

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

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 125 Leg.]

#### YEAS—43

Akaka	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Sarbanes
Cleland	Inouye	Schumer
Clinton	Johnson	Stabenow
Conrad	Kennedy	Torricelli
Corzine	Kerry	Wellstone
Daschle	Kohl	Wyden
Dayton	Leahy	
Dodd	Levin	

#### NAYS—56

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Rockefeller
Brownback	Hagel	Santorum
Bunning	Hatch	Sessions
Burns	Helms	Shelby
Byrd	Hutchinson	Smith (NH)
Campbell	Hutchison	Smith (OR)
Chafee	Inhofe	Snowe
Cochran	Jeffords	Specter
Collins	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	

#### NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

#### AMENDMENT NO. 660

The PRESIDING OFFICER. The question now occurs on the McCain amendment No. 660. The Senator from Arizona.

Mr. McCAIN. Madam President, this amendment would cut the top tax rate for the wealthiest individuals from 39.6 percent to 38.6 percent and devote the resulting savings that would have gone to this group to lower and middle-income taxpayers by increasing the number of individuals who pay the 15-percent tax rate. When it is finally phased in, this amendment will place millions of taxpayers now in the 28-percent tax bracket into the 15-percent tax bracket. Under this amendment, unmarried individuals can make nearly \$30,000 and married individuals can make \$50,000 and still be in the 15-percent tax bracket.

I urge its adoption and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, most of those paying the top marginal rate are small business owners and farmers operating their businesses as sole proprietorships or S-corporations.

A study recently released by the Treasury shows that under the President's proposal—this is the President's proposal but still germane—77 percent of the money going to cut the top 39.6-percent rate would go to small business owners. These small business owners make up 63 percent of the tax returns that would benefit from reducing the top rate. Small business owners are, of course, the engine of growth that runs our economy. These are the people who plow their tax money and their tax relief right back into their businesses, increasing wages, hiring more workers.

The number of small businesses that could benefit from a cut in the top rate, for instance, in the State of Arizona, is around 267,000 small businesses. I seriously question how much we really gain by attacking these small businesses with high rates.

Another twist is, for those of you who are interested in disabled children and kids with special needs, there are special needs trusts. These trusts for the disabled can be easily subject to taxation at the top rate of 39.6 percent.

I urge Members to vote down the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. INOUE. Madam President, on this vote, I have a pair with the Senator from Alaska (Mr. STEVENS). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

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

The result was announced—yeas 49, nays 49, as follows:

[Rollcall Vote No. 126 Leg.]

#### YEAS—49

Akaka	Dorgan	Lincoln
Bayh	Durbin	McCain
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Byrd	Graham	Reed
Cantwell	Harkin	Reid
Carnahan	Hollings	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Johnson	Schumer
Clinton	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

#### NAYS—49

Allard	Domenici	Lott
Allen	Ensign	Lugar
Baucus	Enzi	McConnell
Bennett	Fitzgerald	Miller
Bond	Frist	Murkowski
Breaux	Gramm	Nelson (NE)
Brownback	Grassley	Nickles
Bunning	Gregg	Roberts
Burns	Hagel	Santorum
Campbell	Hatch	Sessions
Cleland	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Craig	Inhofe	
Crapo	Kyl	
DeWine		

Snowe	Thompson	Voinovich
Thomas	Thurmond	Warner

#### PRESENT AND GIVING A LIVE PAIR—1

Inouye

#### NOT VOTING—1

Stevens

The amendment (No. 660) was rejected.

Mr. LOTT. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### MOTION TO COMMIT

The PRESIDING OFFICER. The question is now on agreeing to the motion of the Senator from Arizona.

The Senator from Arizona is recognized.

Mr. McCAIN. Madam President, the intention of this amendment is to commit until we can find out exactly what our expenditures are going to be for national defense. Recent articles and information clearly indicate that there will be very little, if any, left over for a supplemental for any funding that I personally campaigned that the men and women of the armed services would receive for a national defense system.

I don't expect to win on this, but I can assure you that with this tax cut going through as it is, with all of the additional spending that I have observed over the last few years, which I see no change in whatsoever, we will not have enough money to defend this Nation's vital national security interests.

We are embarked on an unusual and dangerous course of action, a massive tax cut without any indication or evidence whatsoever of how much we are going to need to spend to defend this Nation. I urge great caution as we embark on this enterprise because it may be a very expensive price to pay.

I will take a voice vote on this amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, first of all, we all appreciate the Senator's concern about defense because he is very much an authority in that area. I am confident, however, that the budget resolution we passed has provided adequate funding for defense. This amendment would undo all of our efforts to provide significant cuts at all marginal rates. Besides, we have \$500 billion in the contingency fund that we will be able to use to draw on if additional money for defense is needed.

I urge my colleagues to vote no.

The PRESIDING OFFICER. The yeas and nays have been ordered. There needs to be consent to vitiate them.

Mr. GRASSLEY. I ask unanimous consent that the yeas and nays be vitiated.

Mr. REID. Objection.

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRASSLEY. Madam President, I make a point of order that the amendment is not germane to the provisions

of a reconciliation measure. I raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. REID. Madam President, I move to waive and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

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

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 127 Leg.]

#### YEAS—43

Akaka	Durbin	Lincoln
Biden	Edwards	McCain
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Cantwell	Graham	Nelson (FL)
Carnahan	Harkin	Reed
Carper	Hollings	Reid
Cleland	Inouye	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kerry	Stabenow
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden
Dodd	Levin	
Dorgan	Lieberman	

#### NAYS—56

Allard	Ensign	Miller
Allen	Enzi	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bayh	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Breaux	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Byrd	Hutchinson	Snowe
Campbell	Hutchison	Specter
Chafee	Inhofe	Thomas
Cochran	Jeffords	Thompson
Collins	Kohl	Thurmond
Craig	Kyl	Torricelli
Crapo	Lott	Voinovich
DeWine	Lugar	Warner
Domenici	McConnell	

#### NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 43, the nays 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. LOTT. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 723

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment No. 723 by Senator SMITH to his first-degree amendment No. 680. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, my second-degree amend-

ment is really quite simple. It extends the moratorium on the Internet tax, and that is the extent of it.

If my colleagues want to continue taxing the Internet or tax the Internet further, then they vote against me. But if they do not favor the Internet tax and would like to extend the moratorium against that tax, then vote with me.

Mr. President, I urge the adoption of my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The Senator from Wyoming.

Mr. ENZI. Mr. President, I will be making a motion on the germaneness of the amendment. First, this amendment is not quite as simple as the Senator from New Hampshire says. If a State has a sales tax, the cities, towns, and counties are desperately interested in this. They will not think it is appropriate to adopt a second-degree amendment that will preclude them from having any opportunity to continue the revenue on which they are counting for their schools and other forms of government.

The retailers in our States will not be very happy with that simple change of policy allowing that tax to be destroyed. If a colleague is from a State that does not have a sales tax, he or she would want to vote against this amendment. The reason they would want to vote against it is because they would not want the other 44 States to take an opportunity later to take away a major source of their revenue.

This needs a lot of work. There has been a bipartisan group of us working on this issue for almost a year. We have been working with the retailers, direct marketers, and all levels of government.

The pending amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. SMITH of New Hampshire. Mr. President, I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

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

The yeas and nays resulted—yeas 11, nays 88, as follows:

[Rollcall Vote No. 128 Leg.]

#### YEAS—11

Allard	Craig	Smith (OR)
Allen	Crapo	Warner
Boxer	Gregg	Wyden
Brownback	Smith (NH)	

#### NAYS—88

Akaka	Ensign	Lugar
Baucus	Enzi	McCain
Bayh	Feingold	McConnell
Bennett	Feinstein	Mikulski
Biden	Fitzgerald	Miller
Bingaman	Frist	Murkowski
Bond	Graham	Murray
Breaux	Gramm	Nelson (FL)
Bunning	Grassley	Nelson (NE)
Burns	Hagel	Nickles
Byrd	Harkin	Reed
Campbell	Hatch	Reid
Cantwell	Helms	Roberts
Carnahan	Hollings	Rockefeller
Carper	Hutchinson	Santorum
Chafee	Hutchison	Sarbanes
Cleland	Inhofe	Schumer
Clinton	Inouye	Sessions
Cochran	Jeffords	Shelby
Collins	Johnson	Snowe
Conrad	Kennedy	Specter
Corzine	Kerry	Stabenow
Daschle	Kohl	Thomas
Dayton	Kyl	Thompson
DeWine	Landrieu	Thurmond
Dodd	Leahy	Torricelli
Domenici	Levin	Voinovich
Dorgan	Lieberman	Wellstone
Durbin	Lincoln	
Edwards	Lott	

#### NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this question the yeas are 11 and the nays are 88. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The point of order is sustained and the amendment falls.

Mr. LIEBERMAN. Mr. President, I rise to explain my vote against this amendment to the tax bill that we are debating today. The record clearly shows my strong support for the Internet, which is still in its infancy. I believe that Congress needs to give it the time and space to continue to grow and evolve without complex and burdensome taxation.

In October 1998 Congress enacted the Internet Tax Freedom Act. At that time, I supported placing a three year moratorium on the imposition of any new state and local sales tax on Internet access and precluding charging sales tax for purchases over the Internet that do not apply to other mediums. I was also very supporting of the 19 member Advisory Commission on Electronic Commerce that the Act created to review a variety of tax issues relating to electronic commerce, including the taxation of all interstate commerce whether by the Internet or more traditional methods. I must say that I was disappointed that the Commission was not able to make substantive recommendations on most of the key issues before it.

However, I am hopeful that current negotiations now ongoing here in the Senate will produce legislation to address this issue in an effective and equitable manner. For that reason, I am voting against this amendment. I think that the amendment is well intentional, but that we need to give the current negotiations more time to play out in the Commerce Committee before taking action.

## AMENDMENT NO. 680

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment No. 680 by the Senator from New Hampshire.

Who yields time?

Mr. SMITH of New Hampshire. The amendment numbered 680 is the law enforcement survivor benefits. In 1997, Congress passed legislation to take care of not taxing the benefits to children whose fathers died in the line of duty as law enforcement officers. Unfortunately, there was a period of about 13 years and these children were not taken out of that; therefore, families were faced with a tragedy—children were paying taxes on the benefits.

This amendment clarifies that. So for all of those children whose fathers or mothers died in the line of duty, those benefits will not be taxed.

I believe the yeas and nays have been ordered.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, speaking for myself and Senator BAUCUS, we urge the entire Senate to vote for this amendment.

Mr. SMITH of New Hampshire. I state for the record I am perfectly willing to not have a recorded vote, but I am told others want a recorded vote. I don't want to get the blame for having a recorded vote.

The PRESIDING OFFICER. The yeas and nays have been called for.

Mr. GRASSLEY. I ask unanimous consent the yeas and nays be vitiated. Mr. REID. I object.

The PRESIDING OFFICER. The objection is heard. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 129 Leg.]

## YEAS—99

Akaka	Dayton	Kerry
Allard	DeWine	Kohl
Allen	Dodd	Kyl
Baucus	Domenici	Landrieu
Bayh	Dorgan	Leahy
Bennett	Durbin	Levin
Biden	Edwards	Lieberman
Bingaman	Ensign	Lincoln
Bond	Enzi	Lott
Boxer	Feingold	Lugar
Breaux	Feinstein	McCain
Brownback	Fitzgerald	McConnell
Bunning	Frist	Mikulski
Burns	Graham	Miller
Byrd	Gramm	Murkowski
Campbell	Grassley	Murray
Cantwell	Gregg	Nelson (FL)
Carnahan	Hagel	Nelson (NE)
Carper	Harkin	Nickles
Chafee	Hatch	Reed
Cleland	Helms	Reid
Clinton	Hollings	Roberts
Cochran	Hutchinson	Rockefeller
Collins	Hutchison	Santorum
Conrad	Inhofe	Sarbanes
Corzine	Inouye	Schumer
Craig	Jeffords	Sessions
Crapo	Johnson	Shelby
Daschle	Kennedy	Smith (NH)

Smith (OR)	Thomas	Voinovich
Snowe	Thompson	Warner
Specter	Thurmond	Wellstone
Stabenow	Torricelli	Wyden

## NOT VOTING—1

Stevens

The amendment (No. 680) was agreed to.

Mr. SMITH of New Hampshire. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

## AMENDMENT NO. 684

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 30 seconds.

Many of our colleagues claim that the nation can afford massive tax cuts and adequate education investments. This amendment holds them to their word. It says that the wealthiest one percent of taxpayers will not see a cut in the top income tax rate until education is funded at the amounts that the Senate recently authorized.

In the last 2 weeks, the Senate has voted overwhelmingly—to fully fund the Individuals with Disabilities Education Act; to fully fund Title I state grants for disadvantaged students; to improve teacher quality for all students; to improve education for students with limited English proficiency; and to expand access to safe after-school activities.

Were these cruel hoaxes on the nation's children, or were they good faith statements of the education investments needed today? Let's get our priorities straight, and provide tax breaks to the wealthy only after we have met our commitments to the nation's school children.

Tax breaks targeted to the richest 1 percent should not be allowed to crowd out basic education services. If we do not have the resources to provide the most basic education services, then we certainly do not have the resources to provide new tax breaks for the wealthiest among us.

I will yield the 30 seconds to the Senator from Connecticut.

Mr. DODD. Mr. President, to underscore the point, we have voted now on several occasions over the past number of weeks for full funding of title I, full funding of the IDEA, special education. What we are saying is it is going to be difficult to meet those obligations unless we provide room in the budget. The only way to do that is by reducing the tax cut a marginal amount so those costs can be met. That is what the amendment of the Senator from Massachusetts does. We urge its adoption.

Mr. GRASSLEY. Mr. President, this amendment delays the tax cuts until a certain level of funding for education is met. Everybody knows that education is a top priority of this Congress, as well as of President Bush. Hopefully, we will finish a major education reform bill this week in the Senate.

This tax bill contains over \$30 billion of education tax incentives. There is no reason to delay other tax relief to accomplish something outside the jurisdiction of this bill.

I believe there is a germaneness issue here, so I ask the pending amendment be found not to be germane to the provisions of the reconciliation measure. I raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections of that act for consideration of the pending amendment.

Mr. President, 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. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

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

The yeas and nays resulted—yeas 48, nays 51, as follows:

[Rollcall Vote No. 130 Leg.]

## YEAS—48

Akaka	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lieberman
Bingaman	Edwards	Lincoln
Boxer	Feingold	Mikulski
Byrd	Feinstein	Murray
Cantwell	Graham	Nelson (FL)
Carnahan	Harkin	Reed
Carper	Hollings	Reid
Chafee	Inouye	Rockefeller
Cleland	Jeffords	Sarbanes
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dayton	Landrieu	Wyden

## NAYS—51

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

## NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. REID. Mr. President, could we have order.

The PRESIDING OFFICER. The Senate will come to order.

Mrs. BOXER. Mr. President, I have a unanimous consent request. I ask

unanimous consent that we adjourn for the evening and continue voting on these amendments to the tax bill in the light of day tomorrow morning—

MR. BUNNING. I object.

Mrs. BOXER. At a time to be determined by the two leaders.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. It is very late. These are very important matters. This tax bill is going to change the course of this country.

The PRESIDING OFFICER. Objection is heard to the unanimous consent request.

Mrs. BOXER. We ought to go home and get a good night's sleep and then continue voting.

The PRESIDING OFFICER. The Senator will be in order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I respectfully urge the majority leader to put us out. Let's come back on tomorrow and finish voting on these amendments. It is 15 minutes after 11 o'clock. We have several amendments yet listed. I think the Senators ought to have an opportunity to call up those amendments. And Senators ought to be able to understand what they are voting on.

Why is it that we have to continue going tonight?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. If Senator BYRD will yield, I note that just a few minutes ago we even had a 99-0 vote on an amendment that the sponsor was perfectly willing to have accepted by a voice vote. Actually, we have a limited number of amendments here. I would hope some of them would not be offered or could be withdrawn or could be accepted in the manager's package. We should be close to finishing this legislation.

We had indicated for days, including at the beginning of this bill, that we needed to complete action tonight because we have other very important work to do this week. I know Senators KENNEDY, JEFFORDS, and others were ready to go back to the education bill in the morning. That, too, is very important. And we need the time to go into conference between the Members of this body and the other body and complete action on this very important legislation. I know of no legislation that will be more important than what we are doing tonight.

I have been very diligent as all Senators know, in trying to be respectful of Senators' needs to do other events. It is getting harder and harder. There is an event every night. There are events during the day. And we try to accommodate all Senators.

But I think that as close as we are, and as far as we have come, if the Sen-

ators will just forbear—and we will work with the managers of the legislation—we could complete it tonight.

I am afraid if we stop now and come back tomorrow, the number of amendments will grow. We have not been able to get a limit or agreement to withhold on amendments. I had hoped we could do that.

As difficult as it may be, Senators are minding the store, staying in the Chamber. Most of these votes have been occurring in less than 12 minutes, or 15 minutes at the most. If we will continue on, we should be able to complete this by midnight and then go on to other important legislation.

I thank Senator BYRD for yielding to me in order to respond to his question.

Mr. REID. Will the Senator from West Virginia yield to me for 1 minute?

Mr. BYRD. Mr. President, I don't have the floor.

Mr. REID. Mr. President, I ask unanimous consent for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nevada.

Mr. REID. Mr. President, I have been here since 9:30 this morning with Senator GRASSLEY and Senator BAUCUS. I would like to go home. I am willing to work through whatever time it takes. I say to my friend from Mississippi, the majority leader, we are not going to finish by midnight. We have on this side 20 more amendments at least. I wish it were not so, but that is the fact of life. We are not going to finish by midnight. At four amendments per hour, there are 5 more hours at a minimum.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, we are not going to finish this bill tonight. We are just not going to finish it. I hope the majority leader will let us go home. Not everybody in this Chamber has a wife who is as old as I am. We will be married 64 years next Tuesday. I think it is time to go home.

I have been here many nights late. It has been my experience that when you reach this point in time, you don't accomplish a great deal. One Senator can pretty much take a lot of time right at this point. I don't want to do that. I ask the distinguished majority leader to get a unanimous consent request and put us out. Let us come back in tomorrow, and we will all feel better. I need to get home. I just plead with the leadership, we don't have to finish this bill tonight. We don't have to.

This is Monday, isn't it? So we have several days yet left in the week. There is no reason why we have to pass this bill tonight and stay until midnight or 1 or 2 in the morning. To begin with, this is a bad bill. It ought not pass.

I am going to ask the majority leader once more to put us out.

Mr. LOTT. Mr. President, I know from past experience in the Senate, and from observing the Senate from the House, there have been many occasions when the Senate stayed late, beyond

even midnight. I believe one time, in the case of a gas deregulation bill, they went very late. There is need to finish this legislation tonight. If it goes over to tomorrow, we should just continue going.

This is very important legislation, to be followed by other very important legislation. If we had some sort of understanding, some finite list of amendments, that would be certainly worth considering. It is important, from my conversation with Senator DASCHLE, to note even now, without completing this legislation, we still will have work to do on Friday and possibly Saturday.

Again, it is important that we complete this work. It is important that we complete it so we can go on and begin the conference and go back to the education bill. It is not that late by comparison. I urge the Senate to continue its work.

I know there had been a feeling that we should not complete it tonight. We need to do it. We have been working on this legislation one way or another for at least 3 months. We know how the final result will go, and I urge the Senate to move forward with the amendments that are offered and get to a final conclusion tonight.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent to proceed for 1 minute.

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

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

The PRESIDING OFFICER. The Senator from Montana has the floor.

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

The PRESIDING OFFICER. The Senator has made a unanimous consent request. Is there objection? Without objection, the Senator is recognized for 1 minute.

Mr. KENNEDY. Reserving the right to object, what was the request?

Mr. BAUCUS. I asked unanimous consent to address the Senate for 1 minute.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I ask the Senator from Mississippi whether he would be willing to entertain putting us out tonight so long as we can develop a list of subsequent amendments to be offered, say, by tomorrow? I say that to my friend because there are so many amendments that could otherwise be offered tonight, we are going to be here until 6 in the morning at least.

I very much agree with the Senator from West Virginia. There is a time and a place for everything. The time to end is probably about now. Perhaps we could put together a list of amendments with the understanding that that is the list, those are the amendments because, as we all know, at this point any number of amendments could be offered even subsequent to those that are being contemplated. I ask the Senator if he would contemplate that?

Mr. LOTT. If the Senator will yield, there has been no end to the amendments that might be offered. I know a number of Senators have three or four more amendments. I would be interested in seeing if we can get an agreement on the amendments that would be proposed. That would give us something we could at least consider. But in the meantime, we could continue to make progress on the legislation while we are seeing if there is some sort of list that can be developed. I think that to stop now, without even knowing what the final product is going to be, what amendments might be offered or when the final conclusion would come, is not the way to proceed.

I know there are those who don't want us to ever complete this legislation. I understand that. But we have had a full debate. We have complied with the rules that apply. And we have made it very clear for days, including before we began this series of votes, that our intent was to go until we concluded.

At this point, let's proceed with the amendments that are pending. I believe Senator FEINGOLD has an amendment that he is ready to offer, and I would be glad to discuss with anybody what the final package of amendments, what list of amendments might be developed, and we will see where we are. I will be glad to yield to Senator NICKLES.

Mr. NICKLES. Mr. President, the majority leader has requested that we proceed with the next vote, and during the next vote Senator REID and I will see if we can't collect a list and come up with a finite list of amendments to see what we have remaining.

The PRESIDING OFFICER. The question is on the Feingold amendment.

Mr. KENNEDY. Mr. President, regular order.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am entitled to recognition. I suggest the absence of a quorum.

The PRESIDING OFFICER. A quorum call is not in order at this time.

Mr. KENNEDY. Mr. President, I appeal the decision of the Chair, and I ask for the yeas and nays. I appeal the decision of the Chair and ask for the yeas and nays. I appeal the decision of the Chair, Mr. President. I am entitled to that request.

The PRESIDING OFFICER. Let the Chair state the request.

Mr. KENNEDY. I appeal the decision of the Chair on this, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator is appealing the decision of the Chair that a quorum call is not in order at this time while 2 minutes remain on the amendment. Does the Senator seek the yeas and nays on the appeal?

Mr. KENNEDY. Yes, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SARBANES. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Is it the Chair's ruling that a request for a quorum is not in order because there are still 2 minutes remaining on the amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. Would a request for a quorum be in order at the conclusion of the 2 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. I ask unanimous consent that the Senator from Massachusetts be recognized at the conclusion of the 2 minutes to make his suggestion.

Mr. BUNNING. I object.

The PRESIDING OFFICER. Objection is heard.

The question is, shall the decision of the Chair stand? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—99

Akaka	Dorgan	Lott
Allard	Durbin	Lugar
Allen	Edwards	McCain
Baucus	Ensign	McConnell
Bayh	Enzi	Mikulski
Bennett	Feingold	Miller
Biden	Feinstein	Murkowski
Bingaman	Fitzgerald	Murray
Bond	Frist	Nelson (FL)
Boxer	Graham	Nelson (NE)
Breaux	Gramm	Nickles
Brownback	Grassley	Reed
Bunning	Gregg	Reid
Burns	Hagel	Roberts
Byrd	Harkin	Rockefeller
Campbell	Hatch	Santorum
Cantwell	Helms	Sarbanes
Carnahan	Hollings	Schumer
Carper	Hutchinson	Sessions
Chafee	Hutchison	Shelby
Cleland	Inhofe	Smith (NH)
Clinton	Inouye	Smith (OR)
Cochran	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Corzine	Kerry	Thomas
Craig	Kohl	Thompson
Crapo	Kyl	Thurmond
Daschle	Landrieu	Torricelli
Dayton	Leahy	Voinovich
DeWine	Levin	Warner
Dodd	Lieberman	Wellstone
Domenici	Lincoln	Wyden

NOT VOTING—1

Stevens

The ruling of the Chair was sustained as the judgment of the Senate.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I seek recognition under leader time so I can propound a unanimous consent request and get an understanding as to how we are going to proceed at this point.

First of all, I think it is unfortunate that we see there is a delay being forced. I understand there are Senators who think we have gone late enough tonight and would like for us to resume tomorrow. It is very important we complete this work, and obviously we will not go to any other legislation until we complete this very important work of the people.

I have listened to Senators on both sides of the aisle and am trying to find a way to give Senators a chance to offer their amendments and have them considered. I hope that it will not be delayed indefinitely. Certainly that would be a subversion of the rules, but we will take a time out here and hopefully tomorrow Senators will be prepared to resume our work and bring it to a conclusion.

I believe Senator DASCHLE intends to work with me and the managers of the legislation to try to find a way to bring this debate to a reasonable conclusion. But I emphasize again, we have work we need to do this week, and if we have to go on into Friday or Saturday, I think we should be prepared to do that. Senators on both sides have indicated they would be willing to do that.

#### MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### WORLD WAR II MEMORIAL

Mr. WARNER. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 1696 regarding construction of the World War II memorial, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1696) to expedite the construction of the World War II memorial in the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I rise to ask the Senate to act on this, as we have just done. I am honored to do so on behalf of the few in the Senate who served in World War II, Senators INOUE and STEVENS, with great distinction, I myself with very modest service beginning in 1945 during the closing months of the war.

This memorial is long overdue in recognition of the enormous sacrifice of the men and women of the U.S. military; and, indeed, it is a symbol of the