

people who are over 65 and want to work? Was it the education tax credits we have passed and is now in conference to help parents by giving a credit for their children's education starting in kindergarten and going all the way through college? Or is it the small business tax credits he thinks are risky tax schemes to help our small business people create new jobs to keep our economy going?

I do not think one can make the case that this is a risky tax scheme. This is marriage penalty relief for 21 million American couples who are paying the tax only because they got married. In addition, we add more people who will get the earned-income tax credit because they are coming off welfare and are working and feeling good about themselves. We want to encourage them to do that. A family of four making \$31,000—

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

Mrs. HUTCHISON. Will still get an earned-income tax credit when they make \$33,000.

There is no excuse. It is time to let us take up amendments on this bill and vote marriage tax penalty relief for the hard-working people of our country.

I yield the floor.

Mr. DASCHLE. Mr. President, it is important to be clear what this vote is about—and what it is not about. This vote is not a test of who supports eliminating the marriage penalty. Virtually every member of this Senate agrees: Married couples who work hard just to make ends meet should not have to pay more in taxes simply because they are married.

If the plan proposed by our Republican colleagues only eliminated the marriage penalty in a way that was fair and responsible, I would vote for it. And so, I suspect, would every other Democrat in this Senate.

But the Republican plan goes far beyond fixing the marriage penalty. Sixty percent of their \$248 billion plan has nothing to do with fixing the marriage penalty. That is what this vote is about. This vote is about the tens of billions of dollars of tax cuts hidden in this bill that have nothing to do with eliminating the marriage penalty on working families.

In addition to the \$99 billion it costs to address the marriage penalty, the Republican plan includes another \$149 billion for tax breaks that have nothing to do with the marriage penalty. Most of these new tax breaks would go to those who arguably need it least—including couples at the top of the income ladder who already get a marriage bonus!

We believe there is a better use for that additional \$149 billion: creating an affordable, voluntary Medicare prescription drug benefit. That is what this vote is about: Should we use the extra tens of billions of dollars in this bill to create more tax breaks that disproportionately benefit upper income Americans—people who, in many cases,

get a marriage bonus? Or should we eliminate the marriage penalty for couples who need a tax cut, and use the other \$149 billion in this bill to create a Medicare prescription drug benefit?

What is really going on here? What are Republicans afraid of? Evidently, they are absolutely terrified of voting on our prescription drug amendment. They seem to recoil at even the slightest mention of those two words.

Our Republican colleagues filed cloture on this bill before debate had even begun. They hope to rig the procedural situation so as to shield their faulty bill from public scrutiny and avoid voting on prescription drugs.

Senator LOTT has said our amendments are "ridiculous." He has said it would give him great joy to vote against them. We want to make his day. We want to give him that chance. That is why I once again will vote against cloture on this bill. If Republicans really think our amendments are "ridiculous," they can vote against them. If they think that adding a prescription drug benefit is a "poison pill," they can vote against it. But let us vote and get on with the Senate's business and the business of the American people.

MARRIAGE TAX PENALTY RELIEF ACT OF 2000—Motion to Proceed

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 437, H.R. 6, the Marriage Tax Penalty Relief Act of 2000:

Trent Lott, Kay Bailey Hutchison, Tim Hutchinson, Chuck Hagel, Larry E. Craig, Phil Gramm, Jesse Helms, Strom Thurmond, Rod Grams, Sam Brownback, Pat Roberts, Judd Gregg, Wayne Allard, Richard Shelby, Gordon Smith of Oregon, and Bill Frist.

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

The question is, Is it the sense of the Senate that debate on amendment No. 3090 to H.R. 6, an act to amend the Internal Revenue Code of 1986 to reduce the marriage penalty by providing for adjustments to the standard deduction, 15-percent rate bracket, and earned-income credit and to repeal the reduction of the refundable tax credits, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida (Mr. MACK), the Senator from Arizona (Mr. MCCAIN), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY)

and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

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

The yeas and nays resulted—yeas 51, nays 44, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—51

Abraham	Enzi	Lugar
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Roberts
Brownback	Grams	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Campbell	Hagel	Smith (NH)
Chafee, L.	Hatch	Smith (OR)
Cochran	Helms	Snowe
Collins	Hutchinson	Specter
Coverdell	Hutchison	Stevens
Craig	Inhofe	Thomas
Crapo	Jeffords	Thompson
DeWine	Kyl	Thurmond
Domenici	Lott	Warner

NAYS—44

Akaka	Edwards	Lieberman
Baucus	Feingold	Mikulski
Bayh	Feinstein	Moynihan
Biden	Graham	Murray
Bingaman	Harkin	Reed
Boxer	Hollings	Reid
Breaux	Inouye	Robb
Bryan	Johnson	Rockefeller
Byrd	Kennedy	Sarbanes
Cleland	Kerrey	Schumer
Conrad	Kohl	Torricelli
Daschle	Landrieu	Voinovich
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	

NOT VOTING—5

Kerry	Mack	Roth
Lincoln	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Democratic leader.

Mr. DASCHLE. Mr. President, I regret that this vote had to have been taken. I have made it clear from the very beginning that my hope is we can find some way to compromise. We have thought we have already compromised extensively. We have limited the number of amendments. We have limited the time on those amendments. We are now even prepared to allow second degrees so long as we get a vote. That is the regular order.

We believe, as strongly as we want to resolve the marriage tax penalty, that having the opportunity to offer a better alternative is something that is so fundamental to the rights of every Democratic Senator. This vote we took had nothing to do with the marriage tax penalty. It had everything to do with a Senator's right to offer an amendment that would improve a marriage tax penalty bill. I am hopeful we can have some resolution on this matter at some point in the not-too-distant future.

I will tell our colleagues in the majority that this vote will not change. This vote will stay at 45 for whatever

length of time it takes. So there will not be any diminution or any erosion in the strength of feeling we have about our right to offer amendments. I am hopeful with that realization we can reach some compromise.

Mr. President, I yield 2 hours to the distinguished senior Senator from West Virginia under the cloture to be used as he deems appropriate during the debate on the marriage tax penalty.

The PRESIDING OFFICER. The leader has that right.

Mr. DASCHLE. I thank the President. I yield the floor.

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PROTECT THE RIGHTS OF CRIME VICTIMS—Motion To Proceed—Resumed

Mr. KYL. Mr. President, we are in the process of attempting to work out an arrangement of time for the debate on the pending motion. I ask for all concerned if the Chair will describe the pending business of the Senate.

The PRESIDING OFFICER. The question is on the motion to proceed to S.J. Res. 3.

Mr. KYL. I thank the Chair.

We are in the process of determining just how much time speakers are going to need in order to conclude debate on the motion to proceed. Senator FEINSTEIN and I both have some preliminary remarks we would like to make in connection with that debate as the two chief proponents of the resolution. We understand Senator LEAHY and Senator BYRD wish to take some time, and Senator BIDEN as well a little later on.

As soon as we can confirm the amount of time people will need, we will probably propound a unanimous consent request in that regard.

Mr. LEAHY. Will the Senator yield?

Mr. KYL. I am happy to yield.

Mr. LEAHY. Mr. President, I am perfectly willing, from this side, to work with the distinguished Senator from Arizona and the distinguished Senator from California on time. I do not expect an enormous amount of time to be consumed. It has not been announced, but there is a certain sense that there may not be any more rollcall votes this week so a lot of people are probably going to be leaving. I will definitely try to accommodate them.

The distinguished Senator from West Virginia does have a statement he wishes to make. I have a statement I wish to make. I am simply trying to protect some others who may want to speak, as I am sure the Senator is on his side. But I will continue to work with the distinguished Senator to cut down this time any way we can.

Mr. KYL. We will announce to all Members, if we can work that time arrangement out, just exactly how this will proceed.

In the meantime, let me see if I can set the stage so everyone will know where we are in this debate. Then I

would like to thank some people and then move on to a colloquy with Senator FEINSTEIN, if I might.

Because of the way the Senate works, we have moved back and forth in Senate business. But the pending business is the motion to proceed on S.J. Res. 3; that is, the crime victims' constitutional rights resolution sponsored by Senator FEINSTEIN and myself.

We gained cloture earlier this week so we could proceed, and the motion to proceed will certainly be agreed to, if we carry the debate that far. Senator FEINSTEIN and I, however, are of the view that because of various things that have occurred, it is unlikely that a cloture motion, if filed, would be supported by the requisite number of Senators to succeed early next week.

Therefore, what we are prepared to do is speak to the issue of the resolution, where we are with respect to the resolution, to thank the many groups and sponsors and other individuals who have been so supportive of this effort, and to seek permission of the Senate, when people have finished their comments, to withdraw the motion to proceed and to move to other business. That merely means a timeout in our efforts to secure passage of this constitutional amendment.

We recognize at this point in time that proceeding will simply encourage more Senators to use a great deal of the Senate's time in unproductive speeches that really do not go to the heart of our constitutional amendment but take time away from the Senate's important business. We have no intention of doing that.

So we will make some remarks that will set the stage for what we are about to do. But let me begin by noting the tremendous amount of support around the country that has accompanied our effort to bring this measure to the floor of the Senate. I have to begin by thanking two people in particular, Senator DIANNE FEINSTEIN and Majority Leader TRENT LOTT. We could not have brought this amendment, over the course of the last 4 years, to the bipartisan level of support it now enjoys without the ability to work on both sides of the aisle. No one could have carried this matter on the Democratic side more capably than Senator DIANNE FEINSTEIN. Before she came to the Senate, she was a passionate advocate for victims of crime. As mayor of San Francisco, she was a proponent of area residents who were victims of crime and carries that passion with her to this debate now.

She and I have worked closely with victims' rights advocates to shape the legislation. I might say, while some of our colleagues have suggested there is something wrong with the fact that we have conducted dozens of meetings with the administration, Department of Justice, and many others, and honed this amendment in 63 different drafts, we are very proud that we have included anyone who wanted to talk about this in our circle of friends work-

ing to get an amendment that could pass the Senate and that we have carefully taken their suggestions into account, thus accounting for the many different drafts as the 4-year progress of this resolution has brought us to this point.

The fact that we have taken their suggestions to heart and continually polished this amendment we think is a strong point. While we were criticized yesterday on the floor for engaging in yet more negotiations that might result in a final, 64th draft, I must say that was largely at the instigation of Senator FEINSTEIN, who said, given the fact the Department of Justice has four concerns still pending with regard to our specific proposal, let's meet with them and see if we can come to closure on those items.

Because of her leadership, we were able to come to closure on three of them. We believe we made more than a good faith effort with respect to the fourth, which had to do with the protection of defendants' rights. We were willing to acknowledge that the rights enumerated in this proposal take nothing whatsoever away from defendants' rights. I do not know how more clearly we can say it. That was not acceptable to the Department of Justice.

But it is not for want of trying, on the part of Senator FEINSTEIN, that we have been unable to secure the support of the Department of Justice for this amendment. So my first sincere thanks go to the person without whom we would not be at this point, my colleague Senator FEINSTEIN.

I also thank Leader LOTT. When I went to him with a request for floor time for this amendment, his first response was: You know all the business the Senate has to conduct. Are you sure you want to go forward with this? I said we are absolutely certain.

Despite all the other pressing business, he was willing because he, too, believes strongly in this proposal, as a cosponsor, to give us the floor time to try to get this through. It is partially out of concern for his responsibilities as leader that we recognize that to proceed would result in a vote that would not be successful, and therefore, rather than use that precious time, we are prepared to visit privately with our colleagues to further provide education to them about the necessity of this amendment since, clearly, the methodology we have engaged in thus far was not working. We would make strong arguments, but I daresay it didn't appear that anyone was here on the floor listening because when various opponents would come to the floor, they would repeat the same mantra over and over again that we had already addressed.

Part of that mantra was, Did you know this amendment is longer than the Bill of Rights? We would patiently restate that is not true, that all of the rights of the defendants in the Constitution are embodied in language of more words than this amendment that embodies the victims' rights and so on.