

We knew when we started, we were facing daunting odds; that the system, as it is situated right now, heavily favors the industry and that as a result of the fact that it heavily favors them, and the rules favor them and allow them to stop competition and to be able to set prices on Americans much higher than in other countries, we knew this was going to be an uphill battle.

We often talk about the fact that there are six drug company lobbyists for every one Member of the Senate and what that means in terms of challenges. But we have an opportunity today, and many of us have been working across the aisle in good faith. In fact, I would say everyone has been working in good faith. There are different philosophies—two very different approaches—that are being developed. But everyone is working in good faith to try to get something done. I think today is the day when we really decide are we going to at least take the first step. If we can't get all the way there, to give comprehensive Medicare coverage for all seniors and disabled, we have to at least begin the process to do that.

We are being called upon by AARP and the other senior groups to at least take the first step. So we are working hard today. I commend my colleagues on both sides of the aisle who have been working with us to be able to do that. We still have two different philosophies—one put forward predominantly by our colleagues on the other side of the aisle and by the House Republicans, which I believe moves us in the direction of privatizing Medicare. It would use private sector insurance, HMOs, as the mechanism for providing prescription drug coverage.

In my home State, we have seen Medicare+Choice, basically a failure in terms of covering people, pulling out. My own mother was in the program and lost her HMO coverage. We have seen over and over again where the private sector market has not worked for our seniors as it relates to Medicare.

I argue that it is the wrong direction to go to try to prop up this system—private sector HMOs. There have been proposals that would prop them up to the tune of Medicare paying 99 percent—covering 99 percent of the risk in order to go through private insurance companies. To me, that seems a little ridiculous.

What we should be doing is what seniors across the country are asking us to do and that is update Medicare. We have had colleagues who have called Medicare a big government program. As I have said before, I believe it is a great American success story—Medicare and Social Security.

So we have an opportunity today to begin to modernize Medicare. I hope we are going to do that. Ultimately, we know that Medicare—the health care system for older Americans—needs to cover prescription drugs for everyone on Medicare. But at a minimum, we

need to start with our lower income seniors, who are deciding: Do I eat or get my medicine? Do I pay the utility bills or pay the rent? Maybe I should cut my pills in half. Maybe I should ask for a 1-week supply instead of a month. Maybe I will share them with my spouse because we both need the same blood pressure medicine.

There are so many real stories. I have read many of them on the floor of the Senate—real-life stories of people in Michigan who are struggling to make life-and-death decisions.

We have an opportunity at least to do something for them. We have an opportunity also for those who are the sickest, who have the biggest bills, who are finding themselves trying to decide between having their home, their retirement, being able to have any life whatsoever, or having thousands and thousands of dollars in drug bills. We have the opportunity to, as well, put in place for everybody the ability to know that they will not lose their home or their retirement and savings as a result of the cost of their medicine.

If we could simply start with the neediest and the sickest under Medicare, I believe that would be a wonderful first step for us and something we could do today in a bipartisan way within the integrity of Medicare.

I hope, Madam President, we will take the challenge that the seniors are calling on us to do across the country: To step up and provide leadership, to do more than talk, and begin to get something done for the seniors and others on Medicare.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the time from 10:40 a.m. to 11:10 a.m. shall be under the control of the Senator from West Virginia.

Mr. BYRD. I thank the Chair.

CREATION OF A NEW DEPARTMENT OF HOMELAND SECURITY

Mr. BYRD. Madam President, later this week, the Senate is expected to begin debate on the creation of a new Department of Homeland Security. The debate, however, will not be about whether to create a new Department, but rather how to create a new Department.

Since the President unveiled his legislative proposal 6 weeks ago, the Congress seems unwilling—or unable, perhaps—to resist the stampede moving it towards the creation of this new Department. Indeed, the momentum behind the idea seems almost unstoppable.

With the level of endorsement the Congress has given to this idea, one would think that the proposal for a new Homeland Security Department had been engraved in the stone tablets that were handed down to Moses at Mount Sinai. But in reality, the idea was developed by four Presidential staffers—four—in the basement of the White House. For all we know, it could

have been drafted on the back of a cocktail napkin.

The administration did not consult with Members of Congress about the President's proposal. We were not asked for our input. The week the President unveiled his proposal to the American people, only a select circle of Washington insiders were even aware of its existence.

I remember the events of that week. The administration was under fire about whether U.S. intelligence agencies had adequate information to prevent the September 11 attacks. FBI whistleblower Coleen Rowley was testifying before the Senate Judiciary Committee—the same day, in fact, that the President addressed the Nation to announce this new Department. The President's poll numbers were dropping as the American public began to question the effectiveness of the administration's plan to protect our homeland.

The Congress was taking the initiative on the homeland security front. Senator LIEBERMAN's proposal to create a new Department of Homeland Security was slowly gaining momentum in the media. White House Press Secretary Ari Fleischer just a few weeks earlier criticized the Lieberman plan by saying that “a [new] cabinet post doesn't solve anything.” That was Mr. Fleischer talking: “a new Cabinet post doesn't solve anything.”

This was the political environment in which the President unveiled his hasty proposal, and that proposal was widely reported in the media as helping the administration to retake the initiative in protecting the homeland. The President's address to the Nation helped to restore the confidence of the American public in the administration's efforts to protect the homeland, and even provided the President with a boost in his approval ratings.

So the President's proposal was crafted in the bowels of the White House, cloaked in secrecy, and presented by an administration trying to regain political ground. Those are hardly the conditions that should inspire the Congress to rally around a Presidential proposal, but that is exactly what is happening.

The Congress is coming around, rallying around a massive, massive governmental reorganization with little discussion about whether such a reorganization is desirable or even necessary. What is worse, the Congress is so eager to show itself united beside the administration in our Government's efforts to protect the homeland, that it has committed itself to a timetable that would allow for only minimum debate about the President's proposal—a plan of dubious origins—so that we can expedite its passage before the 1-year anniversary of the September 11 attacks. Think of that!

Have we all completely taken leave of our senses?

The President is shouting “Pass the bill! Pass the bill! Pass the bill.” The administration's Cabinet Secretaries

are urging the adoption of the President's proposal without any changes. And the House of Representatives eagerly complied last week by passing legislation that essentially mirrors—mirrors—the President's plan.

If ever there was a need for the Senate to throw a bucket of cold water on an overheated legislative process that is spinning out of control, it is now—now. But what are we doing instead?

In the Senate, the Governmental Affairs Committee marked up its legislation just 5 weeks after receiving the President's legislative proposal. Until last week, Senators were being urged to finish consideration of the bill before the August recess begins this Friday. Think of that. The Senate would have had just 1 week to consider this bill, before it passed and was sent to conference before the August break. Considering that the committee-reported bill was only made available yesterday afternoon, this schedule would have given Senators only 4 days to read and understand what was crafted by the Governmental Affairs Committee. And to finish the bill within a week, Senators would certainly have been discouraged from offering amendments and debate would have been stifled.

That was the process being urged by some for the Congress' "deliberative body"—the greatest deliberative body in the world.

I certainly understand that no Senator wants to be seen as delaying our Government's efforts to protect our homeland. But in trying to avoid being labeled as obstructionists, we must not be willing to ignore even the most pertinent questions about the proposal—such as will a new Homeland Security Department actually make the public safer from terrorists?

Prior to the President's address, there were at least eight different proposals pending before the Congress to reorganize the Government to better protect the homeland. Those proposals ranged from creating a homeland security czar to establishing an independent Homeland Security Office to authorizing in statute certain powers for the White House Office of Homeland Security. All of them have been trumped by visions of political advertisements attacking Members of Congress for not moving fast enough to create a new Homeland Security Department.

If we are going to be totally honest here, we need to put aside visions of campaign ads and do some good old-fashioned thinking.

This proposed merger constitutes the largest—the largest—Government restructuring in our Nation's history—bringing together pieces of 22 agencies, involving as many as 170,000 or more Federal employees from perhaps over 100 bureaus and branches. A governmental reorganization of this size involves more than just reorganizing the Federal Government on a flow chart. It means physically moving the bureaus

and agencies to a new Department, transplanting tens of thousands of people, desks, computers and phones, hooking them together and making them work again. It also means changing the culture, power structures, and internal dynamics of the relevant agencies and bureaus. It means dealing with confusion, bureaucratic conflict, and unclear lines of authority.

As Norman Ornstein recently wrote in *The Washington Post*: "This would be a Herculean task for even one agency. It is beyond Herculean for twenty-two agencies."

If we take this giant step, our homeland defense system will likely be in a state of chaos for the next few years, and amid this upheaval, we run the risk of creating gaps in our homeland defenses. If our enemies are planning to attack the seams in our defenses, this massive reorganization will likely provide them with some excellent opportunities. That helps to explain, in part, why the much touted reorganization that consolidated the armed forces within the Defense Department took place after World War II, and not immediately after the attack on Pearl Harbor.

Even then, it took a number of years and a number of legislative efforts to get that reorganization into decent, effective working order.

How long will it be before this new Homeland Security Department is in decent, effective working order? What if Osama bin Laden does not wait until we have finished restructuring? What if bin Laden is tempted to strike at the exact moment that these agency officials are dragging their desks up Pennsylvania Avenue to their new office assignments? I would like to see a risk analysis regarding the creation of the DHS. Will Americans be exposed to more risk for an unknown time period as a result of establishing an additional mammoth bureaucracy?

The Brookings Institution emphasized this point in a report issued this month urging the Congress to move cautiously as it considers the creation of a new department. "The danger," the report states, "is that top managers will be preoccupied for months, if not years, with getting the reorganization right—thus giving insufficient attention to their real job: taking concrete action to counter the terrorist threat at home."

The *Wall Street Journal* agreed in an editorial this month saying that "The middle of a crisis, and only weeks before an election, isn't the optimal time to debate and pass the biggest transformation of Government in fifty years. The Administration has plenty else to focus on before rearranging the bureaucracy."

If the purpose of this reorganization is to increase accountability for our homeland defense agencies, then it doesn't make any sense to provide those agency chiefs with opportunities for new excuses. How easy would it be for the INS Commissioner to blame

that agency's next high profile blunder on problems associated with the transition to the new department?

The Congress hasn't even developed a standard to determine which agencies should be moved to the new department—contributing to a growing concern that too many agencies are being shifted around, with too little focus on preventing future attacks. A strong case can be made for consolidating the Immigration and Naturalization Service, the Customs Service, and other border security agencies, but the arguments for moving the Secret Service, for example, are hardly compelling. The litmus test for moving these agencies does not appear to be why, but rather why not.

Another point the Congress needs to remember is that this new department will assume the non-homeland security related functions of the agencies that are transferred to it. But if we are unhappy with the Treasury Department's oversight of the Customs Service's efforts to inspect the cargo entering U.S. ports, we will probably be just as unhappy with the Homeland Security Department's oversight of the Customs Service's efforts to enforce our trade laws. Creating a new Department is unlikely to solve the problem of departments neglecting key functions of their agencies; it only alters which functions are likely to be neglected.

These are basic problems which the Congress appears ready to push aside in order to meet the administration's call for quick action on this legislation. And this is not exactly an administration that has been open with the Congress about its plans for reorganizing the Federal Government.

The administration has not issued a cost estimate of the President's proposed merger and insists that the transition costs will be kept to a minimum. Meanwhile, the Congressional Budget Office estimates that the President's proposed merger will cost \$3 billion, with a capital "B," over 5 years. The White House says not to worry, however, because the transition costs will be repaid through long-term savings. That sounds like a neat trick. The administration wants to create a new bureaucracy with a secretary, a deputy secretary, five undersecretaries, 16 assistant secretaries, and as many as 500 senior appointees, without appropriating any additional money to finance the transition. The new managerial level alone will cost scores of millions of dollars.

And there is the rub. Protecting our homeland requires resources and personnel, and they cost money. We have to pay our border patrol agents, our sky marshals, and our national guardsmen. But this administration, in trying to appease its own party base, is refusing to spend the money necessary to make America safer, and instead is pushing for this reorganization of Government. But this massive governmental reorganization is going to be costly. It is going to require the investment of real money, your money. It

cannot be done with the kind of creative accounting gimmicks you might expect to find at Halliburton Company and Harken Energy Corporation.

When the White House makes these kinds of ridiculous comments about long-term savings, the Congress and the American people better get ready because the White House has got something up its sleeve.

The Bush administration has already sought a blanket waiver of civil service law to set up a new personnel system for the new Department. The President's proposal would give the new Secretary broad power to overhaul the pay, benefits, and workplace rules for over 200,000 Federal workers. The proposal would also exempt the new Department from procurement laws, such as the Competition in Contracting Act and the Contract Disputes Act. This sounds to me like an attempt to contract out homeland security-related services so that the administration can make the artificial claim that they are shrinking Government and reducing Federal costs.

My larger concerns, however, reside deeper in the administration's recent comments on managing the new Department. These comments, I fear, indicate that the administration has something far more unpalatable up its sleeve.

The President said in a pep rally for Federal workers this month that the administration needs the "freedom to manage" the new Department. To clarify those comments, Homeland Security Director Tom Ridge said that "we need all of the flexibility we can get," and suggested that close congressional oversight could cripple the new Department's ability to respond to terrorism.

That kind of a statement from an administration official ought to make us all very nervous.

To make the point crystal clear, the OMB Director said last week, "Our adversaries are not encumbered by a lot of rules. Al-Qaida doesn't have a three-foot-thick code. This department is going to need to be nimble." Ha-ha. How nimble was the administration when we sought to pass the supplemental appropriations bill, with \$3 billion more money for homeland security above the President's budget proposal? How nimble was the agency? How nimble was the administration? They held us up for 5 months.

Rules like holding this new department accountable to the Congress and the American people, Mr. OMB Director? Al-Qaida may not be encumbered by constitutional limitations on its powers, but, unlike the OMB Director, I would scarcely argue that al-Qaida sets an example for this Government to follow.

I find comments like that to be incredibly ignorant. For all of their blustering about how al-Qaida is determined to strike at our freedoms, this administration shows little appreciation for the constitutional doctrines and processes that have preserved

those freedoms for more than two centuries.

This administration has made clear its intent to "reassert" executive authority, and, to date, it has aggressively tried to curtail Congress's powers of oversight. The President refused to allow the director of the Office of Homeland Security to testify before the Senate Appropriations Committee and other committees, in his capacity as our chief homeland security official.

The administration has been secretly planning to introduce special operations troops into Iraq without the consent of the Congress. We had better watch that one, too. That's to say nothing of this administration's attempts to block congressional access to information about executive actions.

In reorganizing the Federal Government, the Congress has a responsibility to guard against attempts to also reorganize the checks and balances of the constitutional system. The greatest risk in moving too quickly is that we will grant unprecedented powers to this administration that would weaken our constitutional system of government.

Pay attention, the Congress should be seriously concerned about the transfer authority that is being sought by this Administration. The President's proposal provides that "not to exceed five percent" of any appropriation available to the Secretary of Homeland Security in any fiscal year may be transferred between such appropriations, provided that at least 15 days' notice—that is all that Congress gets—15 days' notice is given to the Appropriations Committees prior to the transfer. No congressional approval is required after these 200 years.

In addition, the President's plan would authorize the Secretary of Homeland Security to allocate or reallocate functions and to "establish, consolidate, alter, or discontinue" organizational units within the Department, even if established by statute, simply by notifying Congress ninety days in advance. Again, no congressional approval is required. Again, no congressional approval is required.

These provisions make clear the administration's attempt to erode Congress' "power of the purse".

I identified these problems in the President's proposal and wrote to Senator LIEBERMAN and Senator STEVENS, ranking member of the Appropriations Committee joined, requesting that these powers not be included in his proposal. What concerns me most is not those problems that I have identified, but rather the assaults on the legislative branch which still remain hidden inside the administration's proposal and are on track to being adopted by the Congress.

I am not the only Senator who believes that this process is moving along too quickly. We are all talking about this in the privacy of our offices, behind the closed doors of elevators and in our hideaways. But we ought to

come out onto the Senate floor and discuss it before the American people. We are rushing ahead to pass legislation, which many of us think is bad policy. We are rushing headlong to pass a massive bill that few if any of us fully understand.

The executive branch is flexing its muscles and worrying about its political backside. The legislative branch needs to protect our constitutional system and consider what will truly protect the homeland and the safety of our people. We must flex our brainpower and analyze this idea carefully.

We cannot be brain dead on these vital issues. The stakes are too important.

Madam President, I know the administration will be out there across the country saying, let's pass this homeland security bill, and the Senate will be criticized, the Senate leader will be criticized, I will be criticized, other Senators will be criticized, for not having taken up this behemoth proposal and passed it before we close business this week.

When the President signs the supplemental, he will have 30 days to decide whether to designate over \$5.1 billion as an emergency. That is \$5.1 billion. We so designated it. If the President designates one item of that \$5.1 billion, he has to designate all items. I have heard that he is not going to sign that; I have heard that he is not going to release that \$5.1 billion, by his signature, making it an emergency. The Congress provided that it had to be all or nothing.

That is what the Senate and House did to President Clinton when he was President. I voted for that provision. He had to sign all or nothing. I voted for it. And now we have put that same provision in this bill.

There is \$5.1 billion available to the President upon his signing that as an "emergency." What are we talking about? Within the \$5.1 billion is nearly \$2.5 billion for homeland security. If the President does not make the designation "emergency"—get this—the President and others in the administration will lambast the Senate for not having passed the homeland security bill before it goes out for the recess. But what the Senate did pass is a bill, the supplemental bill, which makes available for homeland security at least \$2.5 billion of homeland defense funding. All the President has to do is designate it as an "emergency".

Here is what is involved in the \$2.5 billion: Firefighting grants, \$150 million; nuclear security improvements, \$235 million; \$100 million for grants to make police and fire equipment interoperable; port security grants, \$125 million; airport security, \$480 million; Coast Guard for port security, \$373 million; Secret Service, combating electronic crimes, \$29 million; law enforcement resources for State and local government—hear this—\$150 million; \$82 million for the FBI for counterterrorism and information technology

enhancement; \$54 million for urban reserve and rescue teams; \$147 million for cybersecurity improvements to protect our economy; food and water security, \$165 million; border security, \$78 million; dam and reservoir security, \$108 million; the Customs Service, to increase inspections, \$39 million.

And homeland security is not the only issue, when the President makes the decision to do the "emergency" designation. If he decides not to make the emergency designation, he will be blocking funding for the following activities: Election reform, \$400 million; combating AIDS, tuberculosis, and malaria overseas, \$200 million; flood prevention and mitigation in response to recent flooding, \$50 million; Department of Defense, over \$1 billion for the National Guard and Reserve for chemical demilitarization and for classified projects; for foreign assistance, including embassy security and aid to Israel and disaster assistance to Palestinians, \$437 million.

For assistance to New York City—I see that one of the distinguished New York Senators has just been presiding. Let me remind her that in this "emergency" designation package, the assistance to New York City in response to the attacks of September 11, including funds to monitor the long-term health consequences of the World Trade Center attacks on the health of police, fire, and other first responders, and for recovery costs for the Securities and Exchange Commission office that was in the World Trade Center, there is \$99 million.

Hello, Governor of New York! Get in touch with the administration. Urge the President to sign his name to the package that should be designated "emergency". It should be designated emergency by the President so that the moneys will be released for New York. Firefighting suppression funding, \$50 million; emergency highway repair funding, including funds to repair the I-40 bridge that was recently destroyed in Oklahoma.

Hello, Oklahoma! Get in touch with the White House about this. Ninety-eight million dollars!

Hello Oklahoma, are you listening?

I ask for an additional 30 seconds.

The PRESIDING OFFICER (Ms. LANDRIEU). Without objection, it is so ordered.

Mr. BYRD. Assistance to victims of the Sierra Grande fires, \$61 million; veterans medical care—Hi there, veterans, get in touch with the White House. Tell the President to sign his name on that emergency designation package because it includes \$275 million for veterans medical.

Madam President, I thank all Senators for listening. I will have more to say, the Lord willing, in due time.

(Applause in the Visitors' Galleries.)

The PRESIDING OFFICER. Expressions of approval are not permitted by the galleries.

Under the previous order, the time from 11:10 to 11:45 shall be under the

control of the Republican leader or his designee. The Senator from Iowa.

Mr. GRASSLEY. Madam President, it is my understanding staff arranged for me to have 20 minutes of that 45 minutes.

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

ONE-YEAR ANNIVERSARY OF BIPARTISAN TAX RELIEF

Mr. GRASSLEY. Madam President I rise today to discuss the one year anniversary of the bipartisan tax relief package. On June 7, 2001, President Bush signed the legislation. On Friday, June 7 of this year, the President marked the first anniversary of that event in Des Moines, Iowa. I was pleased to join the President for that anniversary celebration.

One year ago this week, the Treasury Department started sending out rebate checks to every American taxpayer. I ask unanimous consent to have printed in the RECORD an announcement from the Treasury Department dated July 26, 2001.

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

[From the Office of Public Affairs]

TREASURY TO MAIL OUT 8.1 MILLION CHECKS
ON FRIDAY
(July 26, 2001)

Tomorrow the Treasury Department will send out 8.1 million advance payment checks to taxpayers for more than \$3.4 billion in tax relief. These checks will be sent to taxpayers whose last two digits of their Social Security numbers are 10–19.

Week Two (July 27) Social Security Numbers
10–19

Number of Checks 8.1 million
Amount of Relief \$3.4 billion

Week One (July 20) Social Security Numbers
00–09

Number of Checks 7.9 million
Amount of Relief \$3.3 billion

The Treasury Department will announce every week the number of checks that are being mailed out for that week, and the amount of tax relief that is being sent to taxpayers. Checks will be mailed over a ten-week period, according to the last two digits of the taxpayers Social Security number. Notices from the Internal Revenue Service that tells taxpayers the amount of their check and when they should expect it have been mailed. Single taxpayers will get a check up to \$300, head of household up to \$500 and married couples filing jointly will get up to \$600.

Because the Social Security number determines when checks are mailed, taxpayers may receive their checks at different times than their neighbors or other family members. On a joint return, the first number listed will set the mailout time.

If the last two digits of your Social Security number are	You should receive your check the week of
00–09	July 23.
10–19	July 30.
20–29	August 6.
30–39	August 13.
40–49	August 20.
50–59	August 27.
60–69	September 3.
70–79	September 10.
80–89	September 17.
90–99	September 24.

Mr. GRASSLEY. Those checks represented the first broad-based tax relief

in nearly a generation. Generally, single taxpayers got a \$300 check and married couples got a \$600 check.

What I would like to do today is first put the tax cut in historical context. Second, I would like to set the record straight in terms of the progressivity of the tax relief and its budget effects. Finally, I would like to illustrate what the tax relief legislation means in terms of typical families across America.

I am going to use a series of charts as I move through the discussion.

Let's start with historical context. In the last 20 years, there have been several pieces of major tax legislation. When I use the term major, I am referring to net tax hikes or net tax cuts in the neighborhood of \$100 billion or more.

In the last generation, frankly, the American taxpayer has come out on the short end of the deal. By and large, the tax-and-spend Washington crowd prevailed. There have been four major tax increase bills. There have been three major tax cut bills, with one of those, the 1997 tax relief package, barely breaking into the major category.

Let's take a look at the tax increase bills first. There were No. 1, "TEFRA" in 1982, No. 2, "DEFRA" in 1984, No. 3, "OBRA" in 1990, and, as then Finance Chairman Pat Moynihan said, No. 4, the "world record tax increase" of President Clinton's 1993 tax package. Senator Moynihan's description was verified by a Joint Committee on Taxation estimate. It showed the 1993 tax increase raised taxes by over \$1 trillion.

In the same generation, taxpayers have received net tax cuts three times. The three events occurred in 1981, in 1997, and last year. In 1981, the Reagan tax cuts brought down the top rate of 70 percent to 50 percent. In 1997, modest bipartisan tax relief, had, as its centerpiece, the \$500 per child tax credit. Of course, last year, all taxpayers received a tax relief.

When you look over the last generation, the bipartisan tax relief of last year, in effect, helped tip the balance back a little bit toward the American taxpayer. I say a little bit, because, by any reckoning, even when fully in effect, last year's bill still leaves the balance toward higher taxes and more government. More on that in a minute.

For another point of historical context, take a look back at the fundamental tax reform of 1986. You will recall that effort was a grand compromise between liberals, led by Congressman Rostenkowski, and conservatives, led by President Reagan. We came up with a revenue neutral package by broadening the tax base by shutting down tax shelters. The revenue raised was used to create two rates—15 percent and 28 percent. In addition, millions of low income families ceased paying income tax.