through the regular certification program must be fully certified—no emergency, temporary provisional certification.

Alternate route teachers can be considered highly qualified while holding a provisional certification while they are working to obtain full certification. This is inconsistent with the definition in the ESEA which holds the same standards for all teachers.

I hope the draft guidance will be changed to ensure when we say all teachers will be highly qualified, we mean all teachers are highly qualified. We do not want to find on the one hand statements about the importance of these findings, and then on the other hand have the drafting of rules and regulations which are going to result in lower standards for the teachers in the classroom.

We welcome this report, but it comes back again to the issue of whether we are prepared to help the States, schools, parents, and children in this country by helping ensure there is a well-qualified teacher in every classroom. We have the legislation. We have followed these various recommendations, and all we need is the investment to make this happen. That is why we are going to continue to battle for the children of this country by insisting that we have an adequate budget invested in teacher quality.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CARPER). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

DEATH TAX ELIMINATION ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 8.

The senior assistant bill 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, and for other purposes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, I ask unanimous consent Senators GRAMM and KYL be recognized for 5 minutes each; however they want to divide up the 10 minutes to speak on the general subject of the estate tax, and Senator CONRAD be recognized for up to 10 minutes. Following that, we would be, I believe, in a position to lay down the first-degree amendment at that time pursuant to the order and the 2-hour time will start running at that time.

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

The Senator from Texas.

Mr. GRAMM. Mr. President, let me take a couple of minutes to tell people where we are. We worked out an agreement several weeks ago to debate the permanent repeal of the death tax. I thank the majority leader for agreeing to allow this to happen. We now have a unanimous consent agreement that dictates how the debate will occur. I will go over it so everyone will know exactly what we are doing.

Under the unanimous consent agreement, a majority member, a Democrat, will be recognized to offer a first-degree amendment related to the death tax. That amendment, by a majority member, will be subject to two second-degree amendments also offered by majority members. Those two second-degree amendments will be disposed of—either with a point of order, a motion to table, or a vote—and will be accepted or rejected. Then there will be one amendment standing, whether it is amended or not, and it will be voted on. Then I will be recognized to offer a first-degree amendment. It will not be subject to an amendment. I will offer an amendment identical to the permanent repeal of the death tax adopted by the House of Representatives. So if my amendment is be adopted, the bill would again pass the House and the President could sign it into law.

If any other amendments should be adopted, we have to have a debate as to whether we would name conferees and we would potentially have to go to conference with the House.

That is basically where we are. We are now awaiting the offering of a first-degree amendment. Then that will be subject to two second-degree amendments, offered by the majority. We will vote on each one of them, in order, and then we will vote on the underlying amendment. I assume we would probably get through one vote this afternoon and then we would have three votes tomorrow and we would finish up tomorrow sometime in the mid-early afternoon if all the time is used.

I remind my colleagues there are 2 hours on the first second-degree amendment, 2 hours on the second second-degree amendment, 2 hours on the underlying first degree, and then there would be 2 hours on my amendment which would repeal the death tax, in exactly the same form the House has passed, and then there would be a vote on it and we would be finished.

That is where we are in terms of the structure of the debate. I wanted everyone to understand exactly where we are. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, this afternoon we begin a very important debate on the question of the estate tax. My friends on the other side characterize it as a death tax. It is really not. There is no such thing as a death tax in America. Nobody pays taxes at death. There is an estate tax. For estates over a certain amount, they contribute to the revenue of the Federal Government by paying an estate tax.

The problem with the current estate tax is that it cuts in at too low a level. Currently, estates begin to be taxed at about $1 million. The fact is, only about 2 percent of all estates pay any tax, even under that circumstance. But with what has happened in the national economy, many of us believe we do need to reform the estate tax—not eliminate it but reform it.

Why? First of all, because it is not fair to have the estate tax cut in at that level, given the increase in assets that has occurred in the country in the last decade. At the same time, it does not make much sense to us to eliminate the estate tax completely because of the cost. What our friends on the other side of the aisle are proposing is a $100 billion cost in this decade and a $740 billion cost in the next decade, right at the time the baby boom generation retires—all of this in the context of budget deficits as far as we can see.

I believe we ought to reform the estate tax. I believe we ought to increase the level at which it cuts in on individuals and their families. But to eliminate the estate tax and dig the deficit hole deeper, put us deeper into debt and take it all out of Social Security, I do not think is defensible.

Last year, the President said this about paying down the debt:

My budget pays down a record amount of national debt. We will pay off $2 trillion of debt over the next decade. That will be the largest debt reduction of any country, ever. Future generations should not be forced to pay back money that we have borrowed. We owe this kind of responsibility to our children and grandchildren.

What a difference a year makes, because just a few hours ago we responded to the President's request for the biggest increase in the debt—the second biggest increase in the debt in our Nation's history. That is what we did just hours ago. Has this Chamber already forgotten? Have we already forgotten that we just responded to the President, who said he was going to pay down the biggest amount of debt in our Nation's history, in fact he said the biggest amount of any country ever? And now, just 2 hours ago, 3 hours ago, we responded to his request for not debt paydown but the biggest expansion of the debt—the second biggest expansion in our Nation's history?

Here is the comparison. The only time we had a bigger increase in the debt than what the President is seeking was when his father was President. When his father was President, we had to increase the debt by $915 billion, in November of 1990. Now this President comes and asks for a $750 billion increase in the debt. That is after telling us last year he was going to pay down the debt by the maximum amount possible, the biggest of any country ever.

Last year, the President told us it would be 7 years before we would have to increase any debt. In August of last year, he told us it would be 3 years before any increase in the debt. In December 2001, he told us 2 months. Right now, the Treasury Department is using extraordinary means to finance the debt of the United States. They are taking from the retirement funds of Federal employees to cover the Federal debt.

Let me say this. If any private company tried that, they would be on their way to a Federal facility, but it would not be the White House of the United States, it would not be the Congress of the United States, they would be on their way to a Federal penitentiary because that is a violation of Federal law. But that is what is going on right now.

You recall in the previous administration they did that for a short time and in the House of Representatives our friends across the aisle filed impeachment proceedings against the Secretary of the Treasury for doing what this Secretary of the Treasury is now doing.

Can we forget what just happened a few hours ago, when there was a vote here to increase the debt of the United States by $450 billion? The President requested $750 billion in increased debt. We increased it $450 billion.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 6 minutes of his 10; 4 minutes remain.

Mr. CONRAD. Mr. President, remember last year? We have to put this in context. We have to think about the circumstance within which we are making decisions. Last year, we were told there was going to be $5.6 trillion of surpluses over the next decade. That is what we were told just last year. Now we look at the budget circumstance of the United States, and the surpluses are all gone. There are no surpluses. In fact, if we look at the President's budget and we look at the latest shortfall in revenues and we look at the stimulus package just passed, what we see over the next decade is not $5.6 trillion of surpluses, what we see is $600 billion of deficits. It is a pretty stunning turnaround. In 1 year we go from $5.6 trillion of surpluses to $600 billion of deficits. And our friends on the other side want to dig the hole much deeper—much deeper—by adding $100 billion, and another cost in the next 10 years of $740 billion, right at the time the baby boom generation retires. It does not make much sense to me to eliminate this estate tax instead of reforming it.

Yes, let's address the problems that exist with the estate tax. Let's increase the amount of the exemption in a responsible and rational way. But let's not dig the hole deeper and deeper with respect to the deficits and debt of this country.

Here is where we are, looking back to 1992, when there were deep deficits, not counting Social Security. We were able, over a period of years, to pull our country out of this deficit and debt morass. We were able to run surpluses for 3 years. But look at what happened last year. We are right back in the soup. For anybody who thinks it is going to be short-lived, here is the hard reality. We are poised to be back in deficit for the entire next decade—billions, hundreds of billions of dollars of deficit and debt.

Again, I say our friends on the other side, in their proposal, say: Don't worry about that; don't worry about all this red ink; don't worry about all these deficits; don't worry about piling up the debt; let's just go out there and cut some more taxes and not pay for it. That is their answer. They will add another $100 billion to these deficits over the next decade. But what is really stunning is in the second 10-year period they would take another $740 billion right out of Social Security trust funds.

There is an alternative that deals both with the question of reforming the estate tax and making it more fair and at the same time reducing the cost dramatically over what our friends on the other side of the aisle are proposing.

What I am proposing is immediate relief. Take the estate tax exemption to $3 million next year—$1 million now, and increase that to $3 million next year—$6 million for a couple for 2009, and thereafter the exemption would increase to $3.5 million. The maximum estate tax rate would be frozen at 50 percent. We retain the stepped-up basis.

Mr. President, I ask for an additional 3½ minutes and for the other side as well.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CONRAD. Mr. President, we have retained the stepped-up basis. The other side's proposal goes to what is called a carryover basis.

This is a hugely important issue that people should understand. We will have a chance to go into it as we proceed.

Let me say at this point that in a stepped-up basis, when a relative dies, you inherit their property at its value at the time they die.

That is a very important concept to understand. Let me repeat it.

Under a stepped-up basis, you pay future taxes based on the value of the property of the loved one that is giving you the property. You pay on the basis of the value of the property at the time they died—not what they paid for it but the value at the time they died.

Under the alternative proposal offered on the other side, you are going to go to what is called a carryover basis. You are not going to pay future taxes based on the value at the time that your relative died. You are going to go back to the value of what they paid for it.

Let us say you inherit a farm. You don't inherit the value of the farm at the time your father died or your grandfather died. You are going to pay future taxes based on what they paid for the property.

There is a big difference between our proposals. It is an accounting nightmare.

What our friends are proposing we tried before—the carryover basis, going back to what grandpa paid for a property. It was an administrative nightmare for all concerned. And we quickly abandoned it. They want to go back to the bad, old days.

Not only does this proposal fundamentally reform the estate tax and make it more fair and avoid going to carryover basis, but it also saves hundreds of billions of dollars in the second decade. In this decade it saves $87 billion. The cost of our proposal in this decade is $12.5 billion. The cost of their proposal is $99.4 billion.

Under the proposal I am making, by 2009, only .3 percent of estates will face any estate tax liability. That means 99.7 percent of estates would pay zero, nothing, have no estate tax liability.

We will have more to say about this as we go forward.

At this point, I want to yield the floor so my colleague from Arizona, Senator KYL, can have a chance at this initial moment to speak on this subject.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, in addition to the 3 minutes granted by the extension, I inquire about how much time remains on our side.

The PRESIDING OFFICER. Ten minutes.

Mr. KYL. Which includes the 3 minutes.

The PRESIDING OFFICER. That is correct.

Mr. KYL. I will speak for 5 minutes, and our colleague from Texas will speak for 5 minutes.

I thank the Chair.

Mr. President, let me make three points.

First of all, I find it very interesting that our Democratic colleague is worried about the debt of the United States. This does not seem to be much of a concern to him or his colleagues when they vote for spending bills around here.

Just recently—I took some of the more recent ones—the railroad retirement bill was $15 billion in one payment. I voted against that. The farm bill was $82.8 billion over the baseline, over the budgeted amount. I voted against that.

Mr. CONRAD. Will the Senator yield?

Mr. KYL. I am happy to yield for a moment—for a moment, please.

Mr. CONRAD. The amount that the Senator refers to is not over the budget. Every penny of the money in the farm bill is within the budget. Does he acknowledge that?

Mr. KYL. No. Let me reiterate what I said. The fact is that the distinguished Senator from North Dakota, chairman of the Budget Committee, has not been able to bring a budget to the floor. So there is no budget. We are talking about the baseline. I believe my number is accurate with respect thereto. We are spending billions on this farm program above what we originally had decided to spend; under trade adjustment assistance, over $11 billion over the President's request—a 10-year number; in the supplemental that we just passed—a 1-year number—about $4 billion above the President's request.

The highway bill is about 5.7 above the President's request.

My point is that it seems to be a little contradictory when some colleagues are so concerned about the debt, and all of a sudden they are happy to spend very large sums of money above the baseline.

Let us get into this debt business a little bit more. With what do we pay down debt?

We pay down debt with Social Security income. Under Social Security revenues—the FICA tax—you pay in 7.6 percent and your employer pays 7.6 percent. That is Social Security.

The death tax receipts don't pay for Social Security. Not one nickel of the death tax collections or estate tax collections pay for Social Security benefits—not one nickel. If we repeal the entire death tax today, Social Security wouldn't lose one nickel because that isn't where Social Security gets its money. You all know where Social Security gets its money—from the FICA tax, the Social Security payments. Those right now are in surplus.

What do we do with the surplus? We pay down the debt with it.

If my colleagues are worried about the need to pay down the debt, then they are talking about taxes, Social Security money, and paying down the debt with that. That is exactly what happens every single year. We all agree to that.

If they are worried about taking away money for Social Security, then they need to be worried about the Social Security tax collections and not the estate tax collections. None of that money goes for Social Security.

This is a bogus argument that Social Security would in any way be affected by a reduction of the estate tax collections.

Finally, to this argument that somehow it is unfair for us to step up the basis—or, rather, to carry over the basis rather than have a stepped-up basis, this may seem to be an arcane argument to folks who aren't familiar with these terms. Here in practical terms is what it means.

You have a billionaire and he dies. His wife inherits the money. Under the proposal of the Senator from North Dakota, if the spouse decides the day after her dear loved one's departure to sell all of that property, cash it in, do you know how much she pays in capital gains tax? Zero. Zip. Nothing. That is how much you pay under the amendment of the Senator from North Dakota.

Under our proposal, you would pay the capital gains on the original value of the property.

If her dear loved one bought that property for $100 million way back when and sells it for $1 billion, that is a $900 million gain. She would pay a capital gains tax on that again.

Our idea is that death should not be a taxable event. You can't anticipate it. It is the worst possible time to have to pay a tax. It is not fair. Most of the Tax Code says you pay a tax when you do something knowing what the tax consequences will be. You earn money, you sell property—those are taxable events. What we are doing is replacing one tax for another.

The estate tax is unfair, it is wrong, and it should be repealed. It will be replaced by a capital gains tax.

The interesting thing about it is that really wealthy people will end up paying a tax when they sell that property; whereas, they would not pay nearly as much tax as they would under the amendment of the Senator from North Dakota.

What it really boils down to is you are still paying the tax. What it really boils down to is a matter of policy. You are going to pay sooner or later. But do you want to pay with death being the taxable event or do you want to pay a tax based on an economic decision you made knowing what the tax consequences would be. That is what our Tax Code theory is and the death tax should comport with that.

The PRESIDING OFFICER. The Senator from Texas is recognized for 4½ minutes.

Mr. GRAMM. I don't mind yielding to my Democratic colleague.

Mr. CONRAD. I inquire as to the time.

The PRESIDING OFFICER. Four and one-half minutes remain to the Senator from Texas.

Mr. CONRAD. Do I have time on my side?

The PRESIDING OFFICER. No, you do not.

Mr. GRAMM. Mr. President, we all understand that the death tax basically says if somebody works a lifetime, they scrimp and save and sacrifice, they plow the money back into their business or their farm or their estate, they do it for their family, and then they die, then their family has to sell their business or sell their farm or sell off their estate to give the government a double taxation of 55 cents out of every dollar they have earned in their lives. It is an absolute outrage. The American people believe that.

Today and tomorrow, as we debate this issue, our Democrat colleagues are not going to defend the death tax as such. They are going to try to make a series of points. You are going to get to hear it in the long debate, but since we are waiting for them to come forward with their amendment, I want to make some points early on. They are going to say: OK, it is wrong to make people sell off their life's work, but shouldn't we redistribute wealth? Shouldn't we say that above a certain level we are going to have a death tax? They are basically going to try to appeal to this old class struggle, this old Marxist idea that has been rejected everywhere else in the world but still carries currency in the United States of America.

The second thing they will do is say: Look, we wanted to repeal the death tax but we can't afford it. We just can't afford it. Let me remind my colleagues, we don't have to go way back to the railroad retirement debate of last year to see that this is not true. Let's go to last Thursday. Last Thursday this body, the Senate, voted overwhelmingly—and I think almost every Democrat Member of the Senate voted for the bill—to spend $14 billion more than the President requested for nonemergency items in a supplemental appropriation. That's $14 billion more than the President asked for in nonemergency items. That is 4 times what it costs to repeal the death tax next year.

So our colleagues today are brokenhearted: You would repeal the death tax and deny the Government that money, and we are so worried. They are worried about the deficit and the debt. Where were they Thursday? Where were they Thursday night? I was here. I raised a point of order against 80 amendments. Where were they? They were willing to spend four times as much this coming year on spending the President didn't ask for in an emergency bill than it would cost to repeal the death tax.

On the farm bill, they were willing to spend seven times as much as the cost of repealing the death tax. Now they are worried about the debt. They are worried about the deficit. But last month when we passed this bloated, inflated farm bill, they were willing to spend seven times as much as it would cost this coming year to repeal the death tax. They were not worried then, but they are really worried today.

Then there was the energy tax incentive. They weren't worried then. They were willing to spend more on energy tax incentives than it would cost next year to repeal the death tax.

Finally, just to add insult to injury, on the budget that was reported on a straight party-line vote out of the Budget Committee, the Democrat majority increased nondefense discretionary spending by a whopping $105.8 billion above the level requested by the President. In other words, when they cast that vote, they could afford $106 billion. That is more than enough to fund the repeal of the death tax for the next 10 years.

I know they are upset today. They are very upset about the deficit and the debt. But they are only upset when we are talking about letting people keep more of what they earn. They are never, ever upset when it comes to spending money.

They write a budget that spends more money on new discretionary programs than repealing the death tax would cost, but when it is time to let people keep money, they are worried.

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

The Senator from Nevada.

Mr. REID. It is my understanding that all time has been used that was previously allocated.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I would now say to the Chair that under the unanimous consent request before the Senate, there is an opportunity now for the majority to lay down an amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask that Senator CONRAD be recognized for that purpose.

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

The Senator from North Dakota.

AMENDMENT NO. 3831

Mr. CONRAD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 3831.

Mr. CONRAD. 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 restore the estate tax with modifications)

Strike all after the enacting clause, and insert the following:

SECTION 1. RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) SUNSET NOT TO APPLY.—

(1) Subsection (a) of section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''this Act'' and all that follows and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.''.

(2) Subsection (b) of such section 901 is amended by striking '', estates, gifts, and transfers''.

(c) CONFORMING AMENDMENTS.—Subsections (d) and (e) of section 511 of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subsections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsections, and amendments, had never been enacted.

SEC. 2. MODIFICATIONS TO ESTATE TAX.

(a) INCREASE IN EXCLUSION EQUIVALENT OF UNIFIED CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to applicable credit amount) is amended by striking all that follows ''the applicable exclusion amount'' and inserting ''. For purposes of the preceding sentence, the applicable exclusion amount is $3,000,000 ($3,500,000 in the case of estates of decedents dying after December 31, 2008).''.

(2) EARLIER TERMINATION OF SECTION 2057.—Subsection (f) of section 2057 of such Code is amended by striking ''December 31, 2003'' and inserting ''December 31, 2002''.

(b) MAXIMUM ESTATE TAX RATE TO REMAIN AT 50 PERCENT; RESTORATION OF PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—Paragraph (2) of section 2001(c) of such Code is amended to read as follows:

''(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds $10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and $224,200.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2002.

SEC. 3. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.

(a) IN GENERAL.—Section 2031 of the Internal Revenue Code of 1986 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

''(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

''(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

''(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

''(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

''(2) NONBUSINESS ASSETS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'nonbusiness asset' means any asset which is not used in the active conduct of 1 or more trades or businesses.

''(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

''(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

''(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

''(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

''(3) PASSIVE ASSET.—For purposes of this subsection, the term 'passive asset' means any—

''(A) cash or cash equivalents,

''(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

''(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

''(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

''(E) annuity,

''(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

''(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

''(H) commodity,

''(I) collectible (within the meaning of section 401(m)), or

''(J) any other asset specified in regulations prescribed by the Secretary.

''(4) LOOK-THRU RULES.—

''(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

''(B) 10-PERCENT INTEREST.—The term '10-percent interest' means—

''(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

''(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

''(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

''(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.

''(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

Mr. CONRAD. Mr. President, I have already described what my amendment does. I will use the first part of my time to answer the very creative arguments made by my colleagues on the other side. I have never heard such imaginative arguments on the Senate floor. This is really intriguing.

They start out by justifying eliminating the estate tax by an attack on the farm bill, saying the farm bill was over the budget and, therefore, what does it matter if we take another $700 billion out of Social Security in order to eliminate the estate tax. How soon they have forgotten their own votes. They voted for the farm bill budget which they decry. Yes, they did. The farm bill budget was provided for in the last budget resolution.

Our colleagues on the other side of the aisle voted aye. They voted for the Republican budget resolution. The Republican budget resolution passed on the floor of the Senate was their resolution. Their colleagues in the House passed exactly the same budget resolution. Do you know what else? Their President proposed a budget with exactly that amount of money in it for the farm bill.

I hate to rain on their parade, but they supported the Republican budget resolution that funded the farm bill. That was their budget resolution. That was their proposal. They voted for it. Now they come out here and attack it. They should have been here voting against their own budget resolution because that is what provided the budget for the new farm bill.

The Senator from Texas talks about the bill that just passed that was requested by the President. He has attacked the supplemental appropriations bill that was requested by the President. The difference between what we passed here, which he attacks, and what the House of Representatives passed, according to the Congressional Budget Office, is $1.3 billion, not the $10 billion to which he referred. The $10 billion he referred to is an absolute myth. There is $1.3 billion of difference between what the Senate passed and the House passed.

By the way, the President praised what the House passed and condemned what the Senate passed. In a $30 billion bill, there was only $1 billion difference. Where is the difference? The Senate bill has more money for first responders, the policemen and the firemen we expect to protect this Nation, a $600 million difference there. There was $300 million more in the Senate bill than the House bill to protect our nuclear facilities.

Has anybody read the paper the last few days? Of what did the administration warn us? They warned us of a ''dirty'' bomb attack on the Capitol of the United States. What is a ''dirty'' bomb? It is a regular bomb with nuclear fissile material around it. Do you know what would happen if that kind of bomb were dropped in the vicinity of the Capitol? The former Vice Chairman of the Joint Chiefs of Staff, Admiral Owens, told me in a breakfast just 2 weeks ago, it would make the Capitol area uninhabitable in a mile circumference for 400 years.

From where might that nuclear fissile material come? It might come from our own labs. That is why the Senate added $300 million to protect our nuclear facilities and added $650 million for our first responders—our policemen and firemen—and added another $700 million to protect our ports, because one of the things we know is that nuclear fissile material might come into this country everyday in thousands of containers. And only 2 percent are checked.

So is this some big, wasteful spending program to protect our nuclear facilities, to protect our ports and to provide funding to our first responders? I don't think so. That is the difference between the House bill the President praised and the Senate bill that the President attacked. There is no $10 billion difference. That is total fiction.

Let's go back to the question of the fundamental issue before us. Is spending a threat to our fiscal future? Absolutely. But our fiscal future is determined not just by spending, but by the relationship between spending and revenue. Deficits are created by an imbalance between spending and revenue. You only have deficits when you spend more than your income.

We know the circumstance we face as a nation. It has become abundantly clear to all of us. We face a circumstance in which we see in our future an ocean of red ink. Here it is. We go back to 1992 on this chart. We were facing deficits, not counting Social Security, of $341 billion. In 1993, we passed a 5-year plan that started lifting us out of deficit.

By the way, not one of our friends on the other side voted for it. It was the plan that started lifting us out of deficit.

Each year, we were coming out of deficit. Then in 1997, on a bipartisan basis, we passed a plan that finished the job. We actually got back into surplus. We were there for 3 years, and then we got plunged back into the deficit hole by the events of last year: No. 1, the tax cut advocated by our friends on the other side; No. 2, the attack on this country; No. 3, the economic slowdown.

When you wonder where the surpluses went, here is what we find: 42 percent went to the tax cuts that were passed last year; 23 percent went to the economic slowdown; 18 percent went to the increased costs of the attack on our country; 17 percent are due to technical changes, mostly underestimations of the cost of Medicare and Medicaid.

We have before us a fundamental question: How are we going to deal with this ocean of red ink? Our friends on the other side say: Well, let's keep digging the hole deeper. It doesn't matter. We were for eliminating the estate tax last year, and we are still for it. It doesn't matter that the surpluses have evaporated. It doesn't matter that the money is all gone. We are going to stay steady on this course—even if the course leads to insolvency. It doesn't matter that just a few hours ago this Chamber voted to increase the debt of the United States by $450 billion.

That is after the President and our friends on the other side promised us last year that they had a financial plan that was going to lead to the maximum paydown of our debt. That is what they said a year ago. They had a plan that would lead to the maximum paydown of the debt. Now they have asked for the second biggest increase in the debt in our Nation's history. They told us a year ago that we would have surpluses of $5.6 trillion in the next decade. Now the money is all gone. Instead of surpluses, there are deficits. That is the hard reality.

So the question before us is, what do we do about the estate tax? Let me stipulate that they have one part of this argument right. We need to change the estate tax. We should not leave it the way it is. We should not let it hit people with a million dollars of assets. We ought to increase it. That is what my proposal does. My proposal goes to $3 million next year, $6 million for a couple. You don't have to wait until 2007, as you do under their proposal. We go to $3 million for an individual and $6 million for a couple next year. You don't have to pay a penny of estate tax. In 2009, we go to $3.9 million.

On their side, they talk about how much they care about helping people. But they want to wait. They want to wait. I don't want to wait. I want to go to $3 million for an individual, $6 million for a couple next year. Give them the estate tax relief they deserve. Don't eliminate it. Don't say to the wealthiest among us—the super wealthy—you don't ever have to face any estate tax. Why? Because it costs too much, Mr. President. Their proposal costs $99 billion—$99 billion in this decade.

The proposal I am making costs $12.6 billion in this decade. So it seems to me it is a pretty good proposal. No. 1, it gives immediate and substantial relief to estates by going from a million dollars of exemption to $3 million for an individual, $6 million a couple, not in 2007 or in 2008, but next year. No. 2, it costs a lot less because you don't eliminate the estate tax, you reform it. Their plan costs $99.4 billion. Mine costs $12.6 billion.

Mine includes a stepped-up basis rather than a carryover basis. I know that is confusing and I know those are words most people don't use. What it means is simply this: Under my plan, you will pay future taxes based on the value of the assets you inherit at the time you inherit them. You will not be paying taxes based on what grandpa paid for the asset you inherited. Think of the difference. Not only is that a big tax difference, that is a big difference in terms of practicality and simplification.

We tried what they are proposing, this idea of carryover basis, this idea that you are going to go back to the value of what grandpa paid for the farm, of what grandpa paid for the stock, of what grandpa paid for the real estate. Do you know what we found? Most people don't even have the records. Most people don't even know what grandpa paid. Most people don't have any idea, and they can't find out because it happened 30 or 40 or 50 years ago. We tried this. We tried what they are proposing. It was an administrative disaster, an administrative nightmare.

We will hear the other side saying that these assets have already been taxed. The fact is, an analysis has been done. The vast majority of these assets have never been taxed. Yet they say it is double-dipping. Most of these cases are assets that have never been taxed. I believe the proposal that——

Mr. KYL. Will the Senator yield for a question on that?

Mr. CONRAD. Yes.

Mr. KYL. I am curious about the source of the statement that the majority of assets has never been taxed.

Mr. CONRAD. Yes. I will get the Senator a copy of the analysis on that.

Mr. KYL. I thank the Senator.

Mr. CONRAD. The hard reality is that we have to make choices. We ought to reform the estate tax. We ought to increase the amount of exemption. We should not wait for 2007 and 2008. We ought to do it now.

Under my proposal, we go to $3 million from $1 million today for an individual, $6 million for a couple. At the same time, it costs a lot less. That means we do protect Social Security. We do protect the financial structure of this Government. We are fiscally responsible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, how much time does the Senator from Alabama need?

Mr. SESSIONS. Ten minutes.

Mr. GRAMM. I yield 10 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Texas for his leadership on this issue and for yielding me time.

One of the issues we need to recognize as we talk about a budget—and we have the distinguished chairman of the Budget Committee here—is we do not have a budget. One was proposed in the Budget Committee by the Democratic members. It was brought up, voted on, and got zero votes. The reason is that there is not sufficient discipline to make tough choices in this body, and the budget that was proposed had no political support, did not balance, and did not make sense.

We are in trouble with spending. When the President proposes an $18 billion emergency spending bill and this Senate adds $14 billion more to it for special projects that I do not believe are necessary, and, in fact, I think the President's supplemental was generous, we are losing discipline on spending.

The reason we had a surplus from 1994 to 1998 is we had almost no increase in spending in this body. We kept our spending flat on discretionary spending. It resulted in tremendous gains in balancing the budget.

It is time for us to deal with this estate/death tax. In 2000, we voted to eliminate it. It phases out at the end of 10 years, in 2010. People do not like it. It is unfair. It disrupts the American economy. To have the Federal Government reach in at the time of death of a family member and take out 55 percent of what that family has accumulated is a confiscation. It is an absolute decimation of a family's life and savings.

I had an individual tell me about their grandfather. Everybody was home for Christmas. It was just after Ronald Reagan had pushed through a modification of the estate tax. It would have saved his family a little money. The grandfather was there at Christmas. The cancer was taking its toll on him. Every day, he asked what day it was. She told me: My grandfather died at 10 a.m. on January 1. His last act was to do what he could to keep the taxman from taking away what he had earned and preserve it for his family.

I think this is a big deal. It touches a lot of people. Some people say: Oh, it is huge revenue, we cannot afford it. It is only 1 percent of the total income into this Government at best. That is something we certainly can afford to eliminate.

No tax causes more gyrations, more lawyers, more accountants, CPAs, appraisers, and strategists to try to beat this tax than does the death tax.

In addition to that, the Federal Government spends more on trying to collect the tax than on any other tax. For the 1 percent we get, we are getting the heaviest cost on the economy, the heaviest cost on the Government to collect them. I think it is very unwise. It causes extraordinary stress on the elderly.

Sit down, as I have done as a practicing lawyer, and talk with a family about the tough decisions they may have to make. Do they want to create a trust? Do they want to advance gift money to children to try to reduce the impact of this tax? This is forcing the elderly to make decisions they ought not have to make. It upsets them, makes them nervous, and causes them to make uneconomic decisions that reduce oftentimes the productivity and efficiencies of their corporations and businesses.

It is, in my view, a huge nightmare to collect. Much of the dispute is in litigation over appraised values of properties. Many of these issues are just really a nightmare for the elderly.

Let me share with my colleagues briefly what I think is the most pernicious part of this tax. My good friend's proposal to raise the exemption to $3 million really will not touch it. These are the growing, vibrant, midsize, local, home-based companies that are doing well.

I know of a company that had 27 automobile parts stores. They built up from one. They had headquarters in Alabama. One of the members dies, and then what do they do? They meet, have a discussion, and the net result is that this locally owned company, competing with some of the biggest parts companies in America, sells out to Carquest. I have nothing against Carquest, but that is a national company, maybe even an international company in scope, moving millions and millions of dollars a year in parts. As a former parts person myself and a former equipment dealer, I have some empathy for them.

I will just say this: Carquest, as a major national company, a broadly held stock company, never pays the death tax. It is never impacted by a death tax. But a closely held corporation is savaged by the death tax.

It reminds me of a situation in which there are some trees growing up. There are some big trees and there are some little trees growing. They are trying to compete with the big trees to get more sunlight and develop and expand and compete with the big trees, and somebody comes along with the clippers and clips the tops off them, making it impossible for them to compete.

If my colleagues want to know why in America today we see a collapse of local companies, why we see an unusual conglomeration of wealth in the big stock companies, the reason is they do not pay this tax. This is a tax that falls only on the small companies in a way that devastates them too often.

I am concerned about that situation. I ask you: Do GM, GE, DaimlerChrysler, Toyota, or Mitsubishi pay a death tax? No, they do not. But I can take you back to the small bank in my hometown, the small manufacturing company, or the small chain of auto parts stores. I can tell you about a young man who told me that he and his father and brother owned four motels in Alabama. They would like to see their business expand. He explained to me that he, his brother, and his father were paying $5,000 a month for a life insurance policy on their father's life so they could pay the estate tax in case he died. Otherwise, they would have to take the money out of their company—and they had no money to take out of the company; they were pouring their money into the company—they would be forced to sell off maybe to a Holiday Inn, maybe to a Ramada, or some big company that does not pay the death tax.

We need to quit nickel-and-diming this issue. We have voted to eliminate this despicable, unfair, abusive tax that eliminates and weakens competition in America. It brings in little revenue at extraordinary cost to the tax collector and to the American people who have to pay it. It is long overdue to get rid of it. Let's not back up now. Let's go forward. Let's not let those who want more money to spend, spend, spend, spend, and keep us from doing the right thing.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the time is controlled by the Senator from North Dakota. I wonder if the Senator will yield me time to talk about some of the statements I heard this afternoon.

Mr. CONRAD. I will be happy to do that. Maybe I will take a minute.

Mr. REID. Fine.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we have heard a lot from the other side about spending running away.

If we examine the budget before us, all of the increase is in two areas: defense and homeland security. Both sides of the aisle have supported those increases. The President proposed major increases in defense spending after the attack on this country. Those of us on our side of the aisle immediately agreed. The President proposed major increases in homeland security. Those on our side of the aisle immediately agreed.

There are big increases in spending, but every part of that increase is in those two areas of defense and homeland security. That is where the big increases are occurring, and I think it is understandable why we have big increases in defense proposed by the President and agreed to by our side of the aisle. I think it is very easily understood why we have a big increase in homeland security proposed by the President and agreed to by our side of the aisle.

Mr. REID. Will the Senator yield for a question?

Mr. CONRAD. Yes, I would be happy to yield.

Mr. REID. I have said publicly and, of course, privately that I think the Senator from North Dakota really has a grasp on numbers. The Senator is aware, is he not, that about a year ago at this time, it was approximately a $4.7 trillion surplus over 10 years? The Senator would agree now that that basically is gone; is not that right?

Mr. CONRAD. Yes. Actually, the Senator will recall, we were told a year ago that we were going to have $5.6 trillion of surpluses over the next decade. That is what we were told a year ago, January of 2001, $5.6 trillion of surpluses.

Now when we look at the President's budget proposal, plus the shortfall in revenue in this filing season, plus the stimulus bill that has been passed, there are no surpluses, none. Remember, about half of this money was Social Security money. In other words, $2.5 billion of this amount of surpluses is Social Security money. It is all being used for other purposes now.

When the Senator from Arizona says it does not matter about the estate tax and Social Security because estate tax money is not used for Social Security, the point he misses is when money is taken out of the revenue stream, and there already is not enough to meet the obligations and now even more money is taken, something has to give. What is the one place that is left to give?

Mr. REID. Social Security.

Mr. CONRAD. The Social Security trust fund. So he can say there is no connection, but there is a very direct connection. There is a very real connection. The only place there is any money is the Social Security trust fund. So if he takes a big chunk more of revenue, how is it going to get covered?

Mr. REID. Will the Senator answer another question?

Mr. CONRAD. I would be happy to.

Mr. REID. The tax cuts that were passed in this body also had some impact on the future financial security of this country. Is that a fair statement?

Mr. CONRAD. There is no question about it. If we look at, where did all the money go, here is where it went. Our friends on the other side like to say it all went to spending. No, no, no. Forty-two percent went to the tax cut. That is the biggest reason for the disappearance of the surplus. The second biggest reason is economic changes. That is the economic slowdown. That is the second biggest reason. The third biggest reason is spending, and virtually all of it is defense and homeland security.

The final reason was underestimations of the cost of Medicare and Medicaid. That is where the money went.

Mr. REID. I would like to ask the Senator another question or two. Is that appropriate?

Mr. CONRAD. Sure.

Mr. REID. We passed Friday, about 1 a.m., a supplemental appropriations bill. I have heard statements all day from the other side of the aisle about this supplemental appropriation and how it contains big spending. I direct the Senator's attention to a number of items. First, I ask the Senator from North Dakota, the chairman of the Budget Committee, he realizes, does he not, that there was $14 billion in that bill for defense? Is the Senator aware of that?

Mr. CONRAD. That is correct. Of the $31 billion, $14 billion was for defense.

Mr. REID. That was requested by the President; is that true?

Mr. CONRAD. That is correct.

Mr. REID. The Senator is aware also that there was approximately $5.5 billion requested by the President for homeland security efforts; is that true?

Mr. CONRAD. That is correct.

Mr. REID. The Senator is also aware that Senator BYRD and Senator STEVENS held hearings over a period of 3 weeks that included seven Cabinet officers and scores of other witnesses to find out what was needed for homeland security for this next fiscal year. Is the Senator aware of that?

Mr. CONRAD. I am.

Mr. REID. After having done that on a bipartisan basis, unanimously out of the Committee on Appropriations, is the Senator aware that figure was increased by about $3 billion?

Mr. CONRAD. That is correct.

Mr. REID. Is it not true, I say to my friend, that of those moneys that were increased, there was a billion for first responder programs? I say to my friend, I heard on public radio this morning a long piece on how State and local government is being killed financially because of the responsibilities they have for providing security for their people, and these are responsibilities they believe that the Federal Government should bear. They gave an example of a place in Florida. Tomorrow I think they said they are going to go to Orange County, CA, and indicate how these entities are being decimated financially as a result of their requirements, these unfunded mandates that we have passed on to them. Is the Senator aware of that?

Mr. CONRAD. I am. I say to my colleague, I looked at the increases because, frankly, there were parts of that bill that I did not support. I voted against a number of the provisions in that bill. If one is fair and objective about what was offered, where did the increases occur?

According to the Congressional Budget Office, the difference between the Senate-passed bill and the House-passed bill is $1.4 billion, not the $10 billion that is being discussed on the other side; $1.4 billion of differences between the House bill and the Senate bill when scored consistently by the Congressional Budget Office. Where were the differences? First responders, $600 million more in the Senate bill; nuclear facilities, $300 million more to protect our nuclear facilities; port security, $700 million more.

If anybody has been reading the newspapers, they know there is a tremendous vulnerability of the United States to a so-called ''dirty'' bomb that would make this Capital uninhabitable for 400 years. I do not think it is unreasonable to say we are going to protect the nuclear facilities where that fissile material might come from, that we are going to protect the ports of America where those threats could come in to America.

Another $250 million was added for airport security to protect against these materials coming into the airports of the country in the holds of planes.

I say to my colleagues, that is spending that was designed to protect America.

Mr. REID. Will the Senator also acknowledge that there has been in this bill that we passed in the Senate last Friday morning $387 billion for bioterrorism, including to improve lab capacity at our Centers for Disease Control and the National Institutes of Health? Does the Senator from North Dakota acknowledge the importance of studying bioterrorism after the anthrax that closed down a major office building for 3 months in the Senate?

Mr. CONRAD. It not only closed down a major office building in the Senate but closed down post offices and closed down businesses.

Mr. REID. And killed people.

Mr. CONRAD. Killed people.

Now that we know a significant part of the planning by the al-Qaida network is bioterrorism, we know that a significant part of the planning of the al-Qaida network is a ''dirty'' nuclear device to be dropped on this Nation's

Capital, we cannot choose to turn our backs and not worry about defending the country.

Our first obligation as United States Senators is to defend this Nation.

Mr. REID. Would the Senator acknowledge there is $200 million in this bill that the President requested based on hearings held by Senators BYRD and STEVENS for food safety, including food inspectors, laboratories, protections against animal and plant disease, and also to assess risks to rural water systems; and also aware there is $154 million for cyber-security, there is also $100 million for the Environmental Protection Agency to look at assessments of water system security?

We have people quibbling, and I say ''quibbling'' because I cannot find another word to describe what they are talking about this afternoon. The Senator has shown in graphic form billions of dollars taken away from the American people and given to a very small percentage of the people. Less than 1 percent of the American taxpayers, 42 percent, is gone because of that; is that right?

Mr. CONRAD. Yes.

Mr. REID. I don't mean to denigrate, but I cannot come up with another word other than ''quibbling.'' We are talking about billions of dollars that is gone—like that—and here we are talking about programs that Senators BYRD and STEVENS worked on for weeks, that passed in the Senate without any problem at all because it was good for homeland security, good for the people of my State, good for the people of your State, and as I heard on Public Radio this morning, good for the people of Florida and even Orange County, CA, which has been devastated. I might mention, Orange County, CA, is a very rich county, but they have been devastated by virtually unfunded mandates that we passed on them since September 11.

Mr. CONRAD. I ask my colleague, are there times when money is spent inappropriately? Absolutely. Do we need to restrain spending? Absolutely.

Under the budget proposal I made to my colleagues, we would take spending to the lowest level since 1966. I applaud the Senator from Texas and the Senator from Arizona for saying we have to restrain spending. There is no way out of this hole that has been dug except to look at both sides of the equation—spending and revenue.

To eliminate the estate tax that costs $99 billion under their proposal, when instead we could reform the estate tax and increase the exemption to $3 million for an individual, $6 million for a couple, at a cost of one-eighth as much, a cost of $12.5 billion instead of $99 billion, makes no earthly sense to me. I hope we think carefully about these votes and what it means for the financial future of the country.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. How much time do I have?

The PRESIDING OFFICER. Thirty-one and a half minutes.

Mr. CONRAD. I am happy to yield to the Senator from West Virginia, 15 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the distinguished Senator from North Dakota.

Mr. President, I understand there is a little bit of grousing and gnashing of teeth concerning the moneys that were appropriated for homeland security in the supplemental appropriations bill last week. Let us stop, look, and listen.

In the last several hours, the threats against this Nation from terrorist attack once again were made evident with the arrest of an American citizen who apparently has been working with the ''al-Qaida'' terrorist network, plotting an attack on the nation's capital.

Once again, our eyes have been opened to the fact that terrorists live among us. The threats are real. The danger is present. We should not continue to delay actions that will fund immediate steps to protect American lives from attack.

Soon, the supplemental bill, which is being criticized by some today, will be in conference. I will fight hard for the $8.3 billion homeland security package that this Senate overwhelmingly approved last week. I hope that President Bush will match his rhetoric on homeland security with support for a funding package that meets so many of the critical security shortfalls in this country.

The announcement about yesterday's arrest only amplifies the concerns raised by administration officials within the past few weeks. The Vice President warned that a strike is ''almost certain.'' Secretary of Defense Donald Rumsfeld has stated that it is inevitable that terrorists will acquire weapons of mass destruction. Secretary of State Colin Powell has warned that ''terrorists are trying every way they can'' to get nuclear, chemical or biological weapons. And Homeland Security Director Tom Ridge said, ''While we prepare for another terrorist attack, we need to understand that it is not a question of if, but a question of when.''

Clearly, we know that the threat exists. We know that terrorists plan to strike. We do not know where or how or when, but we know that they will strike again. The question remains, will we be prepared?

Last week, the Senate took steps to address the many gaps in our homeland security network. By a vote of 71 to 22, the Senate voted very clearly to provide critical resources to protect American lives and to try to prevent future tragedies like the one we witnessed last September. Unfortunately, despite all of its rhetoric that homeland security is a top priority, the administration continues to oppose this critical legislation. In fact, the administration has gone so far as to threaten to veto the bill.

The President today travels to a water treatment plant in Kansas City, MO, to showcase a piece of his proposed Department of Homeland Security. This piece would create a threat analysis unit, envisioned as part of Mr. Bush's proposed intelligence-analyzing division, that would study the vulnerabilities of critical infrastructure such as water, road, and financial systems.

The supplemental bill approved by the Senate and currently opposed by the Bush Administration would put us several steps ahead on this threat assessment.

During Senate Appropriations Committee hearings over the last several weeks, Senators learned that more than $400 million is needed for local governments to conduct vulnerability assessments for our water systems. The supplemental bill includes $125 million for cities to assess the vulnerabilities of their water systems and for vulnerability assessments and security improvements to protect rural water systems. The administration did not request funding to help secure our drinking water systems, and it is opposing the Senate-passed supplemental bill that does make appropriations for our drinking water.

This spring, the Department of Energy sent the Office of Management and Budget a request for additional funds to secure America's nuclear weapons complex and labs, but the request was turned down. Now the administration has lauded its arrest of one man linked to a ''dirty bomb'' plot. But instead of supporting funds to better secure our nuclear labs and material, the administration is opposing the Senate supplemental bill that contains $200 million for that very purpose.

While in Kansas City today, the President is also expected to trumpet his plans to address vulnerabilities within the nation's financial systems. A cyber attack is a real possibility. As Senator BENNETT has pointed out, ''In the cyber-age, many of the attitudes we have had about warfare, about vulnerability, about opportunity have to be thought through entirely differently.'' Instead of supporting our efforts to address this threat, the President is opposing the Senate-passed supplemental bill that includes $154 million for cybersecurity to help combat the threat to Federal and private information systems.

Today, the President will talk about his support for local communities in the overall homeland security effort. A major part of that local effort is the actions of first responders, namely, local police officers, firefighters, emergency medical teams. The Federal Emergency Management Agency received $3 billion worth of applications from local firefighters for new equipment and training, but FEMA only had $360 million to meet the request. The administration did not ask for any additional funds in its supplemental bill. But the Senate-passed legislation last week does include $300 million to continue to meet this massive gap in our homeland security network.

Last week, the President announced a massive governmental reorganization to respond to terrorist threats. I support the concept of a Department of Homeland Security, as do most Members of this Congress, I believe, but there are many details to be worked out and many questions to be answered. We should not wait to address the gaps in our Nation's defenses while this new department is crafted. Terrorists will not swear off further violence until a new department is up and running. We should not delay our efforts to thwart that attack. The appropriations bill the Senate passed last week with a huge margin will do just that.

It is time for the administration's rhetoric on homeland security to be matched by action. It is time for the administration to recognize that simply talking about homeland security will not save lives. It is time for the administration to support investments in homeland security, to support the Senate's work to save lives, and to help fill the gaps that currently exist in our Nation's homeland security network. The administration should support the supplemental appropriations bill passed by the Senate last week, and I hope the President will speak to that end.

I was down at the White House this morning, and I urged the President to support the supplemental appropriations bill that the Senate passed last week. This bill will go a long way toward matching the rhetoric by the administration.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. I say to my colleague, Senator CONRAD was going to yield me 10 minutes.

Mr. GRAMM. I can do it either way. I was going to speak, but if the Senator has a time constraint, I am happy to step aside for 10 minutes.

Mr. WELLSTONE. If my colleague would be willing to do so, that would help me.

Mr. GRAMM. I will be glad to do so. Let my colleague speak.

Mr. REID. How much time does the Senator from Minnesota desire?

Mr. WELLSTONE. Ten minutes. I will take more time tomorrow.

Mr. REID. Senator CONRAD has how much time remaining?

The PRESIDING OFFICER. There remain 22.5 minutes.

Mr. REID. On behalf of Senator CONRAD, I yield 10 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I strongly oppose the full repeal of the estate tax for multimillionaires and billionaires. It is unfair, and it is unaffordable. Let's repeal it for small businesses. Let's repeal it for family farmers. We all agree on that. Let's go with the Conrad formula of $3 million individual, $6 million a couple, up to $7 million, but let's retain some modicum of fiscal sanity before we give away nearly $1 trillion in tax cuts to a handful of the ultrarich. That is what this is.

The timing could not be more ironic. We now immediately follow a vote to increase the Federal debt limit by $450 billion. That was to borrow another $450 billion, which is only enough credit to last until next March.

Many of my colleagues voted for the tax cuts last year but they opposed increasing the debt limit; that is to say, in the words of the old Yiddish proverb, dancing at two weddings at the same time, although I don't think you should be able to do so.

It is now clear that the claims that have been made by the White House, by the President, and by too many Senators and Representatives, that we can have massive tax cuts for the wealthy—Robin Hood in reverse—with most of the breaks going to the top 1 percent, pay down the debt, and invest in critical public priorities, were completely false.

Of course, there is plenty of that to go around. Colleagues were out here advocating nearly a $1 trillion tax cut for billionaires less than a week after there was so much heartburn on the Senate floor over an extra $1 billion for homeland security. Where did the fiscal conservatives go? They will spend $1 trillion to protect some wealthy kid's inheritance, but they will not spend $1 billion to protect our cities and towns from terrorists.

Spend $1 trillion to protect some wealthy kid's inheritance but not $400 million for veterans' health care, with so many veterans falling between the cracks.

Give away almost $1 trillion over the next 20 years, erode the revenue base—it is fine to do it for billionaires and multimillionaires, but we don't have enough money for education, not for smaller class size, not to recruit and retain good teachers, not to have good, affordable prescription drugs, not to do something about deplorable conditions in nursing homes, not to help elderly people stay at home, live at home in as near normal circumstances as possible with dignity, not to expand health care coverage. We will not have any of the money to do that.

Full repeal of the estate tax would cost $104 billion over the next 10 years, literally to protect a few thousand ultrawealthy families. Even worse, from 2013 to 2020 it is going to cost the taxpayers over $800 billion to provide this ''relief.'' This means that the full cost of this effort to have full repeal of the estate tax over 20 years is nearly $1 trillion.

Nationally, only 1.6 percent of all estates were made up with significant small business assets and only 1.4 percent had significant farm assets. This means that virtually all the estate tax is paid by extremely wealthy people who do not own farms or small businesses. The Conrad amendment really targets this.

In contrast, many rely on Social Security. Over 740,000 Minnesotans currently receive Social Security. Make no bones about it, what we are going to be doing here is not only not providing the investment in education or health care or affordable housing, but in addition we are just going to basically be taking it out of the Social Security trust fund. That is what this is all about.

For helping multibillionaires and billionaires, refusing to target this—which is what the Conrad amendment does—refusing to exclude small businesses and family farms that are handed from family to family—which is exactly what the Dorgan amendment does—instead, we have this effort to erode the revenue base $1 trillion over 20 years, most of the benefits going to the wealthiest Americans. And at the same time, we will not even be able to live up to our commitment in Social Security.

I believe this is really a proposal which defies common sense. If we want to do it the right way, we cap the estate tax exemption at a reasonable level. That is what the Conrad amendment does. If we want to do it the right way, we exempt, as I said before, family farms and family-owned businesses. If we want to do it the right way, we will have some balance.

I finish on this note. I do not fault my colleagues because I think for many of them, this is their position. If you believe that when it comes to the most pressing issues of people's lives—be it to make sure Social Security benefits are there, to make sure we adequately fund Medicare reimbursement for our hospitals and nursing homes and home health care providers, to make sure people can afford prescription drugs, to make sure we live up to our commitment to get the dollars back to our schools and our school districts, our teachers, our children, our young people from prekindergarten through higher education, to make sure something is done about the lack of affordable housing, to make sure we can provide some help for people who have no health care coverage, to make sure we can provide some help for small businesses that can't afford health care costs—if you believe, when it comes to those pressing issues, there is nothing the Government can or should do—and I believe that in some ways that is the ideological position some of my colleagues take—then eliminating the estate tax, not targeting it, is the perfect way to go.

It is win-win. You help the millionaires and the multimillionaires and the billionaires, you erode the revenue base, and you make it impossible for the Senate and the House of Representatives and the Federal Government to play a positive role in helping people. You make it impossible for the Federal Government to play a positive role in dealing with some of the most pressing issues of the lives of people we represent.

That is what this estate tax cut does. That is what this proposal to completely eliminate the estate tax accomplishes.

In one broad stroke of public policy, you have Robin Hood in extreme reverse with the benefits going to the wealthiest Americans, and at the same time you make it impossible for us to make the investments in health care, in education, in affordable housing, in Social Security, and in Medicare.

From the point of view of some of my colleagues, it is win-win. From my point of view, it is lose-lose.

I hope our colleagues will support the Conrad amendment as at least a commonsense, reasonable alternative.

I am not sure my colleague from Texas fully agrees with my statement, but I appreciate his graciousness.

Mr. GRAMM. Mr. President, I first wish to say something that I consider to be positive about our colleague from Minnesota. There are many people who want to take the repeal of the death tax back, but they do not want to own up to why they want to do it. They want to do it because they want to spend the money. The one thing I have always admired about the Senator from Minnesota is that he does not dilute his liberalism with the alloy of hypocrisy. He says exactly what he believes. I think in doing so he not only is true to his conscience but he does the Senate a service by defining exactly what all of this is about.

I wish to yield myself 20 minutes of the remaining 50 minutes we have.

Let me begin by saying that I think I am a good person to be a leader on this issue in the sense that the only thing I have ever been bequeathed in my life is that my grandmomma's brother, my great-uncle Bill—who was a great checkers player and I guess in the minds of the world since he worked in a cotton mill he may not have been a very important person, but he was an important person to me—but he bequeathed to me a cardboard suitcase full of yellow sports clips from the 1950s. I have often thought that had it been baseball cards I would be a rich man today. So I will never pay a death tax. I hope someday my children and grandchildren will have enough wealth that it would be an issue if we don't repeal it. But I am against the death tax because it is profoundly wrong.

I know it is easy to envy what another family achieves. But how can it be right? I am not talking about budgets, I am not talking about dollars, I am talking about right and wrong. People may work a lifetime, they scrimp, they save, they sacrifice, they plow back into their business, they work 12 and 14 hours a day, they accumulate, they build, and they build America while they are building. How can it be right simply because we are greedy and we want their money to make their children sell off the fruits of their life's work to give the Government a 55-percent share of everything they have accumulated during their lifetime simply because they have been successful?

It is a question of right and wrong. I will say about the constituents of my State—I can't speak for any other State in the Union—but in my State when I am talking about this issue—whether I am talking to farmhands, or railroad retirees, or rich people in North Dallas—when I talk about it being wrong to make a man or a woman sell off the life's work of their parents to give the Government a double taxation, people stand up and applaud because they are against it. They are flat against it because it is wrong and because it is un-American. It is un-American to do that. By doing it, we prevent accumulation.

I would like to refer to two thick studies. I would put them in the CONGRESSIONAL RECORD, except it would cost a lot of money. So let me refer to them so if people want them they can get them off the Internet. I will save probably $25,000 by not putting these in the RECORD.

There was a study by the Joint Economic Committee, entitled ''The Economics Of The Estate Tax.'' It was published in December of 1998 by the Joint Economic Committee.

All of their analyses and numbers boil down to the conclusion that the death tax has reduced by $500 billion the capital stock and the total investment that the Nation has made in job creation. They conclude that we are not raising net revenues by forcing people to destroy small businesses, destroy family farms, and to tear up the bequeath of Americans who have been successful. They argue that it destroys capital and that actually we are not collecting net revenue. I commend this to my colleagues.

The second study is a private study that was done by the Institute for Policy Innovation, entitled ''The Case For Burying The Estate Tax.''

They conclude that there are costs to collecting the estate tax. There is a decline in economic efficiency as people sell off their business because they do not want their children to have to deal with the estate tax problem. People buy insurance with money they could be investing in their business, and they do that to try to avoid the estate tax. When you look at all those costs, the Institute for Policy Innovation concludes that on net we are not even collecting any taxes with the death tax.

Finally, even if you accept the IRS data as net data—in other words, that we are really losing revenue—when you take into account what it costs to collect the tax, what people spend trying to avoid it, and how it hurts the economy, contrary to all of the debate you have heard from the Democrat side of the aisle, we collected less than one cent out of every dollar of taxes collected in America last year from the death tax.

Under the best of circumstances, we are not collecting very much money. Under more likely scenarios, we are not netting any money from the tax.

This policy of death tax is driven by collective greed. It is not driven by economics. It makes no sense to make people sell off their business, or destroy their farm, or tear up their life's work. And it hurts the economy to do it. But we continue to do it because of this collective envy that somehow there is something wrong about people accumulating.

Let me take the richest man in the world, Bill Gates. They say he is worth $46 billion. But because Bill Gates has $46 billion, I am richer. He changed the life of everybody on this planet with what he did in terms of information technology and the management of data. He created 10 or 100 times that wealth from which we have all benefitted. He is giving over 90 percent of it away.

You might say that is a lot of money. Many of our colleagues will say, let us take it, we can spend it. But what moral right do we have to take it? He has already paid taxes on every dollar of it. He is the largest taxpayer in the world. I am not doing this for Bill Gates, but he is the extreme example.

The point is that this is not collecting very much money. Interestingly enough, one of the great paradoxes is the substitute that has been offered by Senator CONRAD raises the deduction immediately to $3 million over the next 5 years and it would cost $20 billion.

The way we phase out the repeal, our repeal over the next 5 years only costs $6.8 billion, and the real cost comes in the 10th year. The incredible paradox is the substitute that is being offered takes money out of the Treasury exactly when we don't have it, and it doesn't take money out in 2010 when we are going to have a surplus, according to the estimates of the Congressional Budget Office projection I have in front of me, of $653 billion.

In other words, in trying to prevent us from making the repeal of the death tax permanent, the Senator from North Dakota offers a substitute that actually drives the deficit up in the next 5 years, whereas by phasing out the death tax, the real large cost of our phaseout does not occur until a year where we have about $600 billion of surplus. Why not give it back?

The point is, we voted to repeal the death tax. We all celebrated it. We talked about it all over the country. Now we have a quirk in the budget where it comes back in 10 years. Did we mean to repeal it or didn't we? I believe we did. I believe we should.

The second line of defense in all this is: But we don't have the money. We just don't have the money. We want to make the death tax repeal permanent, but we don't have the money.

The only point I make, and I don't want to be unkind to anybody, but why is this argument about not having money never made when we are spending money? Why is it only made when we are letting people keep more of what they earn?

I want to give you five examples. Whether it was good or whether it was bad—and my guess is some of it was good and some of it wasn't good—last Thursday we spent $14 billion more than the President requested on non-emergency items. That is four times the amount it would cost over the next 2 years to make the death tax repeal permanent. So if last Thursday we had enough money to spend $14 billion that the President did not request as an emergency, how come we don't have enough money to make the death tax permanent today?

On the farm bill, I voted against the farm bill because I thought it was completely larded. I thought it was abusive in its spending. But how come we had enough money to spend next year on the farm bill that is seven times as much as it would cost next year to make the death tax repeal permanent? We had seven times as much money to spend 3 months ago when we passed that bill, but we don't have one-seventh that amount to be sure that people don't have to sell their farm when their dad dies?

It is a matter of priorities. On the energy bill, we had more new tax cuts in that bill for the next year than it would cost to repeal the death tax.

The trade bill contains new entitlements, and we had several times as much new spending in that bill that we passed last month as would be required to pay for repealing the death tax.

In railroad retirement, we had 15 times as much in the first year as it would take to fund repealing the death tax.

And finally, in the stimulus bill, in the amount we spent above the President's request, we could have funded repeal of the death tax over twice over.

Here is my point: I am not saying that every one of these things was terrible and there weren't good things in them. I am just saying, here are five examples where we spent multiples of the amount of money that would be required this year for us to repeal the death tax. Nobody who today is saying we just don't have the money said that on any one of those five things I mentioned. I said it, I believe, on each and every one of them.

The point is, the people who are saying we don't have enough money to make the repeal of the death tax permanent are the same people who voted to spend all this money.

A final point on this issue: The Democrat budget that we voted on last week on the floor and not one Member of the Senate voted for—I guess every Democrat thought it didn't spend enough and every Republican thought it spent too much, but nobody voted for it—increased spending on the discretionary account. I am not talking about national security items. I am not talking about defense. I am talking about $106 billion more than the President requested. That was more than enough to have funded the repeal of the death tax. The same people who thought we needed that $106 billion of spending now say we can't afford to repeal the death tax.

It is a matter of priorities. Many of our colleagues can never afford to let working people keep more of what they earn, but they can always afford to spend the money. That is what this debate is about.

It really boils down to this: First, we said we would repeal the death tax. It turns out it is coming back in 10 years. Should we make it permanent or not? Is it not wrong to force people to destroy the life work of their parents to give the Government 55 cents out of every dollar they have ever earned and accumulated even though they paid taxes on every penny of it?

Second, are these programs that we want to spend money on so valuable that it is worth tearing up family farms and family businesses and the life's work of our people to pay for it? I don't think so.

Finally, we have good, solid studies, including by our own Joint Economic Committee, that suggest we are not even collecting money on these taxes because they make the economy less efficient.

So this is really not even about money. This is about collective greed in that we want to redistribute wealth when people die. We don't believe death ought to be a taxable event. That is what it boils down to.

Let me sum up, and then I will yield the floor. What is the No. 1 reason that 70 percent of all family businesses do not survive into the second generation? Seventy percent of all small businesses that somebody founded do not survive into a successful operation by their children. Why? According to the National Federation of Independent Business, it is the death tax.

Eighty-seven percent of all small businesses fail before they get to the third generation of the family member who started them. Why? The NFIB says the No. 1 reason is the death tax.

And finally, 60 percent of all small business owners report that they would create new jobs over the coming year if estate taxes were eliminated. We have businesses that are buying great big insurance policies so their children won't have to sell the business. That money could be going into the business instead of being wasted economically. If you don't want to destroy small businesses, repeal the death tax.

My second point: Under the death tax, you are taxed once, you die, and then you are taxed again. Why is it right that you earn a dollar; the Government takes 40 cents out of the dollar; you plow what is left of the aftertax dollar back into your business or your farm; you die; and your children have to sell the business or farm to pay a tax on the 60 cents that you got to keep out of the original dollar? How is that right? It is not right.

No. 3, this is simple, it is clever, but it is just the truth, too. It is just the pitiful truth. No one should have to visit the undertaker and the IRS on the same day. It is just not right. So often we debate these things over numbers and budgets and all these other things when this is an issue about right and wrong. This tax is wrong.

Finally, repealing the death tax would create jobs.

According to an article in the Wall Street Journal, ''The True Cost of Dying,'' on July 28, 1999, they estimate that repealing the death tax would create 200,000 jobs. Now, it is true that some of our colleagues say if we take the tax cut back and we make people sell their farm or their business and give us 55 percent of its value, we can spend it on programs. But are those programs worth 200,000 jobs? I don't think so.

So we have before us a proposal that says let's repeal the death tax, but only for a few people. Let's raise the cost now when we have a deficit, but let's not eliminate the tax when we can afford it and when we have a huge surplus. It makes no sense. The plain truth is that a great bulk of the cost of making this tax cut permanent occurs in the year it expires, which is 2010, and by the most recent Congressional Budget Office projections our elimination of the death tax will occur in a year when we will have a surplus of $653 billion. And $335 billion of that will not belong to Social Security.

Why should we not repeal the death tax? Is there anything we can spend that money for that would be more valuable? I don't think so. I hope my colleagues will agree.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Arizona is recognized.

Mr. KYL. Madam President, I appreciate the fine explanation of my colleague from Texas. He has been an advocate of the repeal of the death tax for a long time. I am pleased to join with him in this amendment and to be able to say that we have finally been able to bring before the Senate the permanent repeal of the death tax.

I want to make several points. I see that the Senator from Oklahoma is here. Was he intending to make a point at this time?

Mr. NICKLES. I have about 7 or 8 minutes.

Mr. KYL. I will go ahead. Will the Chair let me know when I have spoken for 12 minutes?

The PRESIDING OFFICER. Yes.

Mr. KYL. I appreciate that. The first point the Senator from Texas made was that the death tax is bad tax policy. Let me explain a little bit more of what we mean by that. The Tax Code generally taxes you for voluntary conduct. If you sell property, you know there is going to be a capital gains tax on that. If you work, you know you are going to earn income and you are going to be taxed on that. People make decisions based upon tax consequences. But there are a few situations in our Tax Code that are treated as involuntary conversions.

If the Government condemns your property and pays you money for that, you don't want that money; you want your property. The Government recognizes that as an involuntary action on your part, so you don't pay ordinary income at that time on that money. If your house burns down and you collect money from an insurance policy, you didn't intend for that to happen. The Government doesn't treat those insurance proceeds to you as ordinary income. It is taxed in a different way. The same thing is what we are proposing to do with the estate tax. Nobody intends for your father, or whoever it might be, to die. He certainly doesn't. The money that you may get as a result of that is coming to you involuntarily. You didn't take some action in order for it to occur. So that money coming to you should be treated in a different way.

The way that it is treated under the amendment of the Senator from North Dakota is to take 50 percent of the amount over $3 million. In other words, there is a $3 million exemption and, after that, every other dollar is taxed at 50 percent. If it is over $10 million, it is at 55 percent.

Now, that is bad tax policy. What we say instead is that the tax is not due on the date of death. Death is not a taxable event. Instead, the money passes to the heirs and, at that point, if they sell the property, there is a taxable event. You pay the capital gains on that property. In fact, the basis for the capital gain is the original basis on when the property was purchased by the decedent, not the value at the time of death. So, in effect, we are replacing one tax with another tax. Much of the revenue is not lost to the Treasury as a result. But at least as to the decision to pay Uncle Sam, the money comes from the voluntary act of people who inherited the property and who are willing to pay the capital gains tax if they sell the property, or part of it.

But what you don't have to do, as the Senator from Texas said, is visit the IRS the same day you visit the mortuary. That is wrong. That is why over 60 percent of the American people believe this is an unfair tax.

It is interesting that three-fourths of the people surveyed who say it is an unfair tax say they would favor its repeal, even though they don't believe that repeal would have any effect on them because they would not be receiving any of that money, or paying it, as an heir. So it is an unfair tax. As a matter of fact, the Senate agreed that it was unfair. We repealed it. A majority of Senators voted to repeal the estate tax.

Now, under the procedures under which that was done, no action that we took could last longer than 10 years. So the irony is after 10 years, none of our tax relief exists; it evaporates and we go back to where we were in 2001. Did we intend that? When we told our constituents we reduced the marriage penalty and reduced their individual income-tax rate and repealed the estate tax, were we kidding or did we really mean it? We will find out tomorrow.

If we were just kidding, then we will defeat the Gramm-Kyl amendment, or adopt some other proposal. If we meant what we said, saying we meant to repeal it, to cast the vote to do that, and since that sunsets after 10 years, we are going to permanently repeal it with our vote today, you will support the Gramm-Kyl amendment.

Some say this doesn't affect many people. The fact is that it doesn't just affect the rich. The descendant—the rich person—died. He cannot be affected; he is gone. Most of the people who inherit the money are not rich, and certainly the employees of their companies or the farms are not rich. So most of the people who are affected by the death tax are not wealthy at all.

The question is, Do you want to take half of what they are going to get from the person who worked so hard during his or her life to provide it to them? According to the Treasury Department, 45,000 families paid some level of estate tax in 1999. That is families. If it is a family of four, multiply that by 4 to see the number of people who are immediately affected, and then you can add to that the people indirectly affected. What is not included in the statistics is twice as many people sell their business or their farms. Many more people are adversely impacted when jobs in the community are lost when a family-owned business is sold to pay the tax.

In addition, more than 2 percent of Americans bear the aggregate costs of this tax—fees to lawyers and accountants and life insurance agents. As a matter of fact, it costs just about exactly as much for the people who pay the lawyers and insurance agents and the accountants to avoid the total consequence of the tax as the Federal Government collects from those who actually end up paying. So it ends up being a double tax on Americans. Half pay the tax to Uncle Sam and the other half pay the lawyers. I don't know which is worse.

The death tax not only impacts more than 2 percent of Americans, it burdens family-owned businesses under $100 million in value. According to the IRS, in 1999, 116,500 estate tax returns were filed; 60,700 of these returns were filed by estates with values of less than a million dollars. Estates valued between $1 million and $5 million filed 50,600 returns. There were 5,200 estates filed of more than 5 million. So even combined, the millionaires filing for the tax do not exceed the nonmillionaires.

The bottom line is that Americans recognize it is an unfair tax. It affects a lot more people than the person who had wealth when he died. The Senate recognized the same thing when it adopted the repeal of this tax.

Madam President, I was a bit surprised by the amendment of the Senator from North Dakota.

I know a lot of our colleagues on the other side of the aisle are opposed to permanent repeal of the estate tax. I thought what they would do was offer a fairly generous package that would be tempting for our colleagues to vote for in lieu of the real repeal, which is the Gramm-Kyl repeal. As it turns out, that was not done. It is a very straightforward proposal which is not generous at all. As a matter of fact, it is worse—it is worse—than the status quo. People would be better off under the existing law, even without the ultimate repeal, than they would be taking the amendment of the Senator from North Dakota.

It is interesting that while he is concerned about the cost of repeal in the first 5 years, for which we have figures, the repeal of the proposal before us of the Senator from North Dakota would be about $22 billion versus $9 billion for our proposal at a time when we are in a deficit situation, as the Senator from Texas noted.

The only way this is made up is that in return for that, we immediately go from a reduced rate of taxes under our bill and under the status quo to a 50-percent rate under the amendment of the Senator from North Dakota. The exemption amount is $3 million. The exemption under ours by the year 2009 is $3.5 million and, of course, in the final year, there is no need for an exemption from the estate tax because the estate tax is repealed.

Under the substitution of the capital gains tax for the estate tax in the Gramm-Kyl proposal, we retain a $5.6 million equivalent to an exemption so that nobody will pay a capital gains tax who would not have paid an estate tax. People are made whole, in other words.

Under no scenario would you be better off under the amendment of the Senator from North Dakota. You would be much better off under the amendment Senator GRAMM and I have proposed.

Let me make one other point. When we talk about the cost of this proposal, it is always a bit frustrating for me because we are talking about lost revenues to the Federal Treasury. To me, that is not a cost; that is an opportunity for Americans to keep more of their own money.

What we know from tax policy generally is if you reduce people's taxes, you improve the status of the economy. One thing we forget when we talk about the alleged cost of the repeal of the estate tax is the positive effect that has on the economy. A study conducted by Alan Sinai shows the GDP of our country could increase a total of $150 billion over 10 years and job growth could increase 165,000 per year with repeal. The increase in household savings would be between $800 and $3,000 annually. So the impact on families and on the GDP would be significant from a repeal of the estate tax.

A Joint Economic Committee study estimates the existence of the tax has reduced the Nation's pool of savings by $497 billion. An expert in this area testified before our Finance Committee and said immediate repeal of the death tax would result in a $40 billion economic stimulus.

If you really want to stimulate the economy, if you really want to create more jobs, if you want to enhance the GDP and if you want to enhance personal savings and personal income, then repeal the tax.

It is true that the Federal Government is a little worse off if we repeal the tax. It does not take in quite as much money. But American families have a lot left, and the American economy is a lot healthier as a result.

What happens when the economy grows? We all know that tax collections by the Government actually increase when the economy grows. We do not have an exact study on what Federal revenue increases would be, but we know they would be significant.

A final point: There is always the bottom line argument: when you cannot scare people any other way, say that Social Security might be affected.

There is zero effect; there can be no effect on Social Security by repeal of the death tax. The death tax has nothing to do with Social Security. The death tax goes to the general revenues. It is about 1 percent, 1.5 percent of general revenues. It has no impact on Social Security. It pays none of the Social Security benefits.

Today, in the year 2002, we will be taking in about $624 billion in Social Security, and the payments to Social Security recipients are about $465 billion, so we have about a $175 billion surplus in Social Security funds.

No Social Security recipient could be affected by repeal of the death tax. Let's at least understand that and not scare people by suggesting there is an adverse impact on Social Security.

We have more points. I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, first, I compliment my friends, Senator KYL and Senator GRAMM, for their leadership in trying to eliminate one of the most unfair taxes in U.S. history. We have a chance to do it. We have two proposals that are before us. One is by Senator GRAMM and Senator KYL, of which I am a cosponsor, to repeal the death tax so there will not be a taxable event on somebody's death. Now there will be a taxable event when the property is sold, also known as a capital gains tax. That is 20 percent. That ought to be enough.

We are trying to make permanent the repeal in the year 2010. Let's make that permanent. That is our objective. Under that scenario, if there is property in an estate—let's say it is a business, a manufacturing company, maybe it is a farm or ranch, maybe it is a restaurant in downtown Washington, DC. That restaurant may sell for $5 million. Maybe it is a second or third generation restaurant, Mortons, and it is worth several million dollars. If the son or daughter takes over that business and they do not sell it, there is not a taxable event. But if they decide it is too much of a hassle and they do not want to continue the operation and they sell it, then there is a taxable event. It will be taxed as capital gains at 20 percent instead of under Senator CONRAD's proposal of 55 percent.

I probably shocked somebody when I said 55 percent. I read Senator CONRAD's proposal as 50 percent. He has an exemption of $3 million, and in a few years $3.5 million, but above that is taxable at 50 percent. If you have an estate between $10 million and $17 million, there is another 5 percent kicker, and so the Federal Government will get 55 percent.

Why in the world would the Federal Government be entitled to take over half of somebody's property for which they worked their entire lives? Should the Federal Government come in and take half or over half? That is what is in the Conrad proposal.

We have two competing proposals. What will the impact be? Look at the businesses in Washington, Oregon, or Maine. We can all think of very successful people who have built businesses and have employed a lot of people. A lot of those are worth more than $3.5 million. Senator CONRAD's proposal says we want half of the property's worth when somebody passes away. I happen to think that is absolutely wrong. Whether the value of that business is $3 million or $100 million, if somebody wants to continue operating that business, why should the Government come in and say: No, stop, we want half; somebody died; stop; we want the Federal Government to come in and take half? That is what Senator CONRAD's proposal is. I object to that.

I learned the hard way. My grandfather started a business. My dad built it up. He died when he was pretty young, and the Government came in and said: Stop, we want half. We fought the Government for 7 years. Frankly, the business was a small, family-held business, and Uncle Sam said: We want half of it. We objected to that and we fought them for years. We ended up settling. They ended up getting a lot more than they should have.

The Government's purpose and function should be to protect our property, not confiscate it. If one thinks about it, under the Conrad proposal, if they get half—and let's say it is over $3 million,—somebody passes away this year, and then in the next generation somebody else passes away 20 years later, and they get half again. What a disincentive to grow, build, and expand.

There are countless generations across the country trying to grow, build and expand by employing more people and creating more products. I think of a company in Perry, Oklahoma called Ditch Witch. They manufacture trench makers. These machines are used to lay cable, phone lines, pipelines, help build roads, among many other uses. Perry, OK, has a population probably of 12,000 people, of which Ditch Witch employs a couple thousand. It is a great little family-owned business. Why should the Government come in and say: Stop, the proprietor passed away; we want half of it? What about those thousands of jobs?

Look at another company called Bama Pies. They make pies in Tulsa, OK. They make millions of pies, including all the pies for McDonald's. They employ hundreds, if not thousands, of people. It is a closely held business.

Why should the Government come in and take half because the entrepreneur who built that business happens to pass away and the value of the business is in the millions? I do not think they should.

That is what we are talking about. Should the Government come in and say, oh, well, you have been relatively successful, and because your estate is in the upper maybe 1 percent or 2 percent, it is okay if we sock it to you? What is right about that? What is fair about it? Where are the jobs that are in that kind of an ordeal? We think the Government can operate it better? Sorry, you have to sell it to pay estate taxes. We hope the company will survive in its next form. Maybe it will. Maybe it will not. There are a lot of operations that cannot withstand that type of a heavy tax.

A farm or a ranch is another good example. You might have a fairly decent farm or ranch maybe adjacent to a large city and so its property valuation is very high. This value could maybe exceed it's agriculture valuation, or the profits or the money that would be generated from the agriculture. Just because it happens to be next to San Diego it is worth millions on the valuation sheets. Maybe somebody says, well, I want to continue farming it and ranching it; I am second or third generation. And we are going to say, no, we are sorry; we have valuated this, and because it happens to be next to San Diego, it is worth millions of dollars so the Federal Government is entitled to take half. They cannot pay half by continuing their agricultural operation, so the only way they can pay taxes is to sell it. What kind of victory is that? We have just broken up a family business, a family farm, or a family ranch. Why? So Uncle Sam can take half that property? Maybe that property is not worth near as much in that present function. What right do we have to do that?

Some taxes are wrong, and this tax happens to be one of those that are wrong. The power to tax, it has often been said, is the power to destroy. If the Government can take half—and in the amendment of Senator CONRAD, the Government can take half. If you have a taxable estate over $3 million, then they have taken away a lot of your—maybe destroyed a lot of incentive to build, grow, expand, and employ. I think of so many entrepreneurs who have built and expanded businesses that are now worth millions of dollars.

I look at this amendment and it says: Stop; do not grow anymore because Uncle Sam is going to come in and take half of it. We have decided that is our property and we can handle it better than you can. How many employees will the Government hire out of that type of operation?

I completely disagree with the premise espoused of, let's keep the rates at 50 or 55 percent. Again, I mention the rate. Under the proposal of Senator CONRAD, there is a maximum rate because he has this bonus 5 percent hit if your taxable estate is between $10 million and $17 million. Well, $10 million and $17 million sounds like a lot if that is your disposable income, but if that is your investment that you have grown in plant and equipment, and you are putting the money back in the business year after year, it may not be that big. You may not make that much money. You may have a business that is worth $20 million but it may not make very much money. Yet, under Senator CONRAD's amendment, too bad: You pass away, we have a taxable event, and Uncle Sam gets half. If it is a $20 million business, take away your $3 million deductible and you have a $17 million business. Under his proposal, half of it goes to Uncle Sam—actually, 55 percent of the $17 million. The Government is going to get almost $9 million out of a $20 million business. Congratulations, you are really successful. If this is the case, where are the liquid assets in this $20 million business? You do not have them. You have invested them in plant and equipment, in machinery, in jobs. You did not have them sitting around in CDs and cash, so you have to sell the business to pay the taxes.

That is what the amendment of the Senator from North Dakota is. It says, Government, you are entitled to take half; and many of us say, no, you are not. This tax is unfair. It needs to be repealed.

We took a giant step in that direction when we phased down the tax and repealed it in the year 2010. We need to make it permanent, and that is exactly what the Gramm-Kyl-Nickles amendment does, makes it permanent. Senator CONRAD's amendment says, no, we do not want to do that. We will increase the exemption a little bit and then the Government is entitled to get half.

I hope my colleagues will reject that type of unfair tax policy that needs to be repealed. Even if it applies to one small percentage of the American population, it is not right to take it. One can say, well, is it right to take 100 percent of somebody's property if it only affects a few? I think of that as theft, rather than good, sound tax policy.

I heard some people complain, what about the effects on deficits? I started looking at spending. I always hear when we talk about taxes, but when we talk about spending we do not hear about people talking about, what is the impact on Social Security? What is the impact on future deficits? Between the years 2000 and 2001, budget authority went up from $584 billion to $664 billion. That is a 14-percent increase. Between the years 2001 and 2002, it went up to $710 billion. That is a 7-percent increase. That was before we started working on the supplemental. The budget we are working on now that just passed—if we include the supplemental that just passed Congress—is $768 billion. If we add that together, that is an 8-percent increase over the previous year. So we are compounding spending at 14, 7, 8 percent.

Then I look at some of the other requests. The farm bill that we passed about a month ago was $82 billion over the baseline. We are paying cotton farmers 72 cents per pound when we look at cotton that is selling for 32 cents. The market price for cotton is 32 cents, but we are going to pay farmers 72 cents for 6 years.

Look at railroad retirement. We are writing out a check for $15 billion for railroad retirement, something we have never done before.

The Trade Adjustment Assistance Program we passed had $11 billion of new entitlements, where the Federal Government is going to pick up 60 percent of health care costs for people who happen to be uninsured, unemployed.

We are going to have a new wage entitlement insurance program under trade adjustment assistance. The supplemental was $3.9 billion over the President's request. The supplemental was almost $4 billion above the President's request. Trade adjustment assistance had $11.1 billion over the President's request in new entitlements. The farm bill was $82.8 billion over the baseline. Railroad retirement is $15 billion. So there is a lot of new spending in excess of about $120 billion that Congress has passed in the last few months. Where is the outrage on the impact on deficits on these bills?

When we start talking about not taking away half of somebody's property when they die and reject this tax policy, perhaps we should have the tax policy be enacted when their property is sold by their beneficiaries. Then there is a taxable event and that taxable event is taxed at the capital gains rate, which is 20 percent. With this method, you would eliminate these billions of dollars that are being spent presently to avoid the tax. To everyone who knows estate planning, the lawyers and the accountants, this is an enormous field, which in my opinion uses a lot of minds in a productive venture to avoid a very unfair tax.

If we said, let us have a tax on capital gains, it would simplify taxation. I think we would see a lot of businesses grow if they did not receive this signal, stop, do not grow anymore because we are going to take half of everything you have. The economy would respond in a very positive way. We would create thousands, maybe hundreds of thousands, of jobs if we could repeal this unfair tax.

I urge my colleagues, when we vote tomorrow, when we have final passage, to vote in favor of the Gramm-Kyl-Nickles amendment to repeal permanently this unfair death tax.

Mr. CONRAD. Madam President, I have been amazed at the argument from the other side, absolutely amazed. My amendment is not as good as the status quo? Their proposal is better? What math are they using?

I grew up in North Dakota, went to North Dakota schools where one and one is two; two and two is four; four and four is eight. That is the math I learned. I don't know what math they are talking about.

Let's talk about the difference between my proposal before the Senate and their proposal. Let's talk about current law. They say mine is not as good as current law. Under current law, next year the exemption will be $1 million. That is 2003. Under my proposal, the exemption is $3 million. So the rate for an individual who has an estate that is taxed next year below $3 million, the rate is zero; their rate above $1 million is 41 percent. Which is better? A zero rate up to $3 million, as in my proposal? Or their proposal, which is a 41-percent rate over $1 million? Can we do the math? Which proposal means less tax to the individual in the family? Zero percent up to $3 million? Or their proposal that says a 41-percent rate over $1 million.

Compare it to current law. My rate is zero percent up to $3 million. They have zero up to $1 million. That is current law. But over that the rate is 41 percent. Let's see, are you going to pay less tax under my proposal or their proposal? Are you going to pay less tax under my proposal or under current law? Come on. I am ready to have an honest debate but let's not twist things around and claim that my proposal taxes more than your proposal. That stands truth and logic on its head.

Mr. KYL. Will the Senator yield for a question?

Mr. CONRAD. I yield.

Mr. KYL. I agree with the point in the first year there is a greater benefit for individuals but a higher cost to the Government. Would the Senator continue the timeline over the next 10 years?

Mr. CONRAD. I would be happy to do that.

The next year, 2004, their exemption is $1.5 million for current law with a 41-percent rate. Their proposal is a $1.5 million exemption with a 43-percent rate. My proposal is $3 million, nothing, no tax. So you are higher in 2003; you are higher in 2004; you are higher in 2005; you are higher in 2006; you are higher in 2007. That is a long time in which my proposal is better than your proposal.

Not only is my proposal better in terms of the taxpayer for those years, my proposal is better for the Federal Government's Treasury and for fiscal responsibility and for Social Security because our proposal costs less over the next decade than does theirs. Why is that? Because at the end of the decade they eliminate the estate tax completely. It does not matter how big. It does not matter if you have a $50 billion estate, they say you pay no tax.

The Senator from Texas talked about what is fair and right. Let me give an example of why I think what he is proposing is less fair, is less right, than what I am proposing.

Under their proposal, someone with an estate of $50 million—for example, Mr. Skilling, the executive who ran Enron. He would have his estate tax eliminated. The $55 million he would save would be equivalent to all of the Social Security taxes paid in one year by 30,000 people earning $30,000. In other words, in their idea of what is fair, it is more important to take Mr. Skilling off the tax rolls completely, even though his gains, many might say, are ill gotten, it is more important to take him off than to worry about the 30,000 Americans earning $30,000 a year paying that amount of money into Social Security. Make no mistake, these things are directly related.

The proposal I have offered reforms the estate tax. It says nothing is paid starting next year if you are an individual with an estate of less than $3 million, and for a couple that is up to $6 million. You pay zero. That is much better for next year, and 2004, and 2005, and 2006, and 2007, than their proposal. But, at the same time, my proposal costs less because we do not eliminate the estate tax. So my proposal costs $12.6 billion in the first decade; their proposal costs $99.4 billion. That is a dramatic difference. It is at a time when we will be running deficits for the entire next decade. Let me repeat that. We will be running deficits for the entire next decade unless something changes. And just hours ago we had to increase the debt of the United States $450 billion. They are proposing a cost in the second 10 years of $740 billion.

Reform, not repeal, is the best thing for this country's economy, for our fiscal stability, and for fiscal responsibility. And interestingly enough, it is the best thing for taxpayers. It is the best thing for taxpayers because they get a better break now. We go from a $1 million exemption to a $3 million. Next year, that would be $6 million for a couple.

This idea of repeal which they have proposed is a hoax. I don't think it will ever happen. They can pass it now, but I don't think it will happen. By some other name this tax will come back and we will have denied people the ability to plan and we will also have denied people the chance to get a greater exemption now, which is what I am proposing.

When I was raised, I was taught a bird in the hand is worth two in the bush. This proposal I am making is a bird in the hand, a $3 million exemption, or a $6 million exemption for a couple, starting next year, instead of the $1 million exemption that exists in current law and the $1 million they have in their plan.

The choice is pretty clear, pretty simple, but pretty important.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, our dear colleague has a substitute which costs a "fraction" of a repeal but it is better. If his amendment sounds too good to be true, it is because it is too good to be true.

The first thing he never mentioned was if you are a small business or family farm and you are engaged in any estate planning, and we know that small businesses and family farms spend dollars in estate planning, this completely wipes all that out. I can show figures on a small business, a $10 million small business, the tax would equally be higher next year under his proposal than under ours. But we do not have to get into all this gamesmanship. It really boils down to a simple question. We repeal the death tax for everybody.

Mr. CONRAD. Will the Senator yield on that last point?

Mr. GRAMM. I will yield. I only have a couple of minutes, so do it fast.

Mr. CONRAD. I would love to see the calculation the Senator has.

Mr. GRAMM. I will be glad to show him. I have someone from the Finance Committee here, the staff person who worked on this. She worked out the example of $10 million, and I will send her over with it so your staff can take a look at it.

Mr. CONRAD. I would love to take a look at that.

Mr. GRAMM. Here is the point. We don't need to get into all this business about "he did," "he didn't," "he did," "he didn't." It boils down to this. We said we repeal the death tax and we repealed it. Only there is a trick: it comes back in 10 years.

Senator KYL and I want to repeal it so it is dead forever. We do not think death ought to be a taxable event. We don't think you ought to have to sell your family's farm, business, or estate to pay tax on money which you have already paid taxes on.

The Senator says let's do it for some people but not other people. Let's do it for some Americans but not other Americans. And let's, at the same time, ban all of the procedures whereby every small business in America and every family farm in America is planning for estate taxes to try to minimize their costs.

The bottom line is: Are you for a repeal for everybody or are you for a repeal for some of the people? It really boils down to that simple issue.

As for this argument about Social Security, I hope everybody understands that we collect a payroll tax for Social Security. The death tax collects less than 1 percent of revenues, and none of that money goes into Social Security. In fact, as I pointed out over and over and over, five times in the last 9 months we have spent cumulatively about 20 times the amount that it would take to repeal the death tax. So, obviously, it is not a question of money. It is a question of priorities.

I yield the floor. We are through on our side.

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

The Senator from Arizona.

Mr. KYL. Might I address a question to the Senator from North Dakota since the Senator from Nevada is not here. It is our understanding under the unanimous consent agreement the next amendment that will be laid down will be laid down by Senator DORGAN or by Senator REID on his behalf?

Here is Senator REID. Perhaps we could get this underway now. If I could inquire of the Senator from Nevada, the time having expired under the unanimous consent agreement on the first amendment laid down, is the amendment of the Senator from North Dakota next? The next thing that will transpire is that the Senator from Nevada on behalf of the other Senator from North Dakota will lay down an amendment; is that right?

The PRESIDING OFFICER. The Senator from North Dakota still has 5 minutes.

Mr. KYL. I am sorry. I thought the Chair said all time had expired.

The PRESIDING OFFICER. The time of the Senator from Texas had expired.

Mr. KYL. If the Senator from North Dakota still has 5 minutes, I will yield the floor to the Senator from North Dakota. But if we could get a clarification about what is going to happen when that time has expired, I would appreciate it.

Mr. REID. If the Senator from North Dakota will yield without this time counting against his 5 minutes, I will respond to the question of the Senator from Arizona.

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

Mr. REID. I say to the Senator, at this time the Senator from North Dakota, Mr. DORGAN, is working on some minor changes in the amendment that he offered previously. That amendment, I cannot go into detail on.

Basically, what it does is exempt from the estate tax small farms and businesses that let descendants take over after the death of the party—the same amendment he offered previously that I think got 43 votes. Basically, that is the amendment.

I do say to my friend, I just talked to the cloakroom and he is making some changes. We were and are entitled to two second-degree amendments under the unanimous consent agreement. At this stage we may only offer one of them. Senator DORGAN is trying to change the one amendment so there may be one amendment rather than two. As soon as we get something in writing, we will let the Senator from Arizona know. I do not think there is any question that the amendment you are going to lay down is the same one we have seen before, just an outright repeal?

Mr. KYL. Also, not taking away the time of the Senator from North Dakota, the Senator from Nevada is correct. I just inquire, then, for the benefit of all Senators, when the Senator from North Dakota has completed his 5 minutes of concluding remarks, could the Senator from Nevada explain what happens at that point?

Mr. REID. I have spoken to the majority leader. We have the Prime Minister of Australia coming for a joint session of Congress tomorrow morning. We are going to do a limited amount of morning business in the morning. Then the escort committee would go with the Senators over to the House side and listen to that speech. That is expected to be completed and we will be back in session approximately 12:30 tomorrow afternoon.

At that time, Senator DORGAN will lay down his second-degree amendment with a 2-hour time limit. We would vote at approximately 2:30 on the Dorgan amendment, then the Conrad amendment, and then we would turn to the Senator from Texas. He would lay down his amendment which would probably be around 3:15. At 5:15 or 5:30, thereabouts, debate on that would be completed, and I hope on or about that time we could vote on the amendment of the Senator from Texas and be finished with this matter.

Mr. GRAMM. If the Senator will yield, let me just reaffirm so everybody knows, I will offer exactly the language that passed the House, repealing the death tax permanently. So if we did it, it would go right to the President, he would sign it into law.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, let me conclude this debate as I began. I believe our votes must be informed by the current fiscal condition of the country. As the President said to us last year, his budget was going to pay off $2 trillion of debt over the next decade. He said, at that time, that would be the largest debt reduction of any country ever.

Now the President comes to us 1 year later and says: Whoops, forget about that. Forget about maximum paydown of the debt. Forget about paying down more debt than any country ever. Instead of paying down debt, I am asking you, Members of Congress, for the second biggest increase in the debt in our Nation's history.

The only bigger request for an increase in the debt was made by the current President's father when he was President. He asked for and received a $915 billion increase in the national debt in one fell swoop, in November of 1990.

Now comes this President and he asks for a $750 billion increase in the debt, the second biggest in our Nation's history.

We all have to think a moment about the changed circumstances. Just hours ago, this Chamber voted to increase this Nation's debt by $450 billion. Now our colleagues on the other side are here saying they want to increase the debt another $100 billion in this 10 years, by another $740 billion in the second decade.

Let's look at where we are and where we are headed. This chart shows that from 1992 to 2000 we pulled out of deficit. We got ourselves into circumstances in which we were running surpluses. Last year with the President's budget plan we plunged back into deficit, and we now are told that we can expect deficits the entire rest of the decade. That is before their proposal to dig the hole even deeper. And the outlook for the years beyond is even more serious.

That brings us to the question of what do we do on the estate tax. I acknowledge we need to reform the estate tax—$1 million is too low for a tax to be imposed. So I proposed that next year we go to $3 million of exemption for an individual estate; $6 million for a couple. They would pay zero under my proposal. A couple would pay no estate tax up to $6 million. Our friends on the other side, they don't get to $3 million until 2009.

My proposal also freezes the maximum estate tax rate at 50 percent. It retains stepped-up basis. I know that is a confusing term, but it is an important one. What it means is that in the future, you will pay taxes on what you inherit based on the value at the time you inherit it, not what grandpa paid for the property, not what grandma paid for the property, but what it was worth when it passed to you.

That is a very important difference between their proposal and mine. While my proposal is more generous to taxpayers in the short term, it is also more fiscally responsible because we don't eliminate the estate tax completely as their proposal does. They are proposing to eliminate the estate tax completely after the year 2010. My proposal saves hundreds of billions of dollars that otherwise are going to come straight out of Social Security. There is no other place for it to come from. They deny it. They say this has no effect on Social Security. Really? Where is the money coming from? There is only one place it can come from; that is, straight out of Social Security.

My proposal will reduce the number of estates that are taxable from the current level, which is 2 percent. Only 2 percent of all estates in America have any tax. I would reduce that to three-tenths of 1 percent, but at the same time save the fiscal position of the country.

There is no question that what they are talking about—estate tax repeal—raids Social Security trust funds. Look at what it does. Their idea of fairness is to eliminate the estate taxes for somebody like Mr. Skilling, former CEO of Enron, who would save under their plan an estimated at $55 million. That is equivalent to all of the Social Security taxes paid in a year by 30,000 American people earning $30,000.

They say their proposal is fair. They say their proposal is equitable. I don't see it. Taking all of the taxes from 30,000 people earning $30,000 a year to eliminate the estate taxes of Mr. Skilling is not fair.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DAYTON). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, I wanted to announce that there will be no further votes today. I appreciate the vigorous debate we have had on the Conrad amendment, and appreciate Senators coming to the floor to move the schedule along.

It is my hope that we will have a vote at approximately 2:30 tomorrow, and it may be stacked with another amendment.

I urge Senators to offer their amendments because we will miss a window here, and we will then make a point of order on the bill itself sometime tomorrow.

We are not going to wait for Senators. They are either going to offer their amendments or they are going to miss the opportunity.

So those Senators who have amendments need to come to the floor and lay them down and have the debate, as Senator CONRAD did this afternoon.

We will pick up this debate again tomorrow morning.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. DAYTON). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 10 minutes each.

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

TRIBUTE TO FLOYD CALVERT, JR.

Mr. NICKLES. Mr. President, I recognize an American who honorably served our Nation for nearly 40 years. At the age of 25, Lieutenant Floyd Calvert Jr., an Oklahoman and Cherokee Indian, served as a bomber pilot in the U.S. Army Air Corps flying B–29 aircraft in the Pacific Theater during World War II.