is Father Murphy and another parishioner. We welcome them. Although we are formally not supposed to acknowledge that anybody is up there, I think no one will mind on this occasion.

It is very fortunate for us to have him today. We thank him. We will spare him the debate that now commences with my dear friend, Senator ROTH, one long day of the death tax.

With that I thank him, I thank the Chair, and I yield the floor.

DEATH TAX ELIMINATION ACT

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will report H.R. 8.

The legislative clerk read as follows:

A bill (H.R. 8) to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. As I conferred with the Chairman of the Finance Committee, the first amendment that the two leaders wish to be offered today is the Democratic alternative, which the senior Senator, the ranking member of the Finance Committee, will offer as soon as he completes his business with the guest Chaplain.

I indicate to all Senators listening, this matter has 2 hours evenly divided. Of course, we note at 9:30 we are in a break for 3 votes. So there is no need that we necessarily have to have the full 2 hours of debate on each side. Our leader has directed me—I am trying to think of a gracious way of saying this. I am going to be the one who distributes the time on the bill, and inasmuch as we have only 20 minutes after time is evenly divided, on each of the 20 amendments we have today, we have to watch everything and make sure we follow the time guidelines. The leaders are not sure when votes will occur, other than the 9:30 votes.

At this time I yield to the Senator from Delaware.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Delaware.

SCHEDULE

Mr. ROTH. Mr. President, I have a statement to make on behalf of the leader. I recall what my colleague said about today. I hope we can move as expeditiously as possible. It is not necessary that on each of these amendments we take the full time. Obviously, there should be full debate, but I hope, since we have 20 amendments, we can move, as I say, with dispatch.

Today the Senate will begin debate on the Death Tax Elimination Act. By previous consent, the Senate will proceed to the final votes on the Department of Defense authorization bill at approximately 9:30 a.m. Following the disposition of the DOD authorization bill, the Senate will resume the death tax legislation with amendments to be offered and voted on throughout the day.

As previously announced, the Senate will complete action on the death tax bill and the reconciliation legislation prior to adjournment this week. Therefore, Senators should be prepared for a late Friday session and a Saturday session if necessary.

I thank my colleagues for their attention and yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

DEATH TAX ELIMINATION ACT—Continued

Mr. REID. Mr. President, I yield the Senator from New York whatever time he may consume of the 2 hours.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 3821

Mr. MOYNIHAN. Mr. President, I rise for the purpose of offering an amendment in the nature of a substitute. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 3821.

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

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to increase the unified credit exemption and the qualified family-owned business interest deduction, and for other purposes)

Strike all after the first word and insert:

1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Estate Tax Relief Act of 2000''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. INCREASE IN AMOUNT OF UNIFIED CREDIT AGAINST ESTATE AND GIFT TAXES.

(a) IN GENERAL.—The table contained in section 2010(c) (relating to applicable credit amount) is amended to read as follows:

''In the case of estates of decedents dying, and gifts made during:	**The applicable amount is:**
2001, 2002, 2003, 2004, and 2005	$1,000,000
2006 and 2007	$1,125,000
2008	$1,500,000
2009 or thereafter	$2,000,000.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2000.

SEC. 3. INCREASE IN QUALIFIED FAMILY-OWNED BUSINESS INTEREST DEDUCTION AMOUNT.

(a) IN GENERAL.—Paragraph (2) of section 2057(a) (relating to family-owned business interests) is amended to read as follows:

''(2) MAXIMUM DEDUCTION.—

''(A) IN GENERAL.—The deduction allowed by this section shall not exceed the sum of—

''(i) the applicable deduction amount, plus

''(ii) in the case of a decedent described in subparagraph (C), the applicable unused spousal deduction amount.

''(B) APPLICABLE DEDUCTION AMOUNT.—For purposes of this subparagraph (A)(i), the applicable deduction amount is determined in accordance with the following table:

''In the case of estates of decedents dying during:	**The applicable deduction amount is:**
2001, 2002, 2003, 2004, and 2005	$1,375,000
2006 and 2007	$1,625,000
2008	$2,375,000
2009 or thereafter	$3,375,000.

''(C) APPLICABLE UNUSED SPOUSAL DEDUCTION AMOUNT.—With respect to a decedent whose immediately predeceased spouse died after December 31, 2000, and the estate of such immediately predeceased spouse met the requirements of subsection (b)(1), the applicable unused spousal deduction amount for such decedent is equal to the excess of—

''(i) the applicable deduction amount allowable under this section to the estate of such immediately predeceased spouse, over

''(ii) the sum of—

''(I) the applicable deduction amount allowed under this section to the estate of such immediately predeceased spouse, plus

''(II) the amount of any increase in such estate's unified credit under paragraph (3)(B) which was allowed to such estate.''

(b) CONFORMING AMENDMENTS.—Section 2057(a)(3)(B) is amended—

(1) by striking ''$675,000'' both places it appears and inserting ''the applicable deduction amount'', and

(2) by striking ''$675,000'' in the heading and inserting ''APPLICABLE DEDUCTION AMOUNT''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2000.

SEC. 4. SENSE OF SENATE REGARDING SAVINGS.

It is the sense of the Senate that the reduced cost to the Federal Treasury resulting from the amendments made by this Act as compared to the cost to the Federal Treasury of H.R. 8 as received by the Senate from the House of Representatives on June 12, 2000, should be used exclusively to reduce the Federal debt held by the public.

Amend the title so as to read: ''An Act to amend the Internal Revenue Code of 1986 to increase the unified credit exemption and the qualified family-owned business interest deduction, and for other purposes.''

Mr. MOYNIHAN. Mr. President, a little background. In 1906, President Theodore Roosevelt sent a proposal to Congress to impose an estate tax. He justified the measure as follows. He said:

A heavy progressive tax upon a very large fortune is in no way a tax upon thrift or industry as a like tax would be on a small fortune. No advantage comes either to the country as a whole or to the individuals inheriting the money by permitting the transmission in their entirety of the enormous

fortunes which would be affected by such a tax; and as an incident to its function of revenue raising, such a tax would help preserve a measurable equality of opportunity for the people of the generations growing to manhood.

That is why we have an estate tax today. Congress had imposed such taxes in the 1800s, generally to fund wars, and indeed we had an income tax during the Civil War. When the need for such revenues eased, why these taxes, including the estate tax, were put aside. Theodore Roosevelt championed the enactment, on a number of times, of the measure that is in the code today. Over the years, the number of taxable estates, estate returns as a percentage of total deaths, has fluctuated, but not very much, from under 1 percent in 1935—which is the very depths of the depression of that decade—to a high of almost 8 percent in 1977, when we changed the tax to bring it back down. And the number of taxable estates today ranges between 1 percent and 2 percent, a level not that different from that of the depths of the depression.

If we make no changes to the tax rules in 2006, the percentage of taxable estates is projected to be lower than today because we raised the limit. The Joint Tax Committee projects that 1.82 percent of estates will be subject to tax. We are still within that very low historic level, that was run up after World War II, and which we brought back down in 1977. It is not a principal source of Federal revenue. I think it generated $24 billion in 1998, which was 1.4 percent of Federal revenues. Absent change, it might rise to $42 billion in 2008—not even a doubling in 10 years.

The bill before the Senate, H.R. 8, the Death Tax Elimination Act, would repeal the tax in the year 2010. It moves about during the next 10 years, but then it stops altogether, at which point we deal with a revenue loss of $50 billion a year. Mr. President, $50 billion, even in this momentary glow of surpluses, is a large amount of money. That is half a trillion dollars in a decade. It is much more than we should ever give away before we see whether the surplus we are projecting will actually occur, and indeed for the social reasons that Theodore Roosevelt spoke about at the beginning of the century.

The Federal Government is not the only government that would be impacted by the legislation that has been sent us from the House. The estate tax provides revenue for our State governments as well. Under our Federal estate tax laws, States may enact an estate tax without increasing taxes on decedents' estates or their heirs. This is because the Internal Revenue Code provides a dollar-for-dollar reduction in Federal estate tax liability for each dollar collected by the State, up to certain limits. Almost every State has enacted such legislation, and States collect about one-quarter of all estate taxes. The Treasury Department reports that in 1997, the States collected $4.3 billion in estate taxes while the Federal Government collected $16.6 billion.

Repeal of the estate tax would eliminate this source of revenue for State governments. They have not been consulted in the matter, but I cannot imagine they would be enthusiastic.

Finally, we on the Senate Democratic side are concerned about the adverse effect the repeal could have on charitable contributions. We cannot be sure of it, but the Joint Tax Committee estimates that estates are expected to contribute $330 billion to charities over the next 10 years, a third of a trillion dollars.

The question of how much of these contributions would continue or what portion would disappear if we abolish this tax altogether cannot be stated with any confidence, but it is the large estates that contributed the bulk of the $330 billion; $190 billion comes from estates with values over $10 million. We know this as we look around us at the great foundations, some of which date from earlier in the century but others of which reflect the accumulation of wealth in new economic activities in our age, and the estate tax surely has an influence. It should not be the principal concern for us, but it is a fact of our society.

Accordingly, we propose a modification of the existing program whilst retaining the essential legislative measure. We can describe it in two numbers: $2 million and $4 million. Under our amendment, no estate with assets under $2 million would be subject to estate tax. No estate with a family-owned business or farm valued at less than $4 million would be subject to estate tax.

There are very few farms that could be described with even a measure of exaggeration as a family farm worth more than $4 million. New York State is a farming State. It always has been. Ray Christensen, the Special Assistant with the Department of Agriculture and Markets, estimates that our farms sell in the range of about $257,000. I cannot imagine those in Pennsylvania, just over our border, would be very different. They are nowhere near $4 million. I cannot imagine there is such a place, save a nominal farm kept for recreational purposes on the eastern end of Long Island or in the Hudson Valley.

Our proposal would increase the general exemption, which is applicable to all estates, to $1 million immediately—it is $675,000 today—and to $2 million by the year 2009. This would eliminate two-thirds of the approximately 50,000 estates currently subject to tax. In addition, our proposal would increase the exemption for family farms and family-owned businesses from $1.3 million to $2 million immediately and to $4 million by 2009. Our increase would eliminate the estate tax on virtually all family farms and 75 percent of the family-owned businesses.

The measure is costly but not extravagantly so. It costs $65 billion over 10 years, compared to $105 billion under the House proposal, which we have before us. This bill, as I said earlier this week—and I repeat to my esteemed friend, our chairman—should have been referred to the Finance Committee. It was not. The Senate will learn to its cost one day that the Finance Committee has jurisdiction over these matters because we have some competence in them, and not for nothing, for example, did we bring about the 1977 measures—I was then a member of the committee—to lower the estate tax which had commenced to reach almost 8 percent of estates, which is much higher than the historic average. We are back down to where we have been through the century.

I suggest, once again, that we ought to stay with a tax that has served us well. Nearly 100 years ago, Theodore Roosevelt urged adoption of a tax that would ''be aimed merely at the inheritance or transmission in their entirety of those fortunes swollen beyond all healthy limits.''

To conclude, I will ask permission to have printed in the RECORD the lead story in the New York Times business section, Business Day: ''Despite benefits, Democrats' Estate Tax Plan Gets Little Notice.'' It goes on, in a manner one is not accustomed to read in business sections, that:

> Small-business owners and farmers whose Washington lobbyists are ardent backers of a Republican-backed plan to repeal the estate tax seem largely unaware that—
>
> The Democratic proposal—
>
> would exempt nearly all of them from the tax starting next year.

As against the measure we have from the House.

I will read one paragraph and then conclude:

> Two prominent experts on estate taxes said yesterday that the Democrats were offering a much better deal to small-business owners and farmers, because the relief under their bill would be immediate and the estate tax would be eliminated for nearly all of them.

That is a matter we might keep in mind. I ask unanimous consent that this article be printed in the RECORD.

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

[From the New York Times, July 13, 2000]

DESPITE BENEFITS, DEMOCRATS' ESTATE TAX PLAN GETS LITTLE NOTICE

(By David Cay Johnson)

Small-business owners and farmers whose Washington lobbyists are ardent backers of a Republican-backed plan to repeal the estate tax seem largely unaware what President Clinton—who has vowed to veto the Republican proposal—has said he would sign legislation that would exempt nearly all of them from the tax starting next year.

Business owners and farmers would be allowed to leave $2 million—$4 million for a couple—to their heirs without paying estate taxes under the plan favored by the President and the Democratic leadership in Congress. The Republican proposal, which passed the House last month with some Democrats' support and is being debated in the Senate

this week, would be phased in slowly, with the tax eliminated in 2009.

Supporters of the Republican plan say the tax is so complicated that eliminating it is the only effective reform; they argue that the nation's growing wealth means more estates will steadily fall under the tax if it remains law on the Democratic proposal's terms.

Still, had the Democratic plan been law in 1997, the last year for which estate tax return data is available from the Internal Revenue Service, the estates of fewer than 1,300 owners of closely held businesses and 300 farmers would have owed the tax.

According to the data, 95 percent of the roughly 6,000 farmers who paid estate tax that year would have been exempted under terms of the Democrats' plan, as would 88 percent of the roughly 10,000 small-business owners who paid the tax.

Had the estate tax been repealed in 1997, as the Republicans now propose, more than half of the tax savings would have gone to the slightly more than 400 individuals who died that year leaving individual estates worth more than $20 million each.

Two prominent experts on estate taxes said yesterday that the Democrats were offering a much better deal to small-business owners and farmers, because the relief under their bill would be immediate and the estate tax would be eliminated for nearly all of them.

''The fact is that the Democrats are making the better offer—and I'm a Republican saying that,'' said Sanford J. Schlesinger of the law firm of Kaye, Scholer, Fierman, Hays & Handler in New York. With routine estate planning, he said, the $4 million exemption could effectively be raised to as much as $10 million in wealth that could be passed untaxed to heirs. Only 1,221 of the 2.3 million people who died in 1997 left a taxable estate of $10 million or more, I.R.S. data shows.

Neil Harl, an Iowa State University economist who is a leading estate tax adviser to Midwest farmers, said that only a handful of working family farms had a net worth of $4 million. ''Above that, with a very few exceptions, you are talking about the Ted Turners who own huge ranches and are not working farmers,'' he said.

Mr. Harl said he was surprised that farmers were not calling lawmakers to demand that they take the president up on his promise to sign the Democratic bill.

One reason for that may be that in leading the call for repeal of the tax, two organizations representing merchants and farmers—the National Federation of Independent Business and the American Farm Bureau Federation—have done little to tell members about the Democratic plan. Interviews this week with half a dozen people whom the two organizations offered as spokesmen on the estate tax showed that only one of them had any awareness of the Democratic proposal.

Officials of the business federation and the farm bureau said that in the event full repeal failed, they might push for approval of the Democratic plan. But both groups say outright repeal makes more sense.

''My concern is not over the Bill Gateses of the world,'' said Jim Hirni, a Senate lobbyist for the business federation. ''But we have to eliminate this tax, because it is too complicated to comply with the rules. Instead of further complicating the system, the best way is to eliminate the tax, period.''

A farm bureau spokesman, Christopher Noun, said that the Democrats' plan appeared to grant benefits that would erode over time. ''Farmers are not cash wealthy, they are asset wealthy,'' he said. ''And those assets are only going to continue to gain value over the years. So while some farmers may not be taxed now under the other plan—10 or 15 years out they will.''

Whether the proposal to repeal the tax dies in the Senate or is passed and then vetoed by the President, it will become a powerful tool for both parties in the fall elections. The Republicans will be able to paint themselves as tax cutters who would carry out their plans if they could just win the White House and more seats in Congress. The Democrats could try to paint the Republicans as the party that abandoned Main Street merchants and family farmers to serve the interests of billionaires.

A vote in the Senate could come as early as this evening.

At the grass roots, however, those who would benefit from any reduction in the scope of the estate tax take a much more pragmatic view of the matter.

''The whole reason I took up this cause is I do not want to see another small family business get into the situation we are in,'' said Mark Sincavage, a land developer in the Pocono Mountains of Pennsylvania whose family expects to sell some raw land soon to pay a $600,000 estate tax bill to the federal and state governments.

The independent business federation cited Mr. Sincavage's situation as an especially good example of problems the estate tax causes its members who are asset rich but short on cash. Facing similar circumstances is John H. Kearney, a Ford and Lincoln dealer in Ravena, N.Y., who said he ''got slammed pretty hard'' when his father died last year. Most of his father's $1.6 million estate was in land and the car dealership, said Mr. Kearney, who added that he dipped into savings intended for his children's education to pay the estate tax bill.

Neither Mr. Sincavage nor Mr. Kearney said he was aware of the Democrats' plan to roll back the tax.

But Mr. Kearney said his interest was in reasonable tax relief so that merchants and farmers could continue to nurture their businesses, not in helping billionaires.

''No part of me has any sympathy for people with more than $5 million,'' he said. ''Would I feel terrible if all they did was raise the exemption to $4 million or $5 million? I would say from my selfish standpoint that we have covered the small family farm and small business and thus we achieved what we wanted to achieve.

''But I would still be asking: Is it really a moral tax to begin with? And that's a point you can argue a hundred different ways.''

Carl Loop, 72, who owns a whole-sale decorative-plant nursery in Jacksonville, Fla., said he favored repeal, partly because estate tax planning was fraught with uncertainty.

''The complexity of it keeps a lot of people from doing estate planning because they don't understand it,'' Mr. Loop said. ''And they don't like the fact that they have to give up ownership of property while they are alive.''

Professor Harl, the Iowa State University estate tax expert, said that he had heard many horror stories about people having to sell farms to pay estate taxes. But in 35 years of conducting estate tax seminars for farmers, he added, ''I have pushed and pushed and hunted and probed and I have not been able to find a single cause where estate taxes caused the sale of a family farm; it's a myth.''

Mr. MOYNIHAN. Mr. President, I see that my esteemed chairman has risen. Accordingly, I yield the floor.

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

Mr. ROTH. Mr. President, the Senate Democrats have proposed an amendment as an alternative proposal to H.R. 8 known as the Death Tax Elimination Act of 2000.

In their alternative, my colleagues across the aisle continue to rely upon the concept of a ''unified credit'' against the death tax. Their $1 million unified credit does not equal H.R. 8's $1 million exemption. The math behind the Democratic alternative forces the families of the deceased to continue to pay the very high tax rate of 41 percent for even one dollar over their $1 million unified credit.

Now compare that to the reasonable 18 percent tax rate for the first dollar over our proposed $1 million exemption. H.R. 8's use of an exemption versus the Democratic alternative's use of a credit literally cuts the remaining tax rate in half or modest estates. In short, the Democratic alternative still has a ''cliff effect.'' If the total fair market value, based on the Internal Revenue's opinion as to the estate's highest and best use, happens to exceed the Democratic credit, then the family is immediately exposed to death tax rates 41 to 60 percent.

The Democratic alternative fails to take advantage of the lower estate tax rates currently provided in the tax code. Their increase in the unified credit to $1 million forces American families to still pay death taxes ranging from 41 to 60 percent.

While H.R. 8's use of the exemption would allow American families the benefit of the lower tax rates beginning at 18 percent until such time as all of the death taxes are eliminated.

I think through all of the debates, most if not all of my colleagues in the Senate would agree that the influences of a strong economy have created $1 million estates in American families who have never had to face these types of overwhelming tax burdens. Dozens of American cities continue to report that the average sales price for a single family home has climbed to more than $250,000. Their average homes are worth a quarter of a million dollars, by the time you add life insurance for husband and wife, 401(k)s and IRAs to the fair market value of their homes many American families could be facing the previously unknown burden of death tax.

Even though the Democratic alternative goes on to eventually increase the unified credit to $2 million by the year 2009, American families' life insurance, 401(k)s, IRAs, and other lifetime savings are exposed to death taxes beginning at 49 to 60 percent for every dollar above the credit.

In vast contrast, those same families would be shielded from all death taxes after 2009, under our proposed Death Tax Elimination Act, H.R. 8.

Additionally, the Democratic alternative attempts to target its proposed relief to family farms and small businesses by raising the family farm and small business deduction from $1.3 million per decedent to $2 million per decedent in the year 2001. Beginning in 2006 through 2009 the deduction would

then be increased through a series of steps to $4 million per decedent.

First of all, I am concerned that under the Democratic alternative, only those estates with over 50 percent of the estate in small businesses would qualify for relief. Upon the detailed review of the 50 percent requirement it becomes obvious that their alternative has several complicated adjustments, which includes all gifts made to the spouse within 10 years of death. This fact alone makes this approach very limited.

In addition to the 50 percent requirement, the Democratic alternative requires that for ten years beyond the date of death, small business families shall have an additional estate tax imposed if the family must dispose of any portion of the family owned business interest for such reasons as bankruptcy or foreclosure. The additional tax is a portion of what would have been owed without the small business exemption and the accrued interest from the date of death.

Second, I am also concerned about the complexity of this approach. The Democratic alternative would require the use of business appraisals and also the preparing and filing of extensive paperwork for up to 10 years beyond death.

After a couple of years of this targeted modest relief having been in effect, I have heard about how it is working. Based on what family farmers and small business folks are telling me in Delaware, I have some misgivings about whether this approach is taking care of most or all of the cases.

Since this complex provision was originally passed in the Taxpayer Relief Act of 1997, 902 estates have elected the current $1.3 million deduction available under the code. Our experience in the area of estate tax provisions leads us to believe that if the Internal Revenue Service challenges as many of the estate valuations as they do under similar provision then only about one-third of the estates that could elect under this provision would benefit under the Democratic alternative.

There are other significant differences between H.R. 8 and the Democratic alternative. H.R. 8 has painstakingly attempted to address multiple concerns in the rules under the generation skipping transfer tax provisions, in a sincere effort to make those rules less burdensome and less complex. Those technical rules, if violated by accident or otherwise generate an additional tax for violating the restriction against generation skipping transfers, by levying 55 percent tax over and above the 41 to 60 percent death tax already due and owing on the total value of the estate. The Democratic alternative does not address the much needed technical changes to general skipping transfer taxes.

Additionally, H.R. 8 has expanded the geographical limitations to qualified conservation easements. This is in recognition of the opportunity to further ease existing pressures to develop or sell environmentally significant land when families must raise funds to pay death taxes.

The Democratic alternative has not even considered this important issue nor has it attempted to advance the preservation of such land.

Now the Democratic leadership has repeatedly complained as to the expense associated with the Death Tax Elimination Act of 2000. But their own alternative is expecting a revenue loss of $64 billion over 10 years, roughly 60 percent of the revenue loss of H.R. 8. This is a $64 billion revenue loss that does not even protect those American families with simple homes, savings, insurance, qualified plans, and investments that do not include a farm or a business.

H.R. 8 repeals the whole estate and gift tax regime in 2010. But, because there are billions of dollars of assets previously untaxed, if the heirs sell any portion of the estate, capital gains taxes are then due and owing. Taxes are then paid at the right time, when the heirs convert the asset to cash. The tax is not collected on an arbitrary and traumatic event such as death. Nor is tax collected on an arbitrary valuation based on paper equity that has never been realized.

Moderately sized estates would be safeguarded from this capital gains tax exposure. The step up in basis is retained for all estates in an amount of up to $1.3 million per estate. In addition, transfers to a surviving spouse would receive an additional step up in the amount of $3 million. So a family could cumulatively receive a step up in basis of $5.6 million at the death of both husband and wife. This effectively protects moderately sized estates from both death tax and capital gain tax exposure.

The House passed the bill on a bipartisan basis with 65 Democrats voting in favor of repeal of the estate and gift taxes. Now is the Senate's opportunity to pass this bill on a bipartisan basis and send it to the President. It is my understanding this will be the only chance this year that we will have to pass this bill and repeal estate and gift taxes. If we fail, the bill dies. If we come together and vote in favor of the House bill—estate tax repeal that the Congress passed last year—it will go directly to the President for his signature.

This should not be a partisan issue.

Unfortunately, the White House has indicated its opposition to repeal of estate and gift taxes and has promised to veto this bill. With roughly $2 trillion of estimated non-Social Security surpluses over the next 10 years, I believe the approximately $105 billion cost of repealing estate and gift taxes to be well within reason—it is only about 5 percent of the projected non-Social Security surplus.

Taxpayers are taxed on their earnings during their lives at least once. Our Nation has been built on the notion that anyone who works hard has the opportunity to succeed and create wealth. The estate and gift taxes are a disincentive to succeed and should be eliminated. It is the right thing to do.

It has been said that there are only two certainties: death and taxes. The two are bad enough, but leave it to the Federal Government to find a way to make them worse by adding them together. This is probably the worst example of adding insult to injury ever devised. Yet Washington perpetuates over and over again on hard working families who have already paid taxes every day they have worked.

The Democratic alternative fails to address the needs of the American people. Therefore I urge my colleagues to support the majority leader and vote for H.R. 8.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I yield to Senator BAUCUS whatever time he may consume.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I will start by complimenting the two leaders. Yesterday at this time, we were facing a likely cloture petition which would have severely limited debate on different amendments. We finally reached agreement on a certain number of amendments. It is good we have crossed that bridge and are now on the bill.

Some of the amendments that are going to be offered today may be adopted—some may not—but at least they will all improve the bill. We will have an open debate on them, and that allows the American people to have a better opportunity to determine what makes sense and what does not. Again, I congratulate the leaders.

The House bill still raises many serious questions that deserve careful consideration. I will name a few.

One is the impact of the House bill across various income levels, something that has really not been discussed. How does it affect one income level versus another income level versus the highest income levels in America?

Another is the new rules that maintain the carryover basis of certain inherited assets. What is all that about? It is kind of technical. The fact is, under the House bill—remember, the House bill doesn't repeal the estate tax until 10 years after enactment—there is not much relief in the first 10 years. But after 10 years, after the estate tax is repealed, many assets will no longer have a stepped up basis but instead have a carryover basis.

What does someone who inherits an asset and wants to then dispose of that asset have to do? He or she cannot just figure out how much tax is owed by using the ordinary market value when it was inherited, which presumably is quite a bit higher than when it was

bought. Rather, he or she has to use the carryover basis from when the asset was first acquired with whatever adjustments were made in the meantime. This is usually much lower. And it is awfully technical.

The net effect is twofold: One is that people who receive an inheritance, under the House bill, are going to suddenly face a much higher capital gains tax if and when they want to dispose of it than they would under current law. Under current law, again, it is called a stepped-up basis. The net effect is a much lower capital gains tax when the asset might otherwise be sold.

All you folks who think, boy, this House bill is going to repeal the estate tax, beware. It does not really repeal the estate tax. What it does is say that 10 years later, when you get that asset, if you want to do anything with it, if you want to sell it, want to realize the value of it, you will pay a whopping capital gains tax, much higher than you would otherwise pay under current law.

The second problem with that is the complexity of the paperwork. Let's assume the House bill passes. After 10 years —you are a person who receives inheritance from an estate. If you have to go back and figure out what the basis of all the assets are, some assets may have been acquired by the decedent 5 years earlier, 10 years earlier, maybe 20 years earlier, maybe 30 years earlier. The basis may have to be carried over for generations. If you have to stop and find the paperwork, find the data which determines what the cost was of that asset from who knows how many years ago, that is a huge change from current law. It will cause undue complexity.

A lot of people in this body correctly complain about the complexity of the Tax Code. That is a valid complaint. If the House bill passes, the additional complexity that this body will impose on taxpayers is going to be beyond imagination. When this Congress did the same thing about 24 years ago, in 1976, guess what happened. Our own constituents raised a huge outcry. What did we do in the Congress? We agreed with our folks.

We ended up repealing carryover basis before it even took effect. I don't think many people have focused on it, but that same provision is in the House bill right now, the bill we have before us.

Then there is the effect of the House bill on charitable giving, when the estate tax is totally repealed on down the road after 10 years. I have talked to a lot of estate tax attorneys—reasonable people, good, solid estate tax attorneys. They say: Max, if you pass a total repeal, I guarantee you there will be a huge drop in charitable contributions in America—huge. It stands to reason.

Think of some taxpayers who have been in the news a lot, some Americans who have huge estates. We see in the news that they are giving a lot to charity. I am sure a lot of those folks are giving to charity out of the goodness of their hearts, for good, solid altruistic reasons. I am also confident that a lot of people with wealth give to charity because under current law, it benefits them; those charitable contributions are deductible. They would far rather give to a charity than to Uncle Sam. They would rather give to their children first, but they would rather give to a charity than Uncle Sam.

I think you are going to see a huge drop in charitable contributions if this House-passed bill the majority party is pushing is enacted into law. At the very least, we never had hearings on this. We really don't know what effect it will have on charitable contributions. We really don't know what real effect repeal of the stepped-up basis and moving over to the carryover basis can have either. We can surmise. I don't hear the majority talking about those issues much, which leads me to the conclusion that there is probably more of a problem with these issues than they want people to believe. What our best guess of the effect? We could determine it best if we had hearings, but there have been no hearings on Federal estate taxes in this Congress—none in the Senate.

I won't belabor the point. I think it is just basic things we should be thinking about before we rush to passage of the House-passed bill. Let's move on to the substance. Remember, under current law, the estate tax applies to estates worth more than $675,000. That is the law. That amount is scheduled to rise to $1 million in the year 2006. In addition, we have special rules that increase the exemption for family-held businesses to $1.3 million. That is current law.

To put this in perspective, next year it is expected that about 2.5 million Americans will die. Of those 2.5 million, roughly 50,000 will have estates that will pay an estate tax under current law. That is 2 percent. I will repeat that because it is worth remembering. Of the number of people who will die this year, about 2 percent of those people will have estates subject to estate tax. So 98 percent of Americans who die will not have estates that are subject to the estate tax. That is current law.

With this basic picture in mind, today's debate presents two separate alternatives, two ways to reform the estate tax. There is the House-passed bill and there is the Democratic alternative.

Let's look at the House bill. What does it do? It works in two steps. Over the first 9 years, it gradually reduces estate tax rates down to a top rate of about 40 percent. How does it do it? Really, it doesn't reduce taxes very quickly during that 9 years because the first year the only things that are actually repealed are the top rate, which is 55 percent, and the surtax. During that time other modest cuts are made. Then the next year, the 53 percent rate is repealed, and then on down. Then in the final year, you get total repeal. The bill waits a full 10 years after enactment before it completely repeals the estate tax. That is when the real effect of the House bill is felt. It is not in the first 10 years but after total repeal, after 10 years.

At the same time, the House bill imposes a new requirement. When full repeal goes into effect, people who inherit estates worth more than certain amounts must maintain what tax lawyers call the ''carryover basis'' of inherited assets. I discussed that a few minutes ago. That, in a nutshell, is the House bill.

The Democratic alternative takes a different approach. It does two things—very simple but effective. First, we dramatically increase the amount that is exempt from estate tax. Currently, as I mentioned, it is $675,000. We increase the per person exemption to $1 million per spouse right away. A few years later, we begin to increase it again, until it reaches $2 million. For a couple, that is a $4 million exemption right across the board.

Second, we increase the family-owned business exclusion to $4 million per spouse. For a couple, it is $8 million.

Those are the two alternatives.

When you compare them, it should be pretty clear the Democratic alternative has two important virtues. First, the Democratic alternative provides dramatic relief, while the Republican bill does not. And it provides dramatic relief where it is needed the most—small businesses, family-held farms and ranches.

In the first year, we would exempt over 40 percent of the estates that are currently subject to an estate tax. Not the House bill, the majority proposed bill; it actually would affect very few people in the first year and it wouldn't exempt anyone from the tax. The Democratic alternative would exempt 40 percent. In fact, ours contains much more relief for estates in this range than the House bill would begin to provide.

Over the longer term, when the provisions take full effect, the Democratic alternative exempts more than two-thirds of all estates. Remember, of all the people who die in America, only 2 percent are subject to estate tax in the first place. The Democratic alternative exempts two-thirds of all those; that is, two-thirds of the 2 percent. It would also exempt three-quarters of all small businesses that might otherwise be paying tax, and 95 percent of all farms and ranches that would have to pay the estate tax under current law.

In contrast, the House-passed bill doesn't go nearly that far. It provides very little relief to these estates for the first 10 years. Granted, eventually it provides total relief, but that is 10 years from now, not in the interim. In 2010 the Republican bill repeals the tax completely, including estates worth not only $2 million or $3 million, or family businesses up to $8 million, but

it also repeals the estate tax for huge estates—$100 million estates, $1 billion estates, $5 billion estates. It totally repeals any tax whatsoever on estates of that size.

Yesterday, I spoke in opposition to the House bill, and Senators THOMAS and INHOFE expressed a little surprise. They said when they talk to ordinary folks in their home States, they hear a lot about the estate tax, and people want reform. They wondered whether I was hearing the same in my State of Montana. I sure am, all the time—in coffee shops, in grocery stores, lots of people talk to me. They think it hits too hard on farms, ranches, and small businesses. That is precisely the point. The House bill responds to these with an abstraction—repeal, 10 years from now.

The Democratic alternative says, no, we are not going to wait 10 years; we are going to do it now. We respond with honest-to-goodness relief. I am sure there is somebody in Montana with an estate worth more than $8 million who will still have to pay some estate tax under the Democratic alternative. But there sure aren't many of them.

Remember, the vast majority of the estates are either not affected by the tax now or, if they are, would be completely exempt under the Democratic alternative. One other virtue of the Democratic alternative is it costs much less than the House bill, $40 billion less over 10 years. After that, the savings are even greater.

As a result, the Democratic alternative allows us not only to reform the estate tax in a way that helps where it is needed the most, but it also allows us to address other priorities that, frankly, are more important than total repeal of the estate tax, particularly for huge estates.

For example, what about the national debt? The Democratic alternative leaves an additional $40 billion available to pay down the national debt. Or we could use the savings to provide tax cuts to meet other important needs; help average families save for retirement or their kids' college education, or help people meet long-term medical care costs; protect Social Security and Medicare.

Believe me, these are good things that we hear about at home all the time. I believe that more people are more concerned about these matters than they are about total repeal of the estate tax, particularly for large estates.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001—Resumed

The PRESIDING OFFICER. Under the previous order, the time has arrived to proceed to the next order of business.

The Senator from Delaware.

Mr. ROTH. Mr. President, I ask unanimous consent that the next votes in the series be limited to 10 minutes each.

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

Mr. REID. The first vote will be 15 minutes and thereafter 10 minutes. We agree.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Feingold pending amendment No. 3759, to terminate production under the D5 submarine-launched ballistic missile program.

Durbin Amendment No. 3732, to provide for operationally realistic testing of National Missile Defense systems against countermeasures; and to establish an independent panel to review the testing.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, it is my understanding that under the order we will now proceed to two votes. I recommend to the Senate that we proceed to the Feingold vote first.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Second, to the vote on the amendment of the distinguished Senator from Illinois.

At this time, I believe we have 2 minutes for those in opposition. But in deference to the proponents, we are willing to hear from the proponents first.

They are not going to use it.

Then I yield 2 minutes to the distinguished chairman of the Subcommittee on Strategic Forces.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, the Feingold amendment would undermine the U.S. sea-based deterrent force by killing the Trident D–5 missile program. Such a decision would cut the Navy's requirement short by 53 missiles resulting in the deployment of three fewer submarines that DOD currently believes are required.

I move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

Mr. BYRD. Mr. President, will the Chair kindly tap the gavel a little bit to clear the well?

The PRESIDING OFFICER. Senators will clear the well. The Senate will be in order. The clerk will not proceed until Senators clear the well.

Mr. BYRD. Mr. President, I thank the Chair.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Maryland (Ms. MIKULSKI) is necessarily absent.

The result was announced—yeas 81, nays 18, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—81

Abraham	Dodd	Lugar
Akaka	Domenici	Mack
Allard	Edwards	McCain
Ashcroft	Enzi	McConnell
Baucus	Feinstein	Moynihan
Bayh	Fitzgerald	Murkowski
Bennett	Frist	Nickles
Biden	Gorton	Reed
Bingaman	Graham	Robb
Bond	Gramm	Roberts
Breaux	Grams	Roth
Brownback	Gregg	Santorum
Bryan	Hagel	Sarbanes
Bunning	Hatch	Schumer
Burns	Helms	Sessions
Byrd	Hollings	Shelby
Campbell	Hutchinson	Smith (NH)
Chafee, L.	Hutchison	Smith (OR)
Cleland	Inhofe	Snowe
Cochran	Inouye	Specter
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Coverdell	Kyl	Thompson
Craig	Landrieu	Thurmond
Crapo	Levin	Torricelli
Daschle	Lieberman	Voinovich
DeWine	Lott	Warner

NAYS—18

Boxer	Jeffords	Lincoln
Dorgan	Johnson	Murray
Durbin	Kerrey	Reid
Feingold	Kohl	Rockefeller
Grassley	Lautenberg	Wellstone
Harkin	Leahy	Wyden

NOT VOTING—1

Mikulski

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3732

Mr. WARNER. Mr. President, under the previous order, we will now proceed to the amendment by the Senator from Illinois. At such time as he concludes his portion of the 2 minutes, I yield my time to the senior Senator from Mississippi, Mr. COCHRAN.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Illinois. The time is 2 minutes, equally divided.

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, can I have order in the Chamber?

The PRESIDING OFFICER. The Senate will come to order.

Mr. DURBIN. Mr. President, this amendment which we offer is one that was debated last night on the floor of the Senate. It is very straightforward. If we are to go forward with a national missile defense system, we should have honest, realistic testing, including testing for countermeasures so we can say to the American people: Your money is being well spent; so we can say to them: If this is a source of security and defense for America, it is one that will work and function.

Some have looked at my amendment and said it must be critical of the system because DURBIN has questioned the system in the past. I presented, during the course of the debate last night, a letter from the Director of Testing and Evaluation in the Department of Defense, Mr. Philip Coyle, in which he writes to me and says: