

and they are taxed again. I will leave the fairness argument aside because, as I say, fairness is in the eye of the beholder, and I will not make the case that it is unfair to tax corporate income twice, even though I think there is some validity to the case. I want to address another fundamental question.

In this Chamber last Congress, we passed what is now known as the Sarbanes-Oxley bill. It was a reaction to the Enron scandal and to the corporate governance excesses we saw throughout all of corporate America. Out of that came a phrase that stockholders had heard but that general Americans had not heard before that scandal. It was the phrase referring to "managed earnings."

I remember when I was running a public company. They talked about, "We can manage our earnings," the accountants were saying, "to produce this kind of quarterly result, and Wall Street is looking for this kind of number and we should manage our earnings to give them that number."

Mr. President, I ask unanimous consent that I be allowed to continue for another 10 minutes.

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

Mr. BENNETT. Mr. President, I remember painfully when our public company fell 1 penny per share short of the projection that Wall Street was looking for. The stock dropped something like 20 percent that day because we fell 1 penny short. When some people in the company said it is not fair for us to be penalized that way, the reaction of the Wall Street analysts was very interesting.

They said: You have the ability to manage your earnings, and if you were not able to find that extra penny and change your number to reflect it, that means you are in a whole lot more trouble than we thought you were. The penny is not important. What is important is what your inability to come up with that penny says about your ability to manage your earnings.

The stock, frankly, has never recovered. When I came to the Senate, it was in the low twenties. At one point in my Senate career it hit 40. Today you can buy every share of that stock you want for \$1.25. Fortunately, I sold all of mine before it got there, but not at a high enough number to leave me with anything like the net worth I had when I came to the Senate. So I have had a very painful personal experience with that situation.

Back to the question of dividends. I know as a CEO you can manage earnings but you cannot manage cash. Earnings are an idea, a concept, a hope, or a prayer. Cash is a fact. We created with the Clinton tax cut an incentive for companies to manage their earnings because we put into the law there could be no corporation deduction as an expense for CEO pay over \$1 million a year. In other words, if a company was going to pay their CEO \$2 million a year, they could only deduct as an

expense the first \$1 million. So there was a disincentive to compensate the CEO with cash. We did it because people on the floor said it was not fair for a CEO to be paid that much money just like, as I say, some people say it is not fair for Michael Jordan to earn so much more money than any other basketball player.

We created an incentive for compensation to be tied to stock options. Boy, did the Enron executives get that message. They and a number of others under that incentive managed the earnings to drive up the stock price so they could cash in. And those who understood that this was phony accounting did cash in. They sold their shares at the highest point.

That did not use to happen in American industry. It used to be that the measure of a company's value was how high a dividend it paid. But dividends are paid in cash. You can manage earnings but you cannot manage cash. You have to manage the business in order to get cash.

If we were to say, OK, we will make it attractive for people to invest in companies that accumulate cash and pay that cash out to their owners, it will be taxed but it will only be taxed once and the owners can look for a cash return, I think that would have a greater impact on corporate governance and decisions in the boardrooms of America's manufacturing corporations than all of the Sarbanes-Oxley bills we can conceive of and pass. If we want to change the corporate culture in America back toward more fundamental sound manufacturing and goods-producing companies, what structural change could we make that would have a more beneficial effect than saying if you concentrate on accumulating cash which comes from real operations rather than managed earnings, and there is an incentive for you to pay out that cash to your shareholders so there will be an incentive for shareholders to reward those managers who manage their business on sound principles rather than managed earnings, we would have a cultural change that would be tremendous.

Back to my beginning point. Ultimately, the solution to all of our economic problems is to have the economy grow, to have it grow on a sound basis, to have it grow on a consistent basis, to have it grow year over year over year. If we can get the growth rate back up from last year's 2.9 percent to 3.1 or 3.2 and maintain that for the next 10 years, at the end of the 10-year period with the 3-percent growth rate sustained and compounded, we will have all the money we need in the Federal Treasury to cover all projections of deficits. We will have an unemployment rate well below today's 6 percent, even though 6 percent is historically considered full employment. We will have all of the things we need. If in the name of "fairness" we ignore economic laws, we ignore the impact of the law of supply and demand, and we do things

now that look good for political rhetoric and hamper the long-term growth of the economy, we will find ourselves 10 years from now with bigger deficits and slower growth and higher unemployment and more social problems.

Ultimately, we must keep our eye on the goal that we have: grow the economy. Grow the economy intelligently on the basis of sound principles, build incentives into the system that will reward those that will contribute to growing the economy. And as we do that, we will then be in a position to solve all of our economic problems.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I understand we are in a period of morning business.

The PRESIDING OFFICER. The Senator is correct.

Mr. CORZINE. I request I be permitted to speak up to 30 minutes.

The PRESIDING OFFICER. That authority has already been granted.

#### THE ECONOMY

Mr. CORZINE. Mr. President, I say to the distinguished Senator from Utah, I could very much agree with many of the broad principles I hear. How we rearrange them to get to those longrun growth numbers that do compound and make our economy stronger is an area where men have a difference of opinion. That is one of the things I will discuss. We are seriously at a point in the path of economic history, at least of our Nation, where those choices lead to long-term structural problems, ones we have visited at other points in time, ones that with regard to alternatives could actually stimulate the economy, get us into an investment cycle that could drive that same kind of growth rate that the Senator speaks so eloquently about and which I could agree. If we could get that economy growing from 2.9 percent to 3.5 or 3.4, we could create the kinds of incentives for people to invest and go forward.

The real issue is how do we get on to that path of growth? There are serious differences of opinion. That is a debate we need to have on the floor of the Senate in front of the American people.

I will take a few moments to actually talk through at least my perspective on some of the issues that arise from the President's proposal. I have certainly heard a lot of commentary on it. We have heard from some that it is bold. We have heard from some that it is risky. We have heard from some that it is reckless.

From my point of view, it is more towards the imprudent, at best, and in some ways I find it is reckless with regard to long-term fiscal health and stability.

I consider myself a fiscal conservative, on balance, over a period of time. I think we need to live within our means. I don't think that is going to be accomplished here.

I am pleased the President recognizes our economy has major problems. It is a reality. Unfortunately, it is past the time when we should have addressed some of these issues, but it is an important admission. This and changing the economic team has been an important statement. We needed a new look at where we were.

Since March of 2001 when the recession was declared by a blue-ribbon panel of economists led by Mr. Feldstein, a prominent conservative economist, we have lost 2.1 million American jobs in the private sector. Actually, with this morning's announcement on unemployment, that would be about 2.2 million jobs. The unemployment rate, again, as many have heard, stands at 6 percent. The most important element of the announcement today is that over the last 2 months we have lost 188,000 jobs.

By the way, the President is predicting that the program that we put in place will only produce that amount of jobs over the next 12 to 18 months.

Mortgage foreclosures are at a high. I think everyone knows all too well the kind of lost value we have had in the stock market over the last 2 years, even more substantial over the last 3. Consumer confidence is bumping along at historic lows. Demand has declined to an extent that businesses are operating at 75 percent of their capacity. The average for the country over the last 25 years is about 81 percent.

We are running Federal budget deficit rates of about \$200 billion this year. Just yesterday there was a new study of the State governments. They are running budget deficits cumulatively of about \$90 billion. Many of our local communities are suffering from the same kind of pressures in their local budgets. We are seeing increases in property taxes.

I think, in short, we have a serious economic situation in this country. It is one that does deserve attention and I am glad we are having the debate with regard to it. Frankly, the people of New Jersey have known this for some time. I live in a State where Lucent Technology has shrunk its workforce from 180,000 employees—not all of them in New Jersey but on a worldwide basis—to roughly 30,000. We have closed essentially one of the great intellectual research institutions that created some of the innovation that has driven the American economy—Bell Labs. We are seeing an impending shutdown of the two remaining auto manufacturing plants, certainly cut shifts to one, and they are talking about closing one of those plants in New Jersey. In the northern part of the State we are seeing significant if not massive layoffs in the financial services industry, among others.

We are having about a \$4 billion budget deficit in the State of New Jersey in fiscal 2003 and projections for about \$6 billion in fiscal 2004.

Our Governors and mayors know we have a problem. I am glad we are now

coming to that recognition here in Washington.

California is looking at a budget deficit, I saw in the paper this morning, of about \$35 billion over the next 15 months to 18 months. The Texas deficit is \$12 billion, New York's is \$10 billion, New Jersey, as I said, is someplace between \$5.5 billion and \$6 billion. We have to understand we have to deal with growth in this economy and it has to happen now or we are going to have incredible stress and strain and I think actions that will end up undermining our longrun economic security here at home.

We need a serious and focused action to get our economy moving. On that front I think there are several parts of the President's program that deserve support. For example, I totally would back accelerating an expanded child credit, the adjustments in the marriage penalty, tax relief for the middle class in the 10 percent bracket, the small business, the AMT provisions. These are all sound and reasonable provisions.

Unfortunately, though, they are a relatively small part of the overall package. I think we need to make sure we are providing help to those who need it most. These do. I think they will help get our economy on track. Unfortunately, so few of these will be hit today, in 2003 and 2004, to really give that drive, that thrust to the economy that I think will make a difference in a way that deals with some of those problems I talked about.

We have 1 million people with 95,000 a week already on long-term extended unemployment. These are people who dropped off the rolls that will allow for benefiting from the unemployment compensation program we put in place this week.

I think it is important that we get moving. There are some elements in the President's plan that I think are supportable, but they are relatively a small piece—about 30 percent—of the overall program. I think in many ways—and I will try to go through this and will make some comments on specific elements of it—you could argue there are elements of this program that are antigrowth.

I would particularly like to talk about some of this cash issue I heard the Senator from Utah talk about. He and I agree that cash is king. It is one of those things that actually drives the valuations of corporations and their ability to do things. I just come out with a different perspective on how we are addressing that in this particular program.

We really do, though, need to stimulate our economy now to provide jobs, absorb excess capacity, get into that investment cycle that I think will drive our economy to creating jobs. Let's remember, most economists and business people believed—and by the way, so did all of our budgeteers around here—that there were some simple principles we need to follow

with regard to stimulus programs. They articulated those last year when we were going through these programs.

We need short-term stimulus. That should be immediate and temporary. We need long-term fiscal discipline, long-term fiscal health and, in my view, the plan we saw put on the table on Tuesday just the reverse. Less than 10 percent of its 10-year cost will go into the economy this year, a very small percentage.

By the way, if we talk for a while longer here on the floor of the Senate, there will be even less going to the economy this year, before the program is implemented.

There is very little argument with the view that it will undermine our long-term fiscal discipline leading to what I believe will be higher long-term interest rates down the road. People argue about whether deficits create interest rates. They only do that when we are operating at full capacity. When there is not full capacity, there is no crowding out issue. What we need to worry about is what are interest rates going to do when there is real competition for money in a fully operating economy. I think those shortfalls that are going to be built in structurally when we come out of this are going to lead to disastrous deficits when we come out of this down the road.

When the baby boomers retire—we have 35 million seniors now—we will have 70 million in 20 years. That will put incredible pressures on our medical system, Social Security system, all elements of our society. I do not think anyone has planned, particularly in the context of these tax cuts, how we are going to get through that.

The bottom line, in my view, is this is a plan that will not work. It is antijobs and antigrowth, from my perspective, on balance, and in many ways it is imprudent.

First, this plan—and this gets at one of the things on which I think the distinguished Senator from Utah and I agree, in principle—the plan to encourage corporations to shift cash from corporate investments and employment into dividends will reduce overall business investment and either cost jobs that could be created, or even the maintenance of them. Certainly in the short run that is going to be the case, and potentially over the long run.

Few people seem to get focused on the fact which I think should be obvious: You can't spend the same dollar twice. So for each dollar contributed as a dividend, companies will have one less dollar to invest in plant and equipment; one less dollar to plow into research and development, one less dollar to hire new personnel. The end result will be investment in fewer jobs in the short term and potentially less economic growth in the long term as well.

By the way, I have some sympathy for this double taxation of dividend argument. But if you were going to do that, it ought to be a deduction against taxable income on the balance sheet of

the corporation. Then the cash is held, they can make the decisions and treat it as an equivalent of interest, and then we would not have the bias in our system towards debt as opposed to equity. And it should, in my view, be accompanied with reform, other tax reforms, that take away some of the causes of why reported income is about 100 percent higher than what taxable reported income is.

It just strikes me we are addressing this problem wrong, even if we wanted to reduce the double taxation of dividends, but it is absolutely obvious and certainly common sense if you take cash off the balance sheet of the corporation it has less ability to invest in its future, less ability to invest in hiring more people going forward. Cash is king. It is part of the valuation. But it strikes me, as we are approaching this, it is a wrong formulation.

The Bush plan does contain one element that I think is a reasonably decent and dampening incentive to shift money in cash dividends. It is very complicated. It adjusts the shareholder base. Their stock profits are not distributed in the form of dividends. I accept the fact that it will marginally offset the shift of cash dividends. I think that will be the minor scheme of things because I think the competition among corporations showing different returns will be high. But I do think that it is a reasonable attempt to try to make some offset to getting cash off the balance sheet for those who think they have to do marginal rates of return in which they can invest.

It is an incredibly complex concept to be able to explain to the vast majority of Americans. To understand the differences and the increased bases for the vast majority of Americans will be a hard concept to get their minds around. It is going to lead to an absolute deluge of paperwork and shifting of information back and forth between investors, brokers, tax preparers, and all other kinds of folks which I think can lead to all kinds of unintended consequences.

Beyond the lack of fiscal stimulus in the first year and what I believe will be a perverse impact created by the structure of the different proposals, I am also concerned about the distribution of tax benefits provided in the President's plan. Many of my colleagues tried to explain or at least talked about the obvious unfairness of that distribution in a progressive tax system. The Bush administration, in my view, and those who often talk about this obscure distributional impact of the proposal, focus the tax burden exclusively on Federal income taxes and ignore the severe burdens imposed by Federal payroll taxes, all shapes and forms of State taxes, and local taxes, and especially property taxes and sales taxes.

In New Jersey, the budget deficit required us to cut services and raise property taxes 7.1 percent. The State of New Jersey, by the way, also had to

put on a business tax to be able to raise about \$1 billion to close that budget deficit. In the city of New York, which has been troubled by current events, will have to raise property taxes 18.5 percent this year to try to make up for the holes that are being created and the lack of support from the Federal Government.

These additional taxes that I am talking about, such as property taxes in particular, which weigh very heavily on the middle class, and taking into account the distribution of the American tax burden, create an entirely different profile than if you just take a small slice of the pie and look at the Federal income tax.

Without taking a more comprehensive approach, the President is really misleading the American people based on the secondary impacts that will occur. Rather than focusing on the fairness issue, I wish to focus instead on the ineffectiveness of the administration's proposal in promoting economic growth.

I am one of those guys who believes a rising tide does lift all boats, and if we do well everyone will benefit. Grow the pie.

There is a broad agreement among economists that low- and moderate-income people are likely to spend the tax cuts rather than the high marginal income people who would not have a propensity to spend it. It is a well-known fact and it is a matter of economic policy that any stimulus program ought to focus its tax cuts marginally on those who will turn around and spend it because then you will get the multiplier effect on the economy. You will get that growth that we are both trying to get.

My friend from Utah has talked about trying to get it up to 3.5 or 3.1 or 3.2. We can do that if we can get the people to spend the money—reducing inventories of manufacturers and people going back to work. I think the Bush plan does precisely the opposite.

Over the next 10 years, just looking at some of the distributional interests, lots of people with annual incomes of more than \$1 million—by the way, this is a 10-year look—those with \$1 million of income or more will get a break worth \$900,000.

Middle-class-income families—by the way, I define, at least in New Jersey, the middle class as being in the \$75,000 to \$125,000 range because there are different views about what that is. But let us take middle-class-income families of \$75,000 to \$125,000. In that same 10-year period, they would get \$18,000 over 10 years. I think that is roughly 2.5 percent of the \$900,000.

Let us consider people who would be in moderate-income classes. In some parts of the country maybe this is defined as the middle class. Even in New Jersey, it is between \$30,000 and \$40,000.

The median income for an individual in the United States is about \$27,000. But using a \$30,000 to \$40,000 range, I think the total 10-year cumulative

value of this is about \$3,500 under the Bush plan. This is .4 percent of the total benefit that the million-dollar earners get.

Consider the 25 million taxpayers with purported gross incomes of less than \$10,000. They make up 20 percent of the population of taxpayers. They will get, over the 10 years, a total of \$50.

By the way, they are paying payroll taxes. Many of them are paying property taxes. Many of them are paying State sales taxes, and all the other nonconsidered taxes in this view. I think that is a tough way to look at it. This is not intended to say, wow, this is bad; people at the top end are getting such great breaks. It is just that there is a distributional reality that doesn't make sense: \$900,000 over 10 years for those making more than \$1 million; \$18,000 for those between \$75,000 and \$100,000; and \$3,500 for those between \$30,000 and \$40,000; and \$50 for those \$10,000 and below.

I think you can make a fairness argument. But I think the most important piece is that it will not stimulate the economy. The people who will spend money—particularly in the short run—are not going to be receiving the resources to be able to go off to their Wal-Marts or Targets and other places and put the demand into this economy.

I know that the administration and many have argued and are pointing out that those of us who make the kind of case that I just made are entering into what is tantamount to class warfare. My point has nothing to do with that—nothing at all. It is, in fact, just the opposite.

As other Democrats, I believe our goal should be to grow the economy to the benefit of every American—for all Americans. I want to create more millionaires. I want more people to be more successful—not fewer. Handing out tax cuts so disproportionately to the top of the income scale is a highly ineffective way to grow our economy. They just do not turn around and drive the economy—certainly not in the short run.

There are real debates about whether that actually gets back into the investment system, particularly if a lot of it goes off to seniors and a lot of it goes into bonds and coupons and into Federal Government securities. It is just not certain that it is going to grow productive capacity, and certainly it isn't going to eat up the excess capacity we have today. I don't think this is going to grow the pie larger, which is what all of us should look for.

We made more millionaires in the 1990s than we did in any other period in the history of the United States. I think it is absolutely essential that we talk about growing the pie as opposed to getting into this discussion about how we are dividing it.

Keep in mind that all Americans, including the very wealthy, in my view, benefit from a strong economy. Those at the top income scale, as I said, did

well in the 1990s. We adopted policies based on a commitment of fiscal discipline, along with targeted investment in priorities such as education. Abandoning those policies for tax breaks such as the proposed dividend exclusion clearly will not mean more cash in hand for those who invest in our society. There is nothing wrong with that in its own right. But is it going to grow the economy? I think this, in many ways, runs the risk of being antigrowth. It certainly runs the risk of higher interest rates down the road given the fiscal implications that may very well come about.

I just have to say that it seems odd after the growth experience of the 1990s. I know there were problems at the end of the 1990s. But we created 22 million new jobs, we had a balanced budget, and we had tremendous growth and productivity in this country because of investment in technology and the spread of American entrepreneurial skills.

Why we need radical surgery on America's tax structure is just a hard concept to get your mind around. Clearly, we have cyclical problems that can be addressed by dealing with an inventory cycle and investment cycle. And I think that calls for short-term stimulus and managing carefully our long-term fiscal situation.

Next, I want to move on and talk about one claim that has been made repeatedly by proponents of the administration and the administration officials that gets sort of tied up in this class-warfare charge; that is, the administration's tax cut supposedly benefits seniors. This claim, in my view, is about as misleading as anything I can imagine.

There are 37 million seniors in the U.S. Yet only one-fourth of them—less than 10 million; about 9.25 million—will receive dividends. Some 75 percent—or 27 million—of America's seniors will get absolutely nothing from the President's dividend exclusion. Moreover, only a small fraction of the wealthiest seniors will enjoy most of the benefits. Nearly 40 percent of the dividend tax cut for seniors will flow to those filers with incomes exceeding \$200,000. That is a mere 2.5 percent of tax returns filed by senior citizens.

I am trying to figure it out because there are married couples in there, but I think it is around 250,000 seniors out of 37 million seniors who will get 40 percent of that so-called benefit for seniors. So it is highly misleading to argue that seniors will benefit from this plan. Only a small number of the wealthiest seniors will benefit.

And when you take the potential cost of this—in maintaining the real value of Social Security benefits, the ability of our Nation to truly deal with a prescription drug benefit, regardless of what kind of plan comes forward—to talk about this benefiting seniors on a relative basis to the overall needs of the seniors is hard for me to get my mind around. It is virtually mind-bog-

gling. In fact, one could make the case that seniors are among the biggest losers in the President's plan because we are not going to have the ability to deal with this baby boom generation, going from 37 million seniors to 70 million seniors over the next 15 years.

So far, I have discussed the small size of the stimulus in the first year, its incentives for companies to shift cash away from investments and jobs, and targeting the tax cuts to those who are least likely to spend it. I have responded to some of the claims that I think are relatively bogus with regard to benefits for America's seniors.

Now I want to focus on another and critically important issue, which is the failure to address the severe fiscal problems facing our States. In many ways, it makes those problems worse. In fact, it is in this vein that this plan is also seriously antigrowth. And if it isn't antigrowth, it is absolutely anti-state when you come to considering the impact on State finances.

While many of us in Washington are talking about putting more money into the economy, as I suggested, most of our Governors and our State legislators are having to deal with how we pull money out of the economy. That is because almost all of our States have strict balanced budget requirements—48 out of 50 States—and face severe fiscal problems.

The total of the projected deficits, as I said, was just reestimated—about \$90 billion, give or take \$10 billion. I agree with the distinguished Senator from Utah; some of these economic projections are hard to put in print. But if we do not get the economy going, the only way that number is going to go is up. The crisis facing State treasuries is not just a problem for elected officials; it is a problem for all of our citizens and for our economy. States and localities already have begun to raise taxes.

In New Jersey, property taxes have increased 7.1 percent; in the city of New York, 18.5 percent. Across this country, we are raising property taxes because people care about the education of their children, they care about transportation, and they are investing heavily in homeland security to protect the American people. It is a big deal that we are not taking on a fair share of that at the Federal level.

By the way, we just created another unfunded mandate with Leave No Child Behind. And our budget proposals are not meeting our promises according to it. We have not done that with IDEA or in special education. And there are real needs with regard to our homeland security. We are putting burdens on the States and local governments and not coming up with help to make it happen.

These tax increases and spending cuts that the individual States and localities are doing not only hurt taxpayers but they really undermine the efficacy of Government and the program beneficiaries they serve to depress the economy further. That deficit

among the States, in fact, more than offsets the entire stimulus proposed for fiscal year 2003 in the President's plan. And I suspect you will be able to say the same thing about fiscal year 2004. We have different timings on when the two fit together. But we are taking out of one pocket and putting it into another. I think it is really wrongheaded policy and really will limit growth in the country. I think it is really putting unfair burdens on our State and local governments.

Only the Federal Government is in a position to counter these pressures. Instead, the administration's plan does absolutely nothing to address these fiscal crises in our States or to reduce the need for State tax hikes or spending cuts. It just does not deal with these issues. I hope we can understand and adjust this plan to take into consideration the plight of all of our country, all of our various entities that service the American people, by pulling this all together.

By the way, the proposal actually worsens the situation on not only the support level, but every State ties its State income tax—those States that have an income tax—to the Federal tax system. And the States are going to directly lose \$4.5 billion—almost \$100 million in my State of New Jersey, but over \$1 billion in the State of California.

Mr. President, I ask unanimous consent for an additional 5 minutes.

THE PRESIDING OFFICER. Is there objection?

Mr. GREGG. Mr. President, reserving the right to object, I would simply ask if we could enter a unanimous consent agreement on order. I certainly do not object to the Senator from New Jersey having an extra 5 minutes, but I understand the Senator from Utah and the Senator from Ohio wish to speak.

I ask unanimous consent that after the Senator from Utah has spoken, who will speak after the Senator from New Jersey, and after the Senator from Ohio has spoken, I be recognized at the completion of the comments of the Senator from Ohio.

THE PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. I thank the Senator from New Jersey.

Mr. CORZINE. I appreciate very much the courtesy of the Senator from New Hampshire.

Mr. President, we have a problem in the States. And the tie in of the taxes that States collect to the Federal tax system is one of those places where there is a problem.

Another, on which I will not go into great deal, is the issuance of municipal bonds, tax-exempt bonds, the fundamental element of how you fund infrastructure, schools, and all the other elements at the local level. They are going to have to compete now with tax-free dividends and are going to suffer very seriously on a competitive basis in the financial markets.

I can assure you, interest rates for State and local government bonds, on an equal basis—regardless of where the markets go, where interest rates go—will be higher than they would have otherwise been. So there is a real problem.

I will go back and just mention briefly, the lack of attention to these exhausted unemployment benefits is going to put greater burdens on States and create greater rolls in Medicaid. Lots of support is going to have to be delivered to the individual families who are suffering from those kinds of situations. I think we have a real problem there.

I also want to say I think there are other issues involved. Maybe the most important is, where are our priorities? We are at a time of great national insecurity, with good reason. We need to protect the American people at home, abroad, and against terrorists.

We had almost 700 New Jersey people lose their lives on September 11. People are concerned about security. We need to be investing in it. Why and wherefore are we having such a program that brings little sacrifice to those who are doing well at a time when there are such great needs?

I could go on further about some of the complexities of this and how it will offer great opportunity for financial engineering, chicanery, if you will, almost the repetitive nature of some of the things that we saw in the last several years: The unfortunate implication for 401(k)s and IRAs and tax-exempt pension funds with regard to dividends, the disincentives it will create for longrun savings for retirement, the problems it may very well cause to the real estate industry because of the competitive disadvantage of REITs and the financial structure which is an important thing for housing for people.

There are serious, serious flaws in this. Instead of directly addressing the fundamental economic problem, which is excess capacity, both in labor and manufacturing, this reflects, in my view, a return to the discredited economics of radical supply siders.

I don't want to quote only a Republican commentator, but I will. Kevin Phillips put it this way:

This isn't even trickle-down economics. It's mist down economics.

We are on the wrong track. We have a new economic team at the White House. I hope they will step back and evaluate some of these elements. There are places where we can work together on this plan, but 90 percent of this proposal that is focused on the longrun restructuring of economic structure, in my view, is a bad idea. It truly hurts our States and potentially undermines investment at the corporate level, and it has some issues on the fairness side.

It is time that we take a rethink. I hope we can have a great debate over the next few months in the Senate to make this a better program to help all Americans.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I spoke at length and I do not intend to do that again. I congratulate the Senator from New Jersey on his presentation. Even though it sounds as if we are miles apart, we are in fact very much together on our determination to see to it that the ultimate result of what we do is long-term growth for the whole economy. I congratulate him on his analysis.

I have a few things, obviously, with which I would disagree and anticipate that we will have that conversation both in the Banking Committee and on the floor.

There are two specifics I would like to respond to briefly before I turn the time over to my friend from Ohio. The Senator from New Jersey said he would prefer, with respect to dividends, that they be deducted as expenses on the corporate P&L statement rather than made tax free to the recipient. I agree with him absolutely, that that is the more intelligent way to do it. I have said that to the White House as we have had these conversations. The reaction is politically that would be more difficult to sell than making it sound tax free to the recipient.

Maybe if the Senator from New Jersey and I march together in that particular parade, we can move in that direction because the comments he makes about the complexity of the tax system are exactly correct. The difficulties of reporting how this would be handled are just as complex as the Senator from New Jersey suggests they are. I would be with him in seeing if we could make that shift somewhere along the way.

I know he would stop short of doing that because of his feelings with respect to the dividend proposal anyway, but I want him to know that his analysis here is the same as mine and that he has analyzed that one correctly.

The other item we ought to have on the table as we have the discussion, the Senator from New Jersey refers to the impact on the top 1 percent; they would receive \$900,000, et cetera. That is true if we assume that every taxpayer who files a tax return who is in that top 1 percent is in fact an individual.

When I first came to the Senate, I stood on this floor and asked this fundamental question—I know the answer from the Senator from New Jersey will be yes, but the answer from the vast majority of my colleagues was no—do you know what a K-1 is? Overwhelmingly, Republicans and Democrats had no idea what a K-1 is. A K-1 is the form you file for income you are receiving from a partnership or an S corporation.

A majority of the tax returns filed by the individuals who would receive the \$900,000 to which the Senator from New Jersey refers include K-1 income. The K-1 is set up to avoid double taxation. You join an S corporation or a partnership and you say: All right, the profits of that corporation will flow to my individual tax return. I will pay taxes.

I know this very dramatically from my experience in the 1980s when the personal rate was lower than the corporate rate. With four other individuals, we built a company from virtually nothing to a company that today employs over 4,000 people, and we did it in the decade of greed, as it was referred to by some, of the Reagan years when the top personal rate was 28 percent. By putting that on my personal tax return and paying 28 percent rather than today's effective rate of 42, I was able to see to it that that company, which I headed as the CEO, grew with internally generated funds.

The difference between a 28-percent yield to the Feds and a 42-percent yield to the Feds was the difference between our ability to make that business survive. We built that business entirely with internally generated funds.

My salary was \$100,000. My tax return showed \$1 million because the money that was flowing through that corporation went on to my tax return as K-1 income. I didn't get a dime of that. I would have loved to have had the after-tax income show up, but we had to fund the company. So as we talk about the tax break to wealthy individuals during this debate, let us keep in mind that we are not talking about Michael Jordan or Donald Trump or Tiger Woods. Yes, they would get those breaks, but overwhelmingly a majority of the people who would get those breaks are businesses that, either through an S corporation device or a partnership device, are putting that income on to individual returns. And that would, in fact, be money that would be invested in creating new jobs. That would, in fact, be money that would be invested in growing the economy.

I know the Senator from New Jersey has had K-1 income because he has been a partnership partner in a very successful partnership, and he understands this. But I want to take this occasion to put this on the record and make this part of the debate as we go forward.

Let us understand, as we argue about the amount the top 1 percent is going to get out of this, that we are not talking just about individuals; we are talking about businesses that depend very definitely on the benefit that comes from having S corporation profits reported through a K-1 show up on individual tax returns but are, in fact, not getting into the individual pockets, are, in fact, funding the growth of small businesses and new enterprises.

With those two immediate comments, I will yield the floor and save the other notes I have taken on the Senator's excellent speech for a direct conversation with the Senator from New Jersey. He has made a significant contribution to this debate, and I look forward to working with him to try to eventually come up with a growth package that makes sense.

Mr. CORZINE. Mr. President, I ask unanimous consent to respond for 1

minute, if the Senator from Ohio will not object.

Mr. DEWINE. I have no objection.

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

Mr. CORZINE. I appreciate very much the comments of the Senator from Utah. I think we need a healthy debate to get the best policies. I will make one observation about the S corporations and K-1s, which I know something about. The fact is, I try not to use the sort of distributional numbers. You will notice I did not use the top 1 percent; I used people making \$1 million or more as the basis on which I compare numbers. So there is some element of that which translates into comparability. I think you and I can sort through those in detail. But the fact is, people at \$1 million or more in adjusted gross income are going to have an advantage of \$900,000 cumulatively over the 10 years, and the other brackets are at \$18,500, \$3,500, and \$50.

I believe that a rising tide lifts all boats. That is the theme about which I am talking. We may have differences about how you get there. I want to make sure that we distinguish between talking about percentages, and what I am trying to talk about is the people who actually get the benefit.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

#### UNBORN VICTIMS OF VIOLENCE ACT OF 2003

Mr. DEWINE. Mr. President, I rise today to speak, once again, on behalf of unborn children. Unborn children are the silent victims of violent crimes. Today, along with my distinguished colleagues, Senator GRAHAM of South Carolina, Senator VOINOVICH, Senator BROWNBACK, Senator ENSIGN, Senator ENZI, Senator INHOFE, Senator NICKLES, Senator SANTORUM, and Senator FITZGERALD, we will once again introduce the Unborn Victims of Violence Act, which would hold victims liable for conduct that injures or kills an unborn child by creating a separate Federal offense for unborn children. I thank my colleagues for their support in this effort. I want to recognize especially Senator GRAHAM of South Carolina who championed this cause so successfully last year on the House side. He has worked tirelessly to see that the most vulnerable in our society are in fact protected.

Mr. President, our bill, which is similar to the legislation that we sponsored in the 106th and 107th Congresses, would establish new criminal penalties for anybody injuring or killing a fetus while committing certain Federal offenses. Therefore, this bill would make the death or injury of an unborn child during the commission of certain existing Federal crimes a separate crime under Federal law and under the Uniform Code of Military Justice.

Mr. President, 26 of our States already have criminalized the killing and injuring of unborn victims during a

crime. Our bill, the Unborn Victims of Violence Act, simply acknowledges that violent acts against unborn babies are also criminal when the assailant is committing a Federal crime.

We live in a violent world and, sadly, sometimes—perhaps more often than we realize—even unborn babies are the targets, intended or otherwise, of violent acts. Let me give some very disturbing examples.

In 1996, airman Gregory Robbins and his family were stationed in my home State of Ohio at Wright-Patterson Air Force Base near Dayton. At that time, Mrs. Robbins was more than 8 months pregnant with a daughter who they named Jasmine. On September 12, 1996, in a fit of rage, Airman Robbins wrapped his fist in a T-shirt and savagely beat his wife by striking her repeatedly about the head and the abdomen. Fortunately, Mrs. Robbins survived the violent assault. Tragically, her uterus ruptured during the attack, expelling the baby into her abdominal cavity, causing Jasmine's death.

Air Force prosecutors sought to prosecute Airman Robbins for Jasmine's death, but found that neither the Uniform Code of Military Justice nor the Federal code makes criminal such an act which results in the death or injury of an unborn child. No Federal law covered that act. The only available Federal offense was for the simple assault on the mother. This was a case in which the only available Federal penalty simply did not fit the crime.

Now, fortunately, Ohio had at the time, and still does, a fetal homicide act. So Federal prosecutors were able to bootstrap the Ohio fetal homicide law under the Federal law to convict Airman Robbins of Jasmine's death. Upon appeal, the Federal appeals court upheld the lower court's ruling.

Mr. President, if it hadn't been for the Ohio law that was already in place, there would have been no opportunity for the Federal prosecutors to prosecute and punish Airman Robbins for the assault against baby Jasmine. That is one reason we need a Federal remedy to avoid having to bootstrap Federal laws to provide recourse when a violent act occurs during the commission of a Federal crime. If this had been a crime that occurred on a Federal enclave in a State that did not have a similar law—and there are 24 States that don't—there would have been no remedy, and there is no remedy today. Federal prosecutors have no remedy in those situations today. Our bill would rectify that.

A Federal remedy will ensure that crime within Federal jurisdictions against unborn victims are, in fact, punished. Our bill also ensures that if certain Federal crimes are committed anywhere in the United States and they result in the death of a child, Federal prosecutors will be able to file charges.

Let me give you another example of another tragedy. In August 1999, Shiwona Pace of Little Rock, AR, was

days away from giving birth. She was thrilled about her pregnancy, but her boyfriend, Eric Bullock, did not share the joy and enthusiasm. In fact, Eric wanted the baby to die. So he hired three thugs to beat his girlfriend so badly that she lost the unborn child. According to Shiwona, who testified in a Senate Judiciary Committee hearing we held in Washington in February of 2000:

I begged and pleaded for the life of my unborn child, but they showed me no mercy. In fact, one of them told me, "your baby is dying tonight." I was choked, hit in the face with a gun, slapped, punched, and kicked repeatedly in the stomach. One of them even put a gun in my mouth and threatened to shoot.

Mr. President, in this particular case, this particular tragedy, just a few short weeks before this vicious attack, Arkansas had passed its fetal protection act. Under that Arkansas State law, Eric Bullock was convicted on February 9, 2001, of capital murder against Shiwona's unborn child and sentenced to life in prison without parole. He was also convicted of first degree battery for harm against Shiwona.

In yet another example—this one in Columbus, OH—16-year-old Sean Steele was found guilty of two counts of murder for the death of his girlfriend, Barbara "Bobbie" Watkins, age 15, and her 22-week-old unborn child. He was convicted under Ohio's unborn victims law, which represented the first murder conviction in Franklin County, OH, in which the victim was a fetus.

Another example: In the Oklahoma City and World Trade Center bombings, Federal prosecutors were able to charge the defendants with the murders of or injuries to the mothers, but not to their unborn babies. Again, Federal law currently fails to criminalize these violent acts. There are no Federal provisions of the unborn victims of Federal crimes.

Our bill would make acts like these—acts of violence within Federal jurisdictions—Federal crimes. This is a very simple step that we can take, one that will have, I believe, a dramatic effect. It is something that we simply need to do.

The fact is that it is just plain wrong that our Federal Government does absolutely nothing to criminalize violent acts against unborn children. We cannot allow criminals to get away with murder. We simply must close this loophole.

As a civilized society, we must take a stand against violent crimes against children. We must close this loophole.

We purposely drafted this legislation very narrowly. Because of that, our bill would not permit the prosecution for any abortion to which a woman consented. It would not permit the prosecution of a woman for any action, legal or illegal, in regard to her unborn child. Our legislation would not permit the prosecution for harm caused to the mother or unborn child in the course of medical treatment. And finally, our bill would not allow for the