach, but it is a minimalist approach. It is based on the theory that we do not have enough money to do more, even though 52 people in the Senate voted to do significantly more.

I would just ask my colleague this: Isn't this part of the same budget where they take \$600 billion over 10 years to reduce the estate tax? Isn't it true that estate tax reduction does not go to people whose income is \$17,000 or \$35,000 or \$350,000, but to people whose estates will eventually rise, I believe it is, to \$2 million or \$4 million? That is a minimum amount. This is not an abstract discussion.

I ask my colleague if I am right. Do you want to give somebody who is a millionaire, who has an estate worth over \$2 million, a total exemption from

any tax and deprive patients in North Dakota their desperately needed medicine? It isn't either/or. In my judgment, it is not that we can't afford it. If tomorrow the President and his budget friends on the other side in their budget say we are not going to make the estate tax reduction permanent, there would be more than enough money to afford the plan that we voted for on the floor yesterday.

Am I wrong? Is this a question of choices? This is not simply an abstract discussion about how much we should spend. My colleagues on the other side of the aisle have said they would like to do more, but we can't afford it. But, all of a sudden, when it comes to estates of \$10 million, \$20 million, \$100 million, or \$1 billion, that should come ahead of the senior citizen about whom the doctor in Dickensin talked. And we have thousands—tens of thousands—of the same people in New York—poor senior citizens who are struggling and don't have the money for their desperately needed medicine.

Mr. DORGAN. Mr. President, the Senator from New York is certainly correct.

One-hundred years from now we will all be gone. Everyone in this room will be dead. And historians will look at the choices we made in terms of our values and systems and evaluate what we thought was important.

My colleague Senator FEINGOLD offered an amendment on the estate tax which said, let us have an estate tax and we will exempt everybody under \$100 million. The only estates that will bear a tax will be those above \$100 million.

That lost, because some here believe that the estate tax must be abolished for everybody—even those at the top who are billionaires. Good for them and their success. But I happen to think that when they die part of their wealth should be used to help deal with some of our other needs.

The point is, as the Senator from New York pointed out, we are forced to make choices. What is important? What are the right choices for our country? People are living longer and living better. It is not unusual to find 80-year-olds. My uncle is 81 years old. He runs 400s and 800s in the Senior Olympics. He has 43 gold medals. It is not unusual to see people living longer in our country but not all of them are as healthy as my uncle. Most of the elderly need prescription drugs to deal with medical conditions. And many of them don't have enough income or assets to pay for them. They simply don't have the means to purchase them.

If we were writing a Medicare bill today, there is no question that we would have a prescription drug benefit in that bill. It would be a benefit that works—one that is thoughtful, reasonable, and helps all senior citizens. That is what we ought to pass. It is not acceptable, in my judgment, just to grab slivers here and slivers there, and say, oh, by the way, we can't afford much

because we decided we wanted to have other things such as an estate tax repeal for the largest estates in the country.

These are choices that we have to make. I believe we must make the right choices today and tomorrow as we go about our business on behalf of senior citizens and all Americans.

The PRESIDING OFFICER. Who yields time?

The Senator from Nebraska.

Mr. HAGEL. Mr. President, I yield to my friend and colleague from New Mexico 10 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, fellow Senators, first, I thank the Senator from Nebraska for yielding time. Second, I compliment him and the senior Senator from Nevada for offering this proposal which gives us a chance to do something very significant for our senior citizens.

Let me go back and trace a little bit of modern history so everybody will know what caused the predicament we are in and why we can't do much more than this for our seniors at this point in time.

First, the last budget resolution that passed was a budget resolution when we were in control by one or two votes. That budget resolution provided for a reform of Medicare and a prescription drug benefit that did not cost more than \$300 billion over 10 years. We didn't use that because the history has it that the last President got in a very big argument with a bipartisan committee and told them to vote with him and out the window went a bipartisan reform bill. It went, because the last President—President Clinton—wanted Medicare reform, but only his, even though he had appointed a commission.

There is one. Chalk that one up. Who is responsible for that one? President Clinton, without a doubt.

Now comes the time when we are supposed to pass a budget resolution. The last time I heard it was the responsibility of the majority party to report one out and to take one up on the floor. They didn't have to report it out but to take it up and do the business of the Senate by passing a budget resolution.

What happened in the middle of all this was that a Senator left our side of the aisle and joined their side of the aisle for votes and they became responsible for passing a budget resolution.

For the first time, since we had a Budget Act 27 years, we are operating without a budget. We are operating without a new budget that suggests how much money the Senate wants to spend in the next 10 years on prescription drugs. There is no current budget that says that. If they would have put one in place, guess what. It would only require 51 votes. That is not our fault. That is their fault. They did not do it. Consequently, 60 votes are required to get the seniors of America a Medicare bill.

I am not sure that some people think that is good and others think that is

bad. I am just stating the facts. That is the reason 60 votes are required. The seniors ought to know that.

That is not the Republicans. That is not our President. That is the Democratic leadership here which said, That budget is getting too tough, let us just not do one.

I did 27 in my life; 12 of them as the chairman when we had to produce them. We always produced them. Believe you me, they were tough. Some took 2 weeks. Some took 80 votes. One time we did 37 votes in a row with Howard Baker sitting right at that table, all of which we had to win and all of which we had to fight for, because under the old rules you could offer almost anything.

Here we come at the end of the year and the leadership on that side of the aisle promises a Medicare bill for the seniors of America, but they cannot pass one because they did not do a budget. Therefore, 60 votes are required—not 51.

I repeat: That is not the Republicans' fault. It is not the President's fault.

I can vividly recall some leading Democrats when they were asked, Why aren't we doing a budget resolution? Oh, well, one of them said, It is too hard this year. Maybe we don't need one. Now here is where we are as a result of that.

I compliment the two Senators. They have a third Senator. I am very lucky. I joined them yesterday. I am a cosponsor of theirs.

Frankly, I went with the tripartisan bill yesterday. If that had passed, we would be finished. But it didn't pass because it only got 48 votes, or 47. It needs 60. That is a pretty good chunk of votes, however, to get you started.

What do I say? I look at all of this and I ask, Is there anybody who has an amendment that does not require 60 votes and still will do something good for the seniors? This amendment will not exceed \$300 billion. I do not know the number exactly, but I am going to guess with you that it is between \$285 billion, \$290 billion, or \$295 billion. So this amendment clearly only needs 51 votes. If you want to give the seniors something, 51 votes is all that is necessary.

From what I can tell, it is a very good approach to get the seniors something this year. It will take care of the seniors who are in the biggest trouble with expensive drug bills. For those who have expensive drug bills now, it will take care of them and all of the people who are poor under anyone's definition of poverty. It will take care of them.

What is wrong with that? About \$295 billion, or \$280 billion—just what the budget resolution said you ought to spend on the whole program just 18 months ago.

I thank the Senators for what I think is a rather ingenious bill. I don't think it carries with it any acrimony. If the Democrats don't want any bill at all, they can look right there to the seniors

and say this is what they are going to get.

The Hagel amendment does not have a 70-vote requirement in terms of cost because it comes in under the cost. However, it was not produced by the Finance Committee because they were not permitted to produce any bill. So it probably needs 60 votes.

Clearly, if we have the sufficient votes to adopt this, there would be some way of getting it back to committee, and getting it out of there.

I urge a vote for it because there is a real chance we will send the right signal, and set before us a way to get a bill this year.

I thank the Senator, again, for yielding. And I thank the Senate for listening. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SCHUMER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I want to address further this proposal before us. I was glad my colleague from New Mexico finally mentioned that it would take 60 votes. So we are dealing with 60 votes, and 60 votes, and 60 votes, because of the variety of the very technical, detailed, and sometimes tortuous reasons for the Senate rules, which have a wisdom to them way beyond my ken. But I would like to make a couple points.

First, I would add to the RECORD, if it has not been added already, the CBO estimate of the Hagel-Ensign amendment. I think last night we were talking about \$160 billion. Now CBO—and the Senator from New Mexico has stated it correctly—estimates this bill costs \$294.7 billion. However, if the Schumer-McCain bill were added to it, it would reduce the cost by \$13 billion to \$284 billion. That is within the budget resolution. My friend from New Mexico is exactly correct.

It is also \$130 billion more than we were talking about last night. With that money, the close to \$300 billion, I just want to remind my colleagues of who it covers and who it does not cover.

Again, a senior citizen, poor, with an income of \$9,000, would have to first pay \$1,500 before they would get a nickel from this bill. I will tell you, \$9,000 does not buy much. It buys even less in New York than it would buy in Nebraska or in Nevada, but it does not buy much anywhere—and to ask that person to have to pay \$1,500 first?

This amendment does nothing to take away the conundrum that poor senior citizens have: prescription medicines, wonderful drugs that they desperately need, or an adequate meal on the table, a plane ticket to see the grandchildren maybe at Christmas-time, whom they have not seen in 3 or 4 years. This amendment does nothing to relieve that burden.

A senior citizen making \$18,000 now—that is not a poor senior citizen, but it

sure as heck isn't a rich one—would have to pay \$3,500 before they got a nickel from this action. That is enormous. That is a huge burden to them. Yet we are spending \$300 billion for that.

I remember when we dealt with prescription drugs a couple years ago, and there was a general conclusion that if you are going to do this, do it right, really help people, do not bite around the edges. And this proposal does just that.

And then let's go to a senior citizen who is doing OK. They have a \$35,000 income. They are almost never going to get benefits. They have an income of \$35,000, and they would have to first spend \$5,500 on their prescription drugs before they would get a nickel from the amendment.

I think I know what is going on here. There is a demand that we do something. Everyone wants to say: I am for a bill. I would bet my bottom dollar, if you could get 280 million Americans in an auditorium, if you could get the—how many senior citizens do we have in America? About 40 million, 45 million. If you could get every senior citizen in an auditorium and ask, for \$300 billion, should we adopt an amendment that helps so few, they would say: No. Go back. Do it better.

And then again my colleagues will say—I will make the point again because it just gnaws at me—we don't have the money to do more.

The Senator from New Mexico, my good friend, knows the budget, studies it. He is almost a priest of the budget, God bless him. He says: We don't have a budget.

I will tell you why we don't have a budget. It is because of the insistence of the other side and the White House that we continue the tax cuts for the very wealthy, that we can't afford in the President's budget proposal—I repeat, \$670 billion to eliminate the estate tax. Many of my same colleagues who are supporting this proposal were on the floor talking about how that is important.

Go ask those 40 million senior citizens. Go ask the 280 million Americans do they want a better benefit than the very measly benefits in this amendment or do they want the estate tax repealed. When? Right now, if your estate is in the millions of dollars, it is taxed, but if it is below that, you are not taxed.

Ask them if they want us to say, let's say anyone with \$20 million should pay an estate tax, and we would get a lot more benefits in the bill.

So whom are we kidding? We know there is enough money to do this, if we want to. But if we are going to play trickle down, if we are going to say, first, let's reduce the estate tax, and then work in the confines of that, and provide some dribbles to the senior citizens, to the lady in Dickinson who has breast cancer and cannot afford the drugs. Whom are we kidding?

Where would 90 percent of the American people be? If the cupboard were

bare, if we had no dollars for anything else, if we needed it all for our war effort or for Social Security, maybe we would have to come up with this amendment.

But when we hear the priorities of the other side are tax cuts, particularly the estate tax cut, first, and then whatever is left over we will sort of craft into a plan that makes someone whose income is \$9,000 pay \$1,500 first before they get a nickel from the benefit, whom are we fooling?

So the whole argument that I have heard from my good friends from Nebraska, Nevada, and others is: We don't have enough money to do more. This is fiscally responsible. Is it fiscally responsible, then, to call for \$600 billion in cutting the estate tax? And that, of course, is eliminated—I need to get the right number. I know we go up to \$2 million or \$4 million per estate, but I think right now it is somewhere between \$1 million and \$2 million where estates are eliminated.

Whom are we kidding? We all have priorities. We have a Senate because not everyone has the same priorities. We have a House of Representatives for the same reason. And our priorities are different. But admit the truth. It is not that we do not have the money to do better, it is that people have other priorities.

I will tell you where the priorities of the senior Senator from New York are. They are for a plan that got 52 votes on the floor of the Senate yesterday above cutting the estate tax for the very wealthy. How many of you will join us in saying that? I doubt very many. And if not, then the underpinning of the argument that we can't do better is false.

We can do better. We can pass a better bill, by rearranging our priorities, and telling that senior citizen who makes \$9,000, you don't have to wait until you spend \$1,500 before you get a benefit; telling the senior citizen who makes \$18,000, you don't have to wait until you spend \$3,500 before you get a benefit.

If this were an honest debate about priorities, then there would not be a need for the minimalist plan that my colleagues have offered.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, I yield my colleague from Nevada 1 minute.

Mr. ENSIGN. Mr. President, I want to clear up a couple points the Senator from New York talked about. He said no benefit for somebody until they pay out-of-pocket expenses. He forgets the drug discount card which will save seniors somewhere from 20 up to 40 percent because of volume buying. So they immediately benefit, anybody who signs up for the plan.

Our plan fits really well—I talked about this before—with those State plans that are already out there. The State of Nevada has a great plan using tobacco money. Other plans in States work very well with our plan. Those

seniors who need help the most will get the help under this plan.

Let's be honest about this plan. It is fiscally responsible to the next generation but also truly does get the help to the seniors who need it today.

Mr. HAGEL. Mr. President, I yield 6 minutes to the senior Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleagues from Nebraska and Nevada for bringing to the floor what is a valuable piece of legislation to address the issue of prescription drugs.

As chairman of the Republican Policy Committee, I had not engaged in this debate on the floor from the time it began several days ago largely because, while it is a phenomenally important debate, it was a play, a drama to be acted out and ultimately to close with no result. That does not mean that those who come to the floor, such as my colleagues from Nebraska and Nevada, to put forth a substantive piece of legislation aren't well meaning. It does not mean that at all. It means that the majority leader of the Senate set up this play with the purpose of never accomplishing anything in the end but to allow those who wish to make a political statement and to shape themselves for the November election to have that opportunity.

That in itself is a tragedy in the formation of public policy. It allows those to come to the floor and talk about all kinds of other things except that which is very meaningful; that is, a good prescription drug program for the seniors of America.

If this bill had been formed by the Finance Committee in a bipartisan manner, it would be on the floor. It would receive a majority vote, it would be in conference with the House to work out our differences, and the seniors of America would have a drug prescription policy. That is not a statement of myth; that is a statement of fact. It would not be a drama; it would not be a play with all the characters hustling down to the curtain call; it would in fact be an action of positive legislative effort to produce a bill.

The Senator from New York has talked about tax cuts. My goodness, what he has suggested is die and take everybody's money and put it into a social welfare program. No, sir, not on my watch. You bet the Senator from New York and the Senator from Idaho are different people, coming from different States. I don't believe in that.

Mr. SCHUMER. Will my colleague yield?

Mr. CRAIG. I will not yield at this time. I do believe that people who work hard all their life and build an estate ought to have a right to take a little of it, because it is after tax money that builds an estate, and they want to pass it on to their children. That is right. That is reasonable. We call it the American dream. I don't think we ought to step back in and swoop it up

for the Government to spend, all in the name of a social welfare state. That is wrong. It is fundamentally un-American.

Debate it, if you wish. The reality is, use that as an excuse. That is law today. It is only an excuse not to have to face the reality of why we are here and not getting anything done.

The reality of why we are not getting anything done is that the majority leader would not allow the chairman of the Finance Committee to do what he should have done at a very important time in American history, at a time when pharmaceutical drugs have become a part of the American health care culture. The seniors of America who are living longer and healthier today are finding that a very important part of their lifestyle. Medicare doesn't address that issue.

The Senator from New York and the Senator from North Dakota said it right: If we were writing a Medicare Program today, prescription drugs would be in it. It would be in it, and I would vote for it, and they would.

At the same time, we are not going to cram in a proposal that costs hundreds of billions of dollars, to the tune of \$700 or \$800 billion, doesn't take effect until 2004, terminates in 2008 or 2009, and call that something we want to take home and say: Look what we have done for you.

Why not something that our country can afford, that our seniors will find a reliable approach toward acquiring the necessary pharmaceutical drugs to deal with their health care in a way that will not break them? That is not going to be allowed to happen in the Senate in the 107th Congress.

There are 40 million-plus seniors. Put them all in one room and ask them this question: Do you want a pharmaceutical drug program now? The answer is: Yes, we do. We want it now, not 2004. No, we don't want it to terminate in 2008. Most importantly, we don't want it to bankrupt our country. Yes, we would pay a small deductible and, yes, we would even pay a small premium because a small deductible of maybe \$100 a month to pay for a \$400 drug bill is a right and reasonable thing to ask.

The Senator from Nevada put it well when he said there are State programs—that wasn't counted—that can offset the truly needy. And there are many. Those who have little to no money—and there are many seniors in this position—could have full access. It wouldn't have to come through the Medicare Program or, I should say, the Medicaid Program that oftentimes is administered by the State.

The PRESIDING OFFICER. The Senator has used his time.

Mr. CRAIG. I ask for 1 more minute.

Mr. HAGEL. I yield 1 minute to the Senator from Idaho.

Mr. CRAIG. I thank the Senators from Nebraska and Nevada for bringing a realistic amendment to the floor, one that could take effect now, one with

which we could go home to New York or Idaho and say to our seniors: We have cut your drug bills well over a half or two-thirds. You have it now, not wishes 4 years from now, not wishes 3 years from now, a program that won't bankrupt the country and won't demand that those who have saved and earned all their life have to give up their estates so that you can live well.

That is not what this country ought to be about. More importantly, that is not what this debate ought to be about. It ought to be about a substantive, affordable program that truly allows America to say to its seniors: We have changed the dynamics of health care from a 30-year-old model to a modern model that allows pharmaceutical drugs to be affordable, to be fitted into the program.

I strongly support the effort of my colleagues from Nebraska and Nevada. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will speak for a minute. I want to make some comments to my friend from Idaho. He keeps talking about, we are going to take everybody's money. No, we are not going to take everybody's money in the estate tax. We are not even taking most people's money. We are not even taking 5 percent, the wealthiest 5 percent of people's money. We are taking only from people who have estates certainly over \$1 million and probably somewhat more than that.

That is how this debate often gets off track. We are not saying to the plumber who built up a little business: We are taking your money. We are not saying to the steelworker who has a pension: We are taking your money.

Yes, we are saying to the very wealthiest: God bless America, you have lived well. Are you willing, in this social compact we call America, to tell the senior citizen who can't afford to pay for these drugs, and it is life or death, that you have to keep it all—and not even keep it all, pass it all on to your heirs?

That is the issue. It is not everybody. It is not half of the people. It is not a quarter of the people. It is not 5 percent of the people. What is driving the estate tax is the very wealthiest people in America who somehow have won over the other side. But they never talk about them. They say "everybody's" money. Not so. Then the other side of what my good friend said—he said take everybody's money and put it in a social welfare program. The definition of what my friend said, the Hagel-Ensign amendment, is a social welfare program. Social Security is a social welfare program. Medicare is a social welfare program.

Yes, in America, we believe in those things. Back in the 1870s, we did not. The life expectancy was 40 years; one out of every four children died in childbirth; people lived in slums, tenements;

farmers went bankrupt every year. Yes, America has changed, and it is not a country that should be run exclusively for the wealthiest people and you give the crumbs to the others. We learned that in the 1890s, in 1912, and in the 1930s. We learned it in the 1960s, and we have learned it since then.

So I reiterate my point. It is a choice of priorities. In this context, yes, you are right, as long as there is a budget deadlock—primarily because we would not go along with reducing taxes even further on the very wealthiest Americans while doing nothing for the middle class—we don't have enough to do a prescription drug bill in the right way. We are left debating whether we should do one that the vast majority of Americans would agree doesn't solve their problems.

So, yes, I regret that the debate has come to this. I don't think it is where the American people are. I think they are much more on the side of the bill that got 52 votes yesterday. But because of the rules of the Senate and, more importantly, because we don't have enough Senators who have the priorities I am enunciating, we will not get that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I yield to the Senator from Pennsylvania 1 minute.

Mr. SANTORUM. Mr. President, I thank Senators HAGEL, ENSIGN, and GRAMM. They have put forth a plan that focuses in on exactly the problem most Americans understand, which is that we have people who have a high cost of drugs but simply don't have the ability to afford them. They have to make difficult decisions about how to provide for themselves as well as provide the medicine they need.

Secondly, they provide a focused attempt to help the lower income people, who may not have that high of a drug cost, but even with a small amount of the prescription drugs they need, they don't have the resources to pay for them. This is a commonsense approach. This is a focused approach. This is a good first step. It gets us very far down the playing field.

To me, it is a little bit frustrating to see a proposal that makes so much common sense, is within the budget framework that has been worked out, and we find opposition to going way down the field in a proper direction. Some will say no because it doesn't give us everything we want, it doesn't get us the whole loaf, and somehow that is not good enough.

This is a very solid proposal. I think it is something that should have very strong bipartisan support.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I yield 3 minutes to the senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank our dear colleague from Nebraska for his leadership on this issue. I think the best proposal that has been presented to the Senate is the Hagel-Ensign proposal. It is the only proposal that is rational. It is the only proposal that is organized in such a way as to give most of the help to the people who need it the most. It is the only proposal that is affordable.

My strong suggestion and my recommendation to my colleagues is that we adopt this proposal. This proposal basically says if you have a moderate income and you have high drug bills, you are going to receive assistance from Medicare. A simple guideline is that if you have a family income, in retirement, of less than \$23,000 a year, if this bill goes into effect, you will spend only slightly more than \$100 a month on pharmaceuticals before you receive assistance. The amount that people would have to spend before they hit the critical level where they would receive assistance rises with people's incomes, so that at \$46,000, you would have to spend \$3,500, or about \$300 a month; at \$69,000 of income, that amount would be \$5,500.

So what does this do? It does two things. Immediately, it provides assistance by setting up a program whereby we can use the ability to negotiate prices. Medicare does not buy competitively. It is estimated that by allowing people to choose among selections that will be available through Medicare and by utilizing a purchasing cooperative, whereby they will enter into an agreement with private companies to purchase their pharmaceuticals and find the cheapest price for them, every senior will save between 25 percent and 40 percent on their drug bills. That benefit will start immediately—not in 2004 as the Democrat alternative does, not in 2005 as the tripartisan alternative does, but upon adoption. The other parts of this bill will go into effect as of January 1, 2004.

So this bill helps everybody now, brings efficiency in purchasing health care for every senior, and provides assistance to people who need it the most. I urge my colleagues to vote for this amendment.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I yield myself 2 minutes.

Mr. President, I have heard about the generosity of this plan. Well, I think we all can admit it is the least generous plan on the floor. Any plan that tells someone making \$9,000 that they have to spend \$1,500 first, I don't think most people would call generous. I would say any plan that says to someone making \$18,000 that you have to spend \$3,500 before you get a nickel is not a generous plan. Again, if that were the best we could do, fine. But it is not. We here on this floor are not in sync with the American people's priorities.

Go back to the issue I have been bringing up this last hour, the estate

tax—\$670 billion to repeal the estate tax only for estates of over \$1 million or even more. Most of that money comes from estates of \$50 million. Are you going to tell that person, you get your tax cut, or are you going to tell our senior citizens, you don't have to spend \$1,500 of your \$9,000 income before you get a bit of benefit?

My colleagues, again, this is a question of choices. We can say that we will keep the status quo, that we will continue the tax cuts on the wealthiest of Americans. All things being equal, I would like to get rid of the estate tax. But if telling the senior citizens of New York State that they don't get a benefit before we take the taxes of people making \$50 million down a few more notches, you know what side I am on. I ask my colleagues which side they are on.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, I yield 6 minutes to the Senator from Nevada.

Mr. ENSIGN. Mr. President, we are coming to the close of this debate. A couple of things need to be cleared up. There has been talk about the estate tax versus prescription drugs. Medicare is a program that is paid for out of the payroll tax. It has always been that way. Hopefully, it will always be that way. Payroll taxes pay for Medicare.

Our amendment, we believe, is responsible. The difference between our bill is that the seniors pay their first dollar out of pocket for coverage. The other bills, the seniors pay a portion of the first dollar out of pocket. The reason for that is we thought it was important to keep the senior in the accountability loop. I mentioned that earlier in the debate, but it needs to be reemphasized.

When seniors or any other patients in health care do not have to think about the financial aspects of their care, whether it is in purchasing drugs or in getting their health care, if they are only paying a small portion, they do not even think about that. But if they are paying the first dollars—and in our plan, if they have up to \$17,700 in income, they will pay out of pocket \$1,500—they are going to think about prescription drugs. This is about \$120 a month.

Seniors with whom I have talked literally would jump at knowing they would be limited to about \$120 a month for prescription drugs. They just do not want to be bankrupt. They do not want to think they are going to lose their house. Many are concerned about long-term care, and that is their biggest fear—that they have to lose everything to get long-term care.

It is the same with prescription drugs. They do not want to lose everything before they are so poor that they have to go on Medicaid to get prescription drugs from the Government. Our amendment is basically limiting out-of-pocket expenses.

The other misconception of our amendment is that you do not get any

help if you have, say, \$9,000 in income. You absolutely do. That is what our prescription drug discount card is all about. Every senior on a voluntary basis—if they want to sign up—because of group buying, this cooperative-type buying, similar to what HMOs do today, can save about 40 percent. Most HMOs say you save 40 percent versus retail on their prescription drugs. Every senior who signs up for our plan would be able to save up to 40 percent on their prescription drugs, regardless of income. Regardless of where in any of these ranges they fit, they save up to 40 percent.

When we combine that prescription drug discount card with limiting out-of-pocket expenses, along with what many States have done—if States want to be more generous, they can be. My State of Nevada is more generous. The State of Massachusetts, as we have learned today, is more generous. The State of West Virginia has a drug discount card that is working very well. Other States have put these programs into effect. Our plan fits with most of the plans that are already working across the country. So for those seniors who truly need the help, they will get it.

I wish to close my time today with a couple real-life examples. Doris is a patient. She is 75 years old. We changed her name, obviously, for privacy reasons. She has an income of about \$17,000 a year. This is a real-life case. She is being treated for diabetes, hypertension, and high cholesterol. She is on Lipitor, Gloucophage, insulin, Coumadin, and Monopril. These are common medications. These are \$300 in monthly expenses, about \$3,600 per year.

To compare the various plans on a real-life case, under the Graham-Miller-Kennedy plan, the leading Democrat proposal, she would have out-of-pocket expenses of \$2,200. Under the tripartisan plan, it is about \$2,100. Under our plan, it is \$1,700. Ours is more generous to the person who is really sick, who has a low to moderate income.

Example No. 2: Betty is 68 years old with \$15,500 per year in income. She has breast cancer, not uncommon for a lot of senior women. She takes morphine, Paxil, dexamethazone, Acifex, trimethobenzamide, and Nolvadex. These cost almost \$670—almost \$8,000 per year.

Let's compare what happens under the various plans. Under the leading Democrat proposal, she would pay \$3,180 out of pocket. Under the tripartisan plan, she would pay about \$2,600, and under the Hagel-Ensign plan, she would pay \$2,150.

Once again, in a real-life example, the person who is sick who needs the most would do better under our plan, and that is why we are asking people to support this plan.

Mr. GRASSLEY. Mr. President, last night and earlier today the Senate debated the Hagel-Ensign prescription

drug amendment. During the course of that debate, some Members on the other side made a comparison of the cost of the Graham-Kennedy prescription drug amendment and the revenue loss of a proposal to repeal the "sunset" of death tax relief provisions in last year's bipartisan tax relief bill.

The essence of the argument was that the budget effects of these proposals are roughly equal. As we heard many times, the Senate was supposedly making a choice between these two proposals. Senator SCHUMER claimed, during the argument, two different figures for repeal of the sunset. At one point, the Senator from New York claimed the revenue loss was \$670 billion. At another point, a few moments later, the Senator from New York claimed the revenue loss was \$600 billion.

The Congressional Budget Office scored the Graham amendment as a spending increase of \$594 billion. This figure covers the 8-year proposal's 10-year budget effect. Now, if you accepted Senator SCHUMER's figures as is, then there might be some basis for his argument. That is, if, in fact, the Joint Committee on Taxation scored the proposed permanent death tax relief proposal at \$600 billion or \$670 billion, then Senator SCHUMER's argument might be worth debate.

The facts are different. I don't know where Senator SCHUMER got his figure. Maybe it was a liberal think tank, such as the Center on Budget Policy and Priorities. Maybe it was a partisan liberal communications shop, like the Senate Democratic Policy Committee. I don't know where he got the number.

I do know this: The number doesn't apply. For purposes of the Congressional Budget Act, tax provisions are to be scored by the nonpartisan Joint Committee on Taxation.

According to Joint tax, the permanent death tax relief proposal scores at \$43.6 billion if you use the fiscal year 2002 budget resolution. That is the one the Senate is currently operating under. If you use the fiscal year 2003 budget resolution, the one under which the House is operating, permanent death tax relief scores at \$99.4 billion.

So the real number is, at most, \$99.4 billion, for permanent death tax relief. That is one-sixth the cost of the Graham amendment.

It is interesting to note that during last month's debate on the death tax that the Senator from New York supported Senator DORGAN's amendment. That amendment was scored by Joint Tax as losing \$11 billion over 10 years. Basically, Senator SCHUMER voted for death tax relief of \$11 billion more than the proposal he criticized last night and today.

So if we are talking about choices between resources for prescription drugs and death tax relief, let's review the record. Let the record reflect that Senator SCHUMER and 39 other members of the Democratic Caucus voted for \$11 billion more in death tax relief than

their colleagues. For reference, that's rollcall vote No. 149. It is set out in page S5412 of the CONGRESSIONAL RECORD of June 12, 2002.

The Senator from New York's use of erroneous data on the bipartisan tax relief package is unfortunately part of a coordinated strategy on the part of the Democratic leadership. It is also data unchallenged by many in the media. In fact, many in the media parrot another of the Democratic Leadership's equally erroneous statistics. We keep hearing and reading that the bipartisan tax relief package yielded 40

percent of its benefits to the top 1 percent of taxpayers. This statistic, like Senator SCHUMER's other tax relief statistics, is dramatically at odds with Joint Tax, the official scorekeeper for Congressional tax relief.

According to Joint Tax, the bipartisan tax relief package makes the Tax Code more progressive.

I make this statement for one basic reason. The issues of prescription drugs and death tax relief are important matters. Certainly every one of us hears about both of these issues when we are back home. They are issues that our

constituents expect us to resolve. Folks back home expect us to be intellectually honest in debating these important matters. When we debate these issues, we ought to use intellectually honest figures.

I ask unanimous consent to print the Joint Committee on Taxation's revenue estimate of the proposed estate tax relief and the distribution analysis in the RECORD.

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

ESTIMATED REVENUE EFFECTS OF H.R. 2143, "PERMANENT DEATH TAX REPEAL ACT OF 2001", FISCAL YEARS 2002-2012

[Billions of Dollars]

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2002-07	2002-12
Make Permanent the Repeal of the Estate Tax and the Generation-Skipping Transfer Tax.	dda & gma 12/31/10		-1.2	-1.5	-1.8	-2.3	-2.5	-2.7	-2.8	-4.0	-24.9	-55.8	-9.2	-99.4

Note: Details may not add to totals due to rounding. Legend for "Effective" column: dda=decedents dying after; gma=gifts made after.

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836

(Prepared by the staff of the Joint Committee on Taxation, May 26, 2001)

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836¹

Income category ²	Change in Federal taxes ³		Federal taxes ³ under present law		Federal taxes ³ under proposal		Effective tax rate ⁴	
	Millions	Percent	Billions	Percent	Billions	Percent	Present law (percent)	Proposal (percent)
CALENDAR YEAR 2001								
Less than \$10,000	-\$75	-1.0	\$7	0.4	\$7	0.4	8.7	8.6
10,000 to 20,000	-2,989	-11.5	26	1.5	23	1.4	7.5	6.7
20,000 to 30,000	-5,790	-9.4	62	3.5	56	3.3	13.4	12.2
30,000 to 40,000	-5,674	-6.4	89	5.1	83	4.9	16.1	15.1
40,000 to 50,000	-5,490	-5.4	102	5.9	97	5.7	17.4	16.4
50,000 to 75,000	-11,546	-4.5	256	14.6	244	14.4	19.1	18.3
75,000 to 100,000	-8,488	-3.5	244	13.9	235	13.9	21.7	21.0
100,000 to 200,000	-10,488	-2.6	408	23.3	397	23.5	24.2	23.6
200,000 and over	-6,997	-1.3	555	31.7	548	32.4	27.8	27.4
Total, All Taxpayers	-57,536	-3.3	1,748	100.0	1,690	100.0	21.4	20.7
CALENDAR YEAR 2002								
Less than \$10,000	-75	-1.0	7	0.4	7	0.4	9.2	9.1
10,000 to 20,000	-3,596	-13.3	27	1.5	23	1.3	7.6	6.6
20,000 to 30,000	-7,124	-11.3	63	3.4	56	3.2	13.5	12.0
30,000 to 40,000	-6,849	-7.6	91	4.9	84	4.8	16.1	14.8
40,000 to 50,000	-6,198	-5.8	106	5.8	100	5.7	17.5	16.5
50,000 to 75,000	-13,251	-5.0	267	14.5	254	14.4	19.0	18.0
75,000 to 100,000	-10,227	-4.0	255	13.9	245	13.9	21.7	20.8
100,000 to 200,000	-14,416	-3.3	442	24.1	427	24.3	24.2	23.4
200,000 and over	-16,557	-2.9	578	31.5	562	32.0	27.9	27.1
Total, All Taxpayers	-78,294	-4.3	1,836	100.0	1,758	100.0	21.5	20.6
CALENDAR YEAR 2003								
Less than \$10,000	-83	-1.1	8	0.4	8	0.4	9.7	9.6
10,000 to 20,000	-3,516	-12.9	27	1.4	24	1.3	7.6	6.6
20,000 to 30,000	-7,135	-11.0	65	3.3	58	3.1	13.6	12.1
30,000 to 40,000	-6,946	-7.5	93	4.8	86	4.6	16.0	14.8
40,000 to 50,000	-6,155	-5.7	108	5.6	101	5.5	17.4	16.4
50,000 to 75,000	-13,554	-4.9	279	14.4	266	14.3	18.9	18.0
75,000 to 100,000	-10,553	-4.0	265	13.7	255	13.8	21.7	20.8
100,000 to 200,000	-15,487	-3.2	479	24.8	464	25.1	24.2	23.4
200,000 and over	-17,453	-2.9	609	31.5	591	31.9	28.1	27.3
Total, All Taxpayers	-80,882	-4.2	1,933	100.0	1,852	100.0	21.5	20.6
CALENDAR YEAR 2004								
Less than \$10,000	-69	-0.9	8	0.4	8	0.4	10.0	9.9
10,000 to 20,000	-3,429	-12.6	27	1.3	24	1.2	7.6	6.6
20,000 to 30,000	-7,121	-10.8	66	3.3	59	3.1	13.6	12.2
30,000 to 40,000	-6,964	-7.3	96	4.7	89	4.6	16.0	14.8
40,000 to 50,000	-6,320	-5.8	110	5.4	103	5.3	17.4	16.4
50,000 to 75,000	-15,049	-5.2	288	14.2	273	14.2	18.7	17.8
75,000 to 100,000	-12,913	-4.6	279	13.8	266	13.8	21.5	20.5
100,000 to 200,000	-22,095	-4.3	512	25.2	490	25.3	24.1	23.0
200,000 and over	-21,671	-3.4	642	31.6	620	32.1	28.2	27.3
Total, All Taxpayers	-95,630	-4.7	2,028	100.0	1,932	100.0	21.6	20.6
CALENDAR YEAR 2005								
Less than \$10,000	-76	-1.0	8	0.4	8	0.4	10.1	10.0
10,000 to 20,000	-3,867	-14.0	28	1.3	24	1.2	7.6	6.5
20,000 to 30,000	-7,937	-11.6	68	3.2	60	3.0	13.7	12.1
30,000 to 40,000	-7,720	-7.9	98	4.6	90	4.4	16.0	14.7
40,000 to 50,000	-6,945	-6.2	112	5.3	105	5.2	17.2	16.2
50,000 to 75,000	-16,630	-5.5	303	14.2	286	14.1	18.7	17.6
75,000 to 100,000	-14,709	-5.1	287	13.5	273	13.5	21.4	20.3
100,000 to 200,000	-24,654	-4.5	547	25.7	522	25.8	24.0	22.9

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836¹—Continued

Income category ²	Change in Federal taxes ³		Federal taxes ³ under present law		Federal taxes ³ under proposal		Effective tax rate ⁴	
	Millions	Percent	Billions	Percent	Billions	Percent	Present law (percent)	Proposal (percent)
200,000 and over	-21,182	-3.1	678	31.9	657	32.4	28.3	27.4
Total, All Taxpayers	-103,720	-4.9	2,129	100.0	2,025	100.0	21.6	20.6
CALENDAR YEAR 2006								
Less than \$10,000	-76	-0.9	8	0.4	8	0.4	10.4	10.3
10,000 to 20,000	-3,789	-13.6	28	1.2	24	1.1	7.6	6.6
20,000 to 30,000	-7,853	-11.4	69	3.1	61	2.9	13.7	12.2
30,000 to 40,000	-7,839	-7.9	99	4.4	91	4.4	16.0	14.7
40,000 to 50,000	-7,570	-6.5	116	5.2	108	5.2	17.2	16.0
50,000 to 75,000	-18,755	-6.0	313	14.0	294	14.0	18.6	17.5
75,000 to 100,000	-17,212	-5.8	297	13.3	280	13.3	21.3	20.0
100,000 to 200,000	-30,208	-5.1	588	26.3	558	26.6	23.9	22.7
200,000 and over	-44,177	-6.1	719	32.1	675	32.1	28.3	26.6
Total, All Taxpayers	-137,476	-6.1	2,238	100.0	2,100	100.0	21.7	20.3

¹ Includes provisions affecting the child credit, individual marginal rates, a 10% bracket, limitation of itemized deductions, the personal exemption phaseout, the standard deduction, 15% bracket and EIC for married couples, deductible IRAs, and the AMT.

² The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker's compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels.

³ Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.

⁴ The effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

UPDATED DISTRIBUTION OF CERTAIN FEDERAL TAX LIABILITIES BY INCOME CLASS FOR CALENDAR YEAR 2001

(Prepared by the staff of the Joint Committee on Taxation, August 2, 2001)

INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, shows the updated distribution for calendar year 2001 of certain Federal tax liabilities of individuals by income class. This distribution has been updated to reflect changes enacted in the Economic Growth and Tax Reconciliation Relief Act of 2001 (Public Law 107-16).

The first table shows the distribution of the Federal individual income tax and the second table shows the distribution of the Federal individual income tax, Federal excise taxes, and Federal employment taxes.

For purposes of these tables, the income concept used for classifying taxpayers is adjusted gross income ("AGI") plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker's compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad.

The first table shows the distribution of the Federal individual income tax, including the outlay portion of the earned income credit ("EIC") and the child credit. The table shows, by income category, (1) the number of returns and the percent of all returns represented by the category, (2) the aggregate income and the percent of all income represented by the category, (3) the aggregate

individual income taxes paid and the percent of all individual income taxes paid by the category, and (4) the number of returns with zero or negative tax liability and the percent of all returns with zero or negative tax liability represented by the category.

The second table shows the distribution of the combined Federal individual income tax (including the outlay portion of the EIC and the child credit), Federal excise taxes, and Federal employment taxes (those taxes required under the Federal Insurance Contributions Act and Federal Unemployment Tax Act). The table shows (1) the number of returns and the percent of all returns represented by the category, (2) the aggregate income and the percent of all income represented by the category, and (3) the aggregate Federal taxes paid and the percent of all Federal taxes paid by the category.

DISTRIBUTION OF FEDERAL INDIVIDUAL INCOME TAX LIABILITY¹—CALENDAR YEAR 2001

(Updated August 2, 2001)

Income category ²	No. of returns ³		Income		Individual income tax		No. of returns with zero or negative liability	
	Millions	Percent	Billions	Percent	Billions	Percent	Millions	Percent
Less than \$10,000	19.9	14.0	\$83	1.0	-6	-0.7	18.9	37.4
10,000 to 20,000	23.3	16.4	347	4.2	-13	-1.3	16.4	32.4
20,000 to 30,000	18.5	13.0	460	5.6	3	0.4	8.5	16.9
30,000 to 40,000	15.8	11.1	549	6.7	22	2.4	3.8	7.5
40,000 to 50,000	13.1	9.2	589	7.2	33	3.5	1.8	3.7
50,000 to 75,000	21.9	15.4	1,337	16.4	100	10.6	1.0	2.0
75,000 to 100,000	12.9	9.1	1,121	13.7	110	11.6	0.1	0.2
100,000 to 200,000	12.8	9.0	1,683	20.6	226	23.9	(⁴)	0.1
200,000 and over	3.8	2.7	1,999	24.5	471	49.7	(⁴)	(⁵)
Total, All Taxpayers	142.0	100.0	8,168	100.0	948	100.0	50.6	100.0
Highest 10%	14.2	10.0	3,431	42.0	670	70.7	(⁴)	0.1
Highest 5%	7.1	5.0	2,556	31.3	559	59.0	(⁴)	(⁵)
Highest 1%	1.4	1.0	1,402	17.2	357	37.6	(⁴)	(⁵)

¹ Includes the outlay portion of the EIC and child credit.

² The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker's compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels. The highest 10% begins at \$107,455, the highest 5% at \$145,199 and the highest 1% at \$340,306.

³ Includes filing and nonfiling units. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded.

⁴ Less than 50,000.

⁵ Less than 0.005%.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

DISTRIBUTION OF FEDERAL TAX LIABILITY¹—CALENDAR YEAR 2001

(Updated August 2, 2001)

Income category ²	No. of returns ³		Income		Federal tax liability	
	Millions	Percent	Billions	Percent	Billions	Percent
Less than \$10,000	19.9	14.0	\$83	1.0	\$7	0.4
10,000 to 20,000	23.3	16.4	347	4.2	23	1.4
20,000 to 30,000	18.5	13.0	460	5.6	56	3.3
30,000 to 40,000	15.8	11.1	549	6.7	83	4.9
40,000 to 50,000	13.1	9.2	589	7.2	97	5.7
50,000 to 75,000	21.9	15.4	1,337	16.4	244	14.4
75,000 to 100,000	12.9	9.1	1,121	13.7	235	13.9
100,000 to 200,000	12.8	9.0	1,683	20.6	397	23.5

DISTRIBUTION OF FEDERAL TAX LIABILITY¹—CALENDAR YEAR 2001—Continued

[Updated August 2, 2001]

Income category ²	No. of returns ³		Income		Federal tax liability	
	Millions	Percent	Billions	Percent	Billions	Percent
200,000 and over	3.8	2.7	1,999	24.5	547	32.4
Total, All Taxpayers	142.0	100.0	8,168	100.0	1,689	100.0
Highest 10%	14.2	10.0	3,431	42.0	890	52.7
Highest 5%	7.1	5.0	2,556	31.3	686	40.6
Highest 2%	1.4	1.0	1,402	17.2	391	23.2

¹ Federal taxes are equal to individual income tax (including the outlay portion of the EIC and child credit), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes.

² The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker's compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels. The highest 10% begins at \$107,455, the highest 5% at \$145,199 and the highest 1% at \$340,306.

³ Includes filing and nonfiling units. Individuals who are dependents of other taxpayers with negative income are excluded.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

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

Mr. HAGEL. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Five minutes forty-five seconds.

Mr. HAGEL. I yield myself such time as I consume.

Mr. President, this debate in which our body has engaged over the last 5 days I believe has been helpful for our country because it has focused on a critical need, a need to come forward with a Medicare prescription drug plan, a plan that is focused on those who need it most and that is responsible.

None of the programs we have debated over the last few days have been perfect. The proposal that Senator ENSIGN and I and others have brought to the floor is not perfect. We were not given much of an opportunity to work through these issues where we normally have opportunities to work through issues, and that is in committee. So we debated something so critical to our seniors, to the future of our country on the floor of the Senate. When we do it that way, we have to rush. We slam things together. There are imperfections in that process, but nonetheless, again, I believe this has been an important, enlightened, educational, and helpful process.

We now have one option before us. We voted down two options yesterday. We have the Hagel-Ensign plan that we will vote on within the hour. What this plan does is give our seniors a very significant benefit. I ask: Would we really deny our seniors not only the benefit—the real, practical, relevant, tangible benefit—of this program, but also something maybe more important, and that is the peace of mind that they will not be ruined by catastrophic drug costs? Let's again review quickly what this amendment does.

This is immediate. It can be up and running on January 1, 2004. It is permanent, unlike the Democratic plan that we voted down yesterday.

It offers discount drug card programs with 20- to 40-percent discounts for all who enroll.

It is affordable. Seniors pay only a \$25 annual fee and then a small copayment after they have reached their out-of-pocket expense level.

It provides catastrophic coverage. We use the market system. We do not in-

vent more government, bigger government, impersonal government. We propose a real-world solution to a real-world problem with this proposal.

This bill gives our seniors the protection they need and for those who need it most. I encourage my colleagues to look seriously and closely at what we are proposing today.

It is accountable, it is responsible, it fits within the \$300 billion budget resolution that we passed last year for a prescription drug plan over the next 10 years. We are giving the seniors an opportunity for peace of mind and real benefits that will enhance their quality of life and enhance the ability for not just this senior generation but future generations to pay for their health care costs, at the same time taking into consideration the generations ahead who will have to pay for this program.

Someone will pay for this program. We need a program, but let us use some common sense. Let us find a center of gravity, an equilibrium, and do it right. We believe our amendment accomplishes that.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Massachusetts.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM THE RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES, 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 4775. The clerk will report the conference report.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to 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, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of July 19, 2002, at page 4935.)

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, how much time is allotted for debate on the conference report?

The PRESIDING OFFICER. Thirty minutes equally divided between the chairman and the ranking member.

Mr. BYRD. I thank the Chair. Madam President, Senator STEVENS is on his way. He is the ranking member on the Appropriations Committee and he will share the time with me. I have been informed he has indicated I should proceed immediately with my statement, and he will shortly reach the floor and speak on the conference report himself.

The Senate will then vote on the conference report for the fiscal year 2002 supplemental appropriations bill. This conference agreement provides critical investments in national defense, both at home and abroad. Let me say that again. This conference report provides critical investments in national defense, both at home and abroad. So let the world know that the Appropriations Committee has acted expeditiously, working with the House Appropriations Committee in conference, and that Senators on both sides of the aisle have worked hard with their staffs to provide for these investments in the Nation's defense, both at home and abroad.

This agreement is the result of true bipartisan, bicameral cooperation, and I urge its adoption.

Last fall, America was in shock. The World Trade Center and the Pentagon had been attacked. Thousands of Americans had lost their lives to the brutal terrorist attacks. Our eyes were opened to the new reality of war in the 21st century, a different kind of war. No