

# AMERICAN JOBS CREATION ACT OF 2004—CONFERENCE REPORT

THE PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. I now move to proceed to the conference report to accompany H.R. 4520.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the conference report.

Without objection, the motion is agreed to.

## CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the cloture motion.

The legislative clerk read as follows:

## CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report to accompany H.R. 4520, a bill to amend the Internal Revenue Code of 1986 to remove impediments in such code and make our manufacturing service technology businesses and workers more competitive and productive both at home and abroad.

Bill Frist, Chuck Grassley, Ted Stevens, Kay Bailey Hutchison, Conrad Burns, Thad Cochran, Norm Coleman, George Allen, Larry Craig, Trent Lott, Mitch McConnell, Jon Kyl, Craig Thomas, John Cornyn, Ben Nighthorse Campbell, Elizabeth Dole, and James Talent.

Mr. FRIST. I believe we are now ready to proceed to the cloture vote on the McConnell-Reid amendment to the intelligence resolution.

## INTELLIGENCE COMMITTEE REORGANIZATION

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. Res. 445, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 445) to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Pending:

McConnell/Reid/Frist/Daschle Amendment No. 3981, in the nature of a substitute.

Bingaman (for Domenici) Amendment No. 4040 (to Amendment No. 3981), to transfer jurisdiction over organization and management of United States nuclear export policy to the Committee on Energy and Natural Resources.

## CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

## CLOTURE MOTION.

We the undersigned Senators in accordance with the provisions of rule XXII of the standing rules of the Senate do hereby move to bring to a close debate to the pending amendment on S. Res. 445, a resolution to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Bill Frist, Mitch McConnell, Harry Reid, John Cornyn, Craig Thomas, James Inhofe, Mike Crapo, Conrad Burns, Norm Coleman, Tom Daschle, Lamar Alexander, James Talent, Wayne Allard, Gordon Smith, Larry Craig, Robert Bennett, Pete Domenici, Susan Collins.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate debate on Amendment No. 3981, offered by the Senator from Kentucky, Mr. McCONNELL, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from Vermont (Mr. LEAHY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The yeas and nays resulted—yeas 88, nays 3, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—88

Akaka	Dodd	Lugar
Alexander	Dole	McConnell
Allard	Domenici	Mikulski
Allen	Dorgan	Miller
Baucus	Durbin	Murkowski
Bayh	Ensign	Murray
Bennett	Enzi	Nelson (FL)
Biden	Feingold	Nelson (NE)
Bingaman	Feinstein	Nickles
Bond	Fitzgerald	Pryor
Boxer	Frist	Reed
Breaux	Graham (SC)	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carper	Hutchison	Sessions
Chafee	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Talent
Craig	Landrieu	Thomas
Crapo	Lautenberg	Warner
Daschle	Levin	Wyden
Dayton	Lincoln	
DeWine	Lott	

NAYS—3

Collins	McCain	Voinovich
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NOT VOTING—9

Campbell	Graham (FL)	Leahy
Chambliss	Hollings	Lieberman
Edwards	Kerry	Sununu

The PRESIDING OFFICER. On this vote, the yeas are 88, the nays are 3. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The assistant Republican leader.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

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

## AMENDMENT NO. 4035, AS MODIFIED

Mr. McCONNELL. Mr. President, I call up amendment No. 4035 for the majority leader. Senator FRIST. I understand a modification to the amendment is at the desk. I ask unanimous consent that the modification be accepted.

The PRESIDING OFFICER (Mr. ALLARD). Is there objection?

The Senator from Nevada.

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

Mr. HARKIN. Mr. President, I object. The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

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

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

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

Mr. HARKIN. I object.

Mr. HATCH. I cannot make a unanimous consent request.

Mr. HARKIN. I object.

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

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

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to speak for up to 1 hour and after that the quorum be reinstituted.

Mr. REID. Reserving the right to object, his hour will be counted against the time for the cloture; is that right?

Mr. HATCH. No, because I am not speaking on the bill.

Mr. REID. I object, then.

Mr. HATCH. That is fine.

Mr. REID. I objected.

Mr. HATCH. Fine. Your request is fine.

Mr. REID. The hour will be counted?

Mr. HATCH. Fine.

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

The Senator from Utah is recognized for 1 hour.

Mr. HATCH. I thank the distinguished minority whip and, of course, my friend from Iowa for their courtesy. I have been wanting to give these Senate remarks as in morning business ever since yesterday.

## MEDICARE MODERNIZATION ACT

Mr. President, over the past few weeks several of our colleagues on the

other side of the aisle have given rousing statements on health care.

There is no question that health care is of paramount importance on American families. On that we can all agree.

I am sure it will come as no surprise that I disagree with a number of points my colleagues have raised. In fact, some of their allegations are just plain wrong, particularly with respect to the Medicare prescription drug law which I helped to negotiate.

I was a member of the tripartisan group that came up with a bill that I think would have been supported by the 20 Democrats at the time. I have been working on this ever since and was on the conference committee, sat in for days, weeks, and months on that conference committee to negotiate this bill.

It is mind-boggling some Senators seem willing to sacrifice the health and well-being of beneficiaries by spreading mistruths about the law. These mistruths could cause a beneficiary to forego learning more about provisions in the law that could really help, such as the Medicare-approved discount card program which study after study shows is delivering real savings, or the voluntary Part D benefits that begin in 2006.

This continued misinformation and set of damaging attacks are a tremendous disservice to Medicare beneficiaries. So I wanted to take this opportunity to set the record straight.

Opponents have characterized the Medicare law as a failure for beneficiaries. What poppycock. To me, we would have failed had we not passed the Medicare Modernization Act, had we not given beneficiaries what they need, meaningful prescription drug coverage and a stronger Medicare Program.

Let me highlight a few areas in which we need to set the record straight. The first is the cost estimates of the MMA. I will refer to this bill, the Medicare Modernization Act, from here on in as the MMA. That means the Medicare Modernization Act.

Let me talk about cost estimates. The central theme echoed by those who seek to discredit the new Medicare law is the allegation that the administration hid the true cost of the Medicare law from the Congress before the final vote.

This is simply political election year hyperbole.

The opponents of the drug benefit have made this claim because the complete and final cost estimate from the CMS Office of the Actuary was not finished before the vote took place.

Let's be clear, the administration's cost estimate was not withheld from Congress because there was not a final cost estimate from CMS to withhold. The CMS cost estimate was not even completed until December 23, 2003—long after the House and Senate vote, long after the bill was signed into law. So let's get rid of that argument right off the bat because it is a false, fallacious argument.

Rick Foster, the chief actuary for the Centers for Medicare and Medicaid Services confirmed these facts to us earlier this year in a Finance Committee briefing and we all know that. Even after that briefing, however, some chose to continue this erroneous attack, perhaps because they did not take the time to attend the briefing. To me, this is but another indication of election year hyperbole.

Let me also be clear that we did have the official cost estimate on the Medicare bill before the vote. That estimate, as my colleagues are well aware, is the one from the Congressional Budget Office, not CMS. That is what binds us. That cost estimate, our official cost estimate, by the entity we rely on in Congress, was available to every Member of Congress before the measure was presented to either the House or the Senate.

No one should doubt that we had the true cost estimate for the prescription drug bill last year, and everyone in this body and the other body had access to it before the vote.

There also have been claims that the administration changes its cost estimate. Again, that is not the case. The President's mid-session review did update the estimates of Medicare outlays, but it did not change the estimate of the Medicare Modernization Act, the MMA.

In fact, Rick Foster, the CMS actuary, has said you simply cannot add the change in estimated outlays to the MMA estimate and declare you have a new estimate.

Apparently, Mr. Foster's words, the words of a trained actuary, don't matter to some of these so-called critics. If opponents of the Medicare bill value his opinion of cost estimates so highly, why do they ignore him now? That is amazing to me. They will quote part of what he said—but ignore the other part of what he said. Mr. Foster has said that the MMA estimate has not changed; but despite that, opponents of the MMA have wrongly claimed that it did.

Again, it is just political hyperbole. We had—and have—the true cost estimates from CBO. Case closed. That is what we have to rely on in the Senate Finance Committee.

Now let me address the accusations that the bill prohibits Medicare from negotiations with drug companies. This is another one of the fallacious things that enemies of the bill have been spewing forth.

Those who make this charge imply, wrongly, that the price charged to beneficiaries is not subject to negotiation. That could not be further from the truth. The truth is, Medicare prescription drug plans will be negotiating with drug makers. These negotiations are the very heart of the new Medicare drug benefit.

The absurd claim that the Government will not be negotiating with drug makers comes from a non-interference clause in the Medicare law.

This noninterference clause does not prohibit Medicare from negotiating with drug makers. It prohibits CMS from interfering in those negotiations. That is a far cry from some of the fallacious statements that have been made on this floor.

Let me be clear, the non-interference clause is at the heart of the bill's structure for delivering prescription drug benefits. This clause ensures those savings will result from market competition, rather than through price fixing by the CMS bureaucracy. That is what was behind this. Let's not distort these provisions.

What is ironic about the minority charges on this provision—some in the minority; not all in the minority would agree with some of these fallacious charges—but what is ironic about these minority charges by some on this provision is that the same non-interference clause was in the Daschle-Kennedy-Rockefeller bill and the Gephardt-Dingell-Stark bills in the year 2000.

I hate to say this, but if my memory serves me correctly, these are leading Democrats in the Senate and in the House. They are not Republicans. It is the same provision that is being condemned by some in this body through hyperbole, political hyperbole. In fact, I want to read this to you:

In administering the prescription drug benefit program established under this part, the Secretary may not—(1) require a particular formulary or institute a price structure for benefits; (2) interfere in any way with negotiations between private entities and drug manufacturers, or wholesalers; or (3) otherwise interfere with the competitive nature of providing a prescription drug benefit through private entities.

Now, what is the source of that language? It is from S. 2541, the Medicare Expansion for Needed Drugs, or MEND, Act, introduced in 2000 by Senator DASCHLE and cosponsored by 33 Democrats, including Senator KERRY. Think about it, some of the very people who are criticizing the MMA, that passed overwhelmingly in both Houses of Congress.

I find it curious that this approach, which is mislabeled as "preventing Medicare from negotiating," was fine in the year 2000 when the Democrats were putting forth a bill, but not fine when enacted into law by a Republican President and a Republican Congress in 2003.

I must remind my colleagues that Senator DASCHLE, the distinguished Senator from South Dakota, once said:

Our plan gives seniors the bargaining power that comes with numbers. . . . Our plan mirrors the best practices used in the private sector. For beneficiaries in traditional Medicare, prescription drug coverage would be delivered by private entities that negotiate prices with drug manufacturers. This is the same mechanism used by private insurers.

Think about that. I think those who advance these arguments that you cannot have competitive work with regard to drug pricing ought to be ashamed of

themselves and ought to quit playing politics with a bill that is so important for senior citizens all over this country.

A related charge I heard one minority Senator make was that this so-called non-interference language contributed to next year's Part B premium increase. Again, this is plain wrong.

The Part B premium reflects the costs of Part B benefits. These include physician services and other outpatient services.

I would like to remind my colleagues that when Medicare was first created, the Government paid 50 percent of the premiums and beneficiaries paid 50 percent of the premiums. That was when Medicare was instituted. Today, the Government pays 75 percent of the premiums and beneficiaries pay only 25 percent of the premiums because we in the Congress were trying to help limit beneficiaries' out-of-pocket costs.

Those who suggest this non-interference language will drive up the cost of implementing the law simply do not have the facts or the legislation on their side.

This is what the CBO said about eliminating the non-interference clause in a letter earlier this year:

[T]he Secretary would not be able to negotiate prices that further reduce federal spending to a significant degree.

The CBO in that letter went on to say:

CBO estimates that substantial savings will be obtained by the private plans.

Now, let us be clear: Direct Government negotiation is not the answer. The Government does not negotiate drug prices. That would be price control, and it would, I think, inevitably cause prices to rise as companies would not be able to do business in this country as they have in the past.

The bill's entire approach is to get Medicare beneficiaries the best deal through vigorous market competition, not price controls.

Again, it might be illustrative to quote from the distinguished minority leader, Senator DASCHLE, when he outlined the principles for the MEND Act. Now remember, the MEND Act was a Democrat-sponsored act. This is what Senator DASCHLE said:

[W]e should take a lesson from the best private insurance companies: Cost-savings should be achieved through competition, not regulation or price controls.

Now, keep in mind, they had the same provision in their bill that they are criticizing now in the MMA.

This year, even the Washington Post, in a February 17 editorial, stated that:

Governments are notoriously bad at setting prices, and the U.S. government is notoriously bad at setting prices in the medical realm.

There is proof of that.

In an August 2000 report, the Government Accountability Office, the GAO, found that drug manufacturers could respond to a mandate that they extend Federal prices to a larger share of purchasers by adjusting their prices to

others. The larger the group that would be newly entitled to receive a Federal price, the greater the incentive for drug manufacturers to raise that price.

The GAO stated that with the Medicaid rebate experience, specifically, that following enactment of the rebate program, discounts for outpatient drugs decreased significantly because manufacturers raised the prices they charged large private purchasers. Now, this shows how Federal and non-Federal drug price discounts could change if Medicare beneficiaries had access to the same price discounts available to Federal purchasers.

It is common sense that expanding access to the Medicaid rebate means weaker discounts for everyone. If almost everyone can get the Medicaid "best price," then no one gets a discount.

Another charge we hear frequently is that Congress should give Medicare beneficiaries access to the Veterans' Administration approach. Well, what these critics do not tell beneficiaries about the VA model is that it is a very restrictive formulary and that the drugs are available only through a limited number of VA pharmacies.

The VA has lower prices in part because it has a very restrictive formulary. Now, this puzzles me because many proponents of the VA system also have expressed the concern of ensuring beneficiaries' access to drugs.

In calling for the VA system, Families USA spotlighted 15 drugs commonly taken by Medicare beneficiaries. In fact, of the 15 drugs mentioned by Families USA, only nine are even on the VA formulary. The rest are not even covered.

Sixty-one percent of the drugs on the VA formulary are generic drugs. If a Medicare beneficiary needed a brand-name drug—and the vast majority either do or will—the beneficiary would have to meet a narrow set of exceptions to get that brand-name drug under the VA system.

The drugs are only dispensed at VA facilities. Such a closed system would limit Medicare beneficiaries' access to their neighborhood pharmacy. I am not for limiting beneficiaries' access to their neighborhood pharmacies. And I don't think any of my colleagues are either, in spite of some of the comments that have been made on the floor of the Senate.

So while proposing the VA system might make for a good sound bite or advantageous sound bite, they might think, there are some important facts they are not sharing that could do more harm than good. And those facts were taken into consideration when we wrote this bill.

We did not rely on CMS price fixing, but instead created a new drug benefit that relies on strong market competition and an approach in keeping with the principles of the MEND Act, the Democratic act, as introduced by Senator DASCHLE and cosponsored by 33 Democrats, including their candidate

for President, Senator JOHN KERRY. But that was then, I guess this is now. All of a sudden, this provision they adopted, that they were articulating, that they were pushing, is now suddenly a bad provision for senior citizens.

Moving along, I want to talk about the Part B premium increase. There has been a good deal of criticism on the increase of the Part B premium, and that was understandable as many of us were shocked at so high a jump. Many of us were concerned about the impact this could have on beneficiaries, especially those living on fixed incomes.

But it might be helpful to look at why this increase occurred rather than demagogue about it.

The vast majority of the premium increase resulted from physician payment changes made in a previous year and by those in the Medicare Modernization Act that were needed to ensure beneficiaries' access to care. I can't relate how many letters I have received over the past few years from beneficiaries and providers alike who were concerned about the negative impact of reductions in physician reimbursement. Preventing those cuts was not a partisan issue. Indeed, Republicans and Democrats worked to prevent payment cuts to physicians so access to their services would be protected.

In fact, some of today's most vocal critics of the administration joined with 71 Democrat and Republican Senators to sign a letter to the administration calling for immediate action to prevent payment cuts to physicians. We all knew that had to be done if we were going to be fair to those on Medicare. Virtually all of us hailed the ensuing action to prevent the physician pay cuts.

Yet today many of my colleagues on the other side of the aisle criticize the Part B premium increase, four-fifths of which is directly attributable to the actions they requested to prevent the decrease in physician payments. Is that right? I don't think so.

Let's look at another reason the Part B premium increased so much this year.

Congress increased payments made on behalf of beneficiaries who choose a Medicare Advantage plan. The higher payments, like the physician payments, were necessary to preserve access to Medicare Advantage plans and were supported by both Democrats and Republicans.

In a letter to Medicare conferees, several prominent Democratic Senators expressed support for including these higher payments in the final Medicare bill. Senator KERRY, by the way, was a lead cosponsor of an amendment to increase Medicare Advantage funding.

In his floor statement last June, he said:

The Schumer-Santorum-Kerry amendment focuses on protecting this important option for seniors who have nowhere else to turn for the quality health care coverage they need.

Senator KERRY went on to state:

I urge my colleagues to support the additional funding that is urgently needed to strengthen the Medicare+Choice program for seniors. This should be among our highest priorities in this year's Medicare debate.

"Among the highest priorities"—that is their nominee for President of the United States. These are the reasons the Medicare premiums went up. It wasn't because of the new Medicare bill. I find it so disingenuous for some of my colleagues to question the premium increase when they, in fact, supported the changes that led to the premium increase. Better medical care and more widespread medical care is being given as a result of the bipartisan work that we did.

There were also six amendments to the Medicare bill introduced by Democratic Senators that, if approved, would have increased the Part B premium even more—six amendments by Democrats that would have increased the Part B premium even more. Yet we hear the persistent minority drumbeat trying to say that this increase was caused by the new Medicare reform bill.

That is pure bunk. The amazing thing is, I guess they don't fully realize it. So I am making this speech to make sure they do realize it and that they understand it. When we hear charges that the new Medicare bill drove up the Part B premium—which as I have noted are largely false—we must also keep in mind the fact that the premium increase will not affect low-income beneficiaries, whose premiums are paid for by the Government.

We must also bear in mind the important fact that the premium also reflects new Medicare coverage for important preventive benefits.

Practically every other American with private health coverage has a wider array of preventive benefits. But Medicare beneficiaries, who could possibly benefit the most from the value of prevention, did not have the benefit of coverage for many of these basic preventive services prior to enactment of the Medicare reform bill.

That didn't make sense. Now Medicare will cover important screenings for cholesterol and diabetes, as well as the initial physical.

Finally, the MMA can save beneficiaries money. Reforms and overpayments for drugs, combined with the new preventive benefits, will lower beneficiaries' out-of-pocket costs by \$270 million in 2005.

Beneficiaries deserve to know the facts, not to be fed lines that amount to nothing more than political year potshots. They deserve to know how the new benefit will work, not to be given misleading information that may cause them to forgo learning more about the prescription drug benefit. Quite frankly, I am surprised and dismayed that some who claim to care about seniors and the disabled have unfairly distorted the new law and have spread falsehoods about what it does.

To me, their actions are irresponsible and wrong and should be condemned as election year politicking at its very worst.

Beneficiaries deserve much better. I hope my colleagues will think twice about frightening beneficiaries with untruths and distortions. The new Medicare law is a solid attempt to improve some glaring deficits in the Medicare program and should be heralded as what it is: a bipartisan effort to help seniors and the disabled, and not hurt them as some so irresponsibly have charged.

How anybody can say that this new Medicare bill will not help seniors when we are going to spend an additional \$400 billion plus over the next number of years that would never have been there without this bill is beyond me. I don't see how anybody can stand up with a straight face and make some of the comments and charges that have been made. In all honesty, it is hard to believe some of these charges. And in the process, we have taken care of more of the poor than was even contemplated by the prior attempts to reform Medicare. The poor are very much helped by that bill. Frankly, virtually everybody is very much helped by that bill. I personally think it is despicable to come on the floor or to speak in public and try to scare our seniors so they don't know what to do. Seniors can have confidence in CMS and have some confidence in the Medicare bill which will be for their benefit.

#### JUDICIAL NOMINATIONS

Mr. HATCH. Mr. President, I rise to speak about four fine judicial nominees that deserve votes before we adjourn this Congress. Three of these four nominees received the ABA's highest rating, unanimously "well-qualified." The Judiciary Committee has thoroughly reviewed their background and qualifications and determined that they would all make fine Federal judges. All four were reported favorably by the committee, three of the four by unanimous vote. They have put forward their good names for the Senate's evaluation, and they deserve our attention before we adjourn. We owe them no less.

Susan Neilson has been waiting a long time for a vote. She was nominated to the Sixth Circuit Court of Appeals, for a seat that has been classified as a judicial emergency, on November 8, 2001. That is nearly 3 years that she has been waiting for this body to consider her nomination. Mr. President, it is time.

Judge Neilson is an outstanding candidate for this post. She received a unanimous "well qualified" rating from the American Bar Association. She graduated with high distinction from the University of Michigan Honors College in 1977 and was elected to Phi Beta Kappa. Judge Neilson received her law degree, cum laude, from Wayne State University School of Law in 1980 and was a member of its law review. Following her graduation, Judge

Neilson began her legal career as an associate at the Detroit law firm of Dickinson Wright, one of the oldest and most prestigious law firms in Michigan. She became a partner in the firm in 1986 and continued to practice there until 1991. While in private practice, Judge Neilson appeared in court on a regular basis and handled hundreds of cases at both the trial and appellate levels.

In 1991, Governor John M. Engler appointed her to the 3rd Judicial Circuit Court of Michigan, the largest trial court in the State. She was reelected to that post in 1992, 1996, and 2002. She currently is assigned to the criminal division of the court.

Despite her busy schedule, Judge Neilson makes it a priority to give back to the community. She is active in many service organizations including the Catholic Lawyers Society and the Worship Commission of her church. She served as President of her local chapter of Soroptimist International, a worldwide organization working to promote human rights and the status of women.

Judge Neilson is also a prolific writer. She has written numerous articles and was co-editor and author of Michigan Civil Procedure, a two-volume treatise on all areas of Michigan civil practice. This treatise was selected by the Michigan Judicial Institute for purchase on behalf of every trial court judge in the State of Michigan and received the "Plain English Award" from the State Bar of Michigan. I also understand that she is currently working on a new book.

Judge Neilson is imminently qualified for the Sixth Circuit. I commend her to my colleagues and urge them to vote for her confirmation.

Micaela Alvarez, nominated to be United States District Judge for the Southern District of Texas, is an experienced attorney and trial judge. She began her legal career in 1989 as an Associate Litigation Attorney at the law firm of Atlas & Hall, in McAllen, TX. Her practice focused primarily on insurance defense, employment defense, and wrongful discharge defense. Judge Alvarez later joined the Law Offices of Ronald G. Hole where she expanded her practice to include medical malpractice defense and products liability. In 1995, she was appointed to the 139th Judicial District Court in Hidalgo County, TX, where she served as presiding judge.

Judge Alvarez brings a wealth of experience to the Federal bench, and she will make an excellent addition to the Southern District of Texas.

Keith Starrett, nominated to the U.S. District Court for the Southern District of Mississippi, is an exceptional nominee with a long and distinguished record both as an attorney and judge. He is a graduate of Mississippi State University and the University of Mississippi School of Law. He is an experienced litigator who has represented plaintiffs, defendants, debtors, creditors, and criminal defendants in both

State and Federal courts. While in private practice he litigated over 400 cases. In 1992 he was appointed to the Fourteenth Circuit Court of Mississippi where he presently serves. The American Bar Association unanimously gave him its highest rating of "well qualified." The Mississippi Bar Association awarded him with the Judicial Excellence Award in 2003. Undoubtedly, he will be a wonderful addition to the Federal bench.

Christopher Boyko has been nominated to the United States District Court for the Northern District of Ohio. Judge Boyko brings 25 years of legal experience and sterling credentials to the Federal bench. He has served as a judge for the Court of Common Pleas in Cuyahoga County for 8 years. He also served on the Parma Municipal Court before joining the Court of Common Pleas.

Prior to his appointment to the bench, Judge Boyko built a successful law practice, which he coupled with his duties as assistant prosecutor, prosecutor, and director of law, for the city of Parma. He also served as the legal adviser to the local police department's S.W.A.T. team, as a statutory legal counsel for the Parma School District, and as chief legal counsel for the Southwest Enforcement Bureau.

The ABA has recognized this seasoned nominee with a unanimously "Well Qualified" rating. In addition, he has received Martindale-Hubbell's highest rating of "AV." He has the distinction of having been elected to "Who's Who in American Law," and the Judicial Candidates Rating Coalition, in Cleveland, unanimously gave him an "excellent" rating for 2004.

Mr. President, I think that you will agree that these four fine nominees possess the credentials, reputation, and experience to be Federal judges. I am convinced that each of them would serve with distinction.

Now, let me take a minute to dispense with the old canard that judges aren't confirmed late in an election year. When Senator Thurmond chaired this committee, during a Presidential election year, the Senate confirmed six Circuit Judges after August 1—one in August and five in October. In addition, 12 district judges were confirmed in September and October of that year. So I will follow that Thurmond rule and continue to bring the President's nominees to the committee for action and to the Senate for consideration.

I am only too well aware of the unprecedented and constitutionally suspect tactics my colleagues across the aisle have used to filibuster circuit court judges. So I am under no illusion that Judge Neilson will be given the up-or-down vote that the Constitution requires. Certainly this is unlikely to occur in the closing days of this session. Be that as it may, I hope that the devious tactic of filibustering circuit judges will in no way prevent the Senate from confirming three superbly qualified district judges. I hope they

will be included in the final Executive Calendar package along with four commissioners for the Sentencing Commission and four U.S. Attorneys.

I understand time is precious. We are in the waning hours of this Congress, and still much is left to be done. We should not, however, in our haste to adjourn, neglect consideration of all these outstanding nominees. They deserve our attention. They deserve our time. I call on the leadership on both sides of the aisle to move these nominations and urge my colleagues to vote for the confirmation of all these distinguished nominees.

Mr. President, in accordance with the unanimous consent request agreed to earlier, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business for 1 hour and when my time is yielded that the quorum be questioned.

Mr. HATCH. Mr. President, I object for the moment, but I will come back to it.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

#### JUDICIAL NOMINATIONS

Mr. DURBIN. Mr. President, I will address some of the issues just debated on the floor of the Senate. The Senator from Utah is my friend. We have worked together, and he chairs the Judiciary Committee. We are miles and worlds apart on many issues but have found common ground many times and I am sure we will in the future. He has done an excellent job for his President as chairman of the committee.

It is my understanding that, as of today, President Bush has successfully nominated over 200 Federal judges to fill vacancies, thanks to the work of Senator HATCH and many others in the Senate. Those nominees have been approved. At this point, it is my understanding that we have one of the lowest vacancy rates in the Federal judiciary in recent memory and that we have responded particularly in the areas of our country where there have been shortages of judges and an abundance of cases to be considered. It is my understanding that the scoreboard on President Bush's nominees who have been proposed and accepted and approved by the Senate is 201; somewhere in the range of 6 or 8 have not been approved. That is quite a good average by any standard for any President. It is certainly dramatically better than the approval given to judges under the previous President, President Clinton.

There have been a lot of complaints and concern expressed about the six or eight judges who have not been approved, and while all of that argument has gone on, 201 of President Bush's nominees have been approved.

Now we have a suggestion that in the closing days of this session, we should approve even more judges. It is a troubling suggestion only in this regard: Not reflecting on any single judicial nominee or that person's qualifications, it has been a practice and tradition in the Senate that in a Presidential election year, we suspend the approval of Federal judges after the first nominating convention of a major party. It is known as the Thurmond rule because Senator Strom Thurmond of South Carolina, chairing this same committee, established it and said once we get that close to a Presidential election, with the outcome uncertain, that we will not be approving judges. We will wait and see what the verdict of the American people will be as to whether the President, in this case, is reelected or a new President takes office and fills those same vacancies.

The Senator from Utah has asked us to look beyond this time-honored Thurmond rule. In my State of Illinois and many other States, we have withheld pursuing nominees because we understood the process was closed down, that there would not be any further judicial nominees considered. I am sure this will be discussed at length. So the record will reflect that has been the tradition. It is the situation that has applied to President after President, and most of us believe, in fairness, it should apply in this situation.

I listened carefully as the Senator from Utah talked about a number of issues, all of which are relevant, many of which will be discussed tonight in the second Presidential debate at Washington University in St. Louis between President Bush and Senator KERRY.

One of the issues which he spoke to with some force was the issue of whether we are doing enough to help seniors and other American families pay for their health care. He noted that we passed a Medicare prescription drug bill. It is true that a bill passed with that name. For a person like myself who has supported throughout his congressional career the idea of assistance to senior citizens to pay for prescription drugs, it was painful to vote against a bill called the Medicare prescription drug bill. But I did vote against it, and the reason I voted against it is the same reason that most seniors across America are not only skeptical of this proposal by the Bush administration and the Republican leaders in Congress but have flatly rejected it, because if you take a close look at the proposal which the Bush White House put before us and was approved by this Republican Congress, you will see it is only a Medicare prescription drug bill in name. In fact, it is not, and the reason is obvious. There

is no authority in the bill for Medicare as an agency to bargain with the pharmaceutical companies to get the best price for seniors and families across America. The pharmaceutical industry is the most powerful industry on Capitol Hill. Bill after bill, vote after vote, amendment after amendment, the pharmaceutical industry rarely loses. Why? Because they are a powerful force in our economy, the most profitable economic sector in America, and a powerful political force. They are involved in the campaigns, primarily with Republicans but some Democrats, too. They make contributions to those who believe in their approach, and they are rewarded many times with votes that come out their way. This is what happened with the Medicare prescription drug bill.

This bill expressly prohibits the Medicare agency from bargaining with pharmaceutical companies to lower the cost of prescription drugs, and what it means is that seniors, even with this bill, will continue to see the cost of medication going up 10, 15, and 20 percent a year. There is no end in sight. It will continue to grow at a pace that will outstrip the money we put in this bill, at a pace that will outstrip the resources of most seniors and, frankly, will do it in a hurry.

Mrs. BOXER. Mr. President, will my friend yield for a question?

Mr. DURBIN. I will be happy to yield for a question from the Senator from California.

Mrs. BOXER. Mr. President, first, I thank my friend from Illinois. We had the Senator from Utah talking about how wonderful everything is with that prescription drug plan the Senator from Illinois and I voted against and Senator KERRY does not support either. The reason we voted against it is it does not do much for our seniors. It is very costly for them when they need it. It is not there because after a certain amount of expenditure, the benefit stops. We call it benefit shutdown, donut hole—different names. Lots of us are trying to fix it.

One of the main problems is what my friend described—a prohibition on the Medicare agency from negotiating with these giant drug companies for lower prices. This is where I want to ask my friend a question.

If someone from the Government came up to one of our constituents who was looking for a new bike for their son and said, You cannot shop around, you have to take whatever that store on the corner says you have to pay, I do not think that would be very popular for the Government to do. I am sure my friend would agree.

Essentially, that is what we are doing here. We are essentially taking the leverage away from Medicare to help our seniors get lower prices by telling them, even though there are 40 million Americans—that is my understanding—on Medicare, they cannot use that power and that leverage to sit across from Pfizer or any of the big

companies and say: If you want to get on our formulary, you have to lower this price.

It seems stunning to me that Senator HATCH would come to the floor and say it is not true. He said: We do not stop Medicare, we just stop the agency that runs Medicare. Talk about flimflam. Talk about misleading the seniors. Is that what the Senator from Illinois heard the Senator say?

Mr. DURBIN. Mr. President, in response to the Senator from California, I did not hear that exact quote, but it is clear for anyone who reads the bill that Medicare, as an agency, does not have the authority to bargain for lower drug prices or to create its own drug benefit program.

The Republican leadership in the White House and Congress insisted that this be done through private sector insurance companies. In fact, they expressly prohibited seniors from buying Medicare gap policies to cover this overwhelming cost of prescription drugs.

The most telling fact that I think should be part of this debate is the Bush administration insisted that this so-called Medicare prescription drug benefit plan would not go into effect until after this election. They know, the Senator from California knows, I know, that when seniors see the situation close up and all the details, they are going to feel even worse about what Congress has done. Congress has left them vulnerable on prescription drug costs, and they are not the only ones.

We are finding companies across America and families across America wrestling with the high cost of health care. What has the Bush administration done to help small businesses provide health insurance, to help families afford health insurance, to come to the rescue of 100,000 American retirees who have lost their health care benefits because of a bankruptcy court? What have they done to help these people in such dire straits? Nothing. Why? Because the companies that are profiting from these high costs of insurance and pharmaceuticals are companies that are the political favorites of the Bush administration and the Republican leadership in Congress.

So when any Senator comes to the floor and talks with some pride about what has happened over the last 4 years on health care, go ask the families of America what is happening. The honest answer is no relief, no help, and they find themselves with increasing costs for health care and the cost of health insurance.

Businesses identify this as the No. 1 problem facing American business today, that health care premiums are going up 25 percent and more each year. They say to us: How can we provide coverage for our employees, how can we be competitive in the world if we face that overhead cost?

Labor unions say exactly the same thing. They say: We try to get more money per hour for our workers so they

can have a better life, but every penny of it goes for health insurance, and this year's coverage is less than last year's coverage. They are frustrated. Business, labor, families, individuals, and retirees are being left out in the cold.

What has the Bush administration and the Republican Congress done for these groups? Nothing. Absolutely nothing.

Mrs. BOXER. Will my friend continue to yield to me?

Mr. DURBIN. I would be happy to yield for a question.

Mrs. BOXER. Again, I want to thank my friend for moving to the bigger issue of all of our citizens, leading off with the issues that are facing our seniors. But I want to get back to our seniors.

My friend said it is interesting that the date of the prescription drug benefit is after the election because it is such a bad benefit and they do not want people to see there is really not very much there. They thought they could run on this as an issue, but I say to my colleague seniors are smart.

We say this is the greatest generation. This is the generation that has kept us free, and they are smart. I am sure my friend has seen what I have seen. As I go around my State, seniors are saying, please fix this thing, allow Medicare to negotiate for lower prices. Do not have the benefit that shuts down just when we need it the most. It is too expensive. Allow importation of pharmaceutical products through Canada. I am sure my friend is having that same experience.

The thing they did not count on, President Bush and our friends on the other side, is that the seniors see this on the horizon. They get it. They are used to reading the small print, and I believe they are letting us know that they are quite unhappy.

I want to ask my friend this: One would think, after looking at what the Veterans' Administration does for its people, when they sit down, knowing they have millions of veterans behind them, and negotiate with a drug company and get those prices down, perhaps a third less, maybe even a half lower than what they sell for normally on the market, one would think that would have been the perfect model for this group that wrote this bill to emulate what the Veterans' Administration does for its veterans.

Oh, no, no. Was not my friend surprised when it turned out that instead of taking the model that has been developed for veterans on pharmaceutical prices, where the Veterans' Administration sits across the table from the big drug companies, essentially, and bargains for lower companies, that instead of taking that model they are reversing that model and prohibiting Medicare to negotiate?

Mr. DURBIN. The Senator from California, I am sure, has met with veterans, as I have in Illinois. Veterans are fortunate when they reach an age that they can go to a Veterans Hospital



and get their prescriptions filled for a modest amount each month. That is because the Veterans' Administration bargains for the prices of drugs, brings them down to a lower cost than a senior on Medicare is going to pay.

There has been a lot of talk about reimportation of drugs from Canada. I just want to say for the record, many of us believe that a promise had been made on the Senate floor that we would vote on this issue of reimportation of drugs from Canada before we went home this year. In fact, there is ample evidence in the CONGRESSIONAL RECORD, a colloquy between Senator DORGAN of North Dakota and the majority leader of the Senate, which led us all to believe that we would finally get a chance to reimport drugs that have been made in the United States safely and can be bought at a fraction of the cost in Canada and other places.

The decision was made, no, we do not have time. We cannot do it. Well, that decision was made as the decision was made to stop Medicare from asking for lower prices for drugs, at the request of the pharmaceutical companies. These companies are making the greatest profit of any sector of the American economy, and they have asked for Congress to protect their profits. This is a decision driven by greed. It is a decision where the pharmaceutical companies have said, despite the hardship on seniors, despite the hardship on families and businesses, we will not reduce the prices of our drugs.

A phony argument has been raised, and that is that we cannot reimport drugs from Canada without compromising the safety of the drugs that are brought in. Let me remind everyone that the overwhelming majority of the drugs we are talking about are the product of research in the United States. They are the product of American pharmaceutical companies. They are in packages and under names in Canada exactly as they are in the United States. We are only asking that these drugs be brought back in so that seniors can get some relief from high drug prices, relief that is not forthcoming in the Medicare prescription drug bill.

Let me say something about the safety issue. Do not trust me. I am just an elected official. Trust instead Dr. Peter Rost, who is vice president of marketing at Pfizer. Let us see what he had to say about the safety issue:

During my time responsible for a region in northern Europe, I never once—not once—heard the drug industry, regulatory agencies, the government, or anyone else saying that this practice was unsafe. And personally, I think it is outright derogatory to claim that Americans would not be able to handle reimportation of drugs, when the rest of the educated world can do this.

It is a phony issue. Safety of drugs is a phony issue. We can put safeguards in place. We have proposals before the Senate to do it. In my home State of Illinois, Governor Blagojevich has been a leader on the reimportation issue. He has established what I consider to be

rational and very thoroughly thought out standards for the reimportation of drugs. Resistance comes from the Food and Drug Administration, and that resistance is inspired by the pharmaceutical companies that do not want to see cheaper drugs coming into the United States to help seniors and families meet the overwhelming cost of prescription drugs.

Tonight, during the course of this debate between President Bush and Senator KERRY, I am sure that health care will be an issue. I am guessing that someone, in 90 minutes, in the Washington University audience is going to say to both candidates: What are you going to do to reduce the cost of health care for families across America?

What the President will say is, We have done it with the Medicare prescription drug bill. And the obvious answer to that is, Well, then why did you postpone it until after the election? Why is it so hard to understand? Why the gaps in coverage? Why can't Medicare bargain for a lower price?

The answer on the other side from Senator KERRY is obviously, this administration, in the thrall and under the control of the pharmaceutical industry, is not prepared to confront them on behalf of American families and businesses which are struggling to pay for prescription drugs.

I think that is a clear choice, as there will be a clear choice on so many issues.

Take a look at this issue as well. On the issue of health care, what has happened under the Bush administration? Under President Bush's 4 years, fewer jobs in America provide health insurance. We know from the reports, the President, during his administration, has lost more jobs in America than any President in the last 70 years of either political party. Even today's report about a few new jobs in America still leaves the President somewhere between 500,000 and 800,000 net jobs lost during his Presidency. Even his father, facing a recession and a war, was able to see much more employment created than this President.

As a result of the lost jobs, and as a result of businesses struggling with the Bush economic policies, fewer companies offer health insurance.

In the year 2000, when President Bush took office, 63.6 percent of companies offered employer-provided health insurance. Today, it is 60.4 percent. That means 3.8 million Americans have lost health insurance coverage at their job.

Now, what does one do when they have lost their health insurance at their job? Well, for many of these Americans, it means no protection whatsoever. It means that they pray each morning that someone does not develop a serious illness or get involved in an accident.

So how is this making America a better place? How is it strengthening families? How is it removing fears and worries from families who are just trying to get by each day and maybe make

life a little better for their children? I cannot imagine in my family, if we did not have health insurance, what it would be like, fearful that at any given moment the savings that we have could evaporate paying for health costs.

Under President Bush, 3.8 million Americans have lost health insurance. That is a fact. That will come up tonight during the course of this debate.

Look at the jobs that have been lost under President Bush as well. The Clinton administration saw an increase of 20.7 million jobs in the 8 years of his Presidency; under President Bush, a loss of 1.6 million jobs. The President says his economic policies are working. The unemployed people of America are a living testimony to the fact that they have failed because the President's economic policy is very simply stated. If we give tax breaks to the wealthiest people in America, surely everybody else will be better off.

It has not worked. It is not going to work. The helping hand should be given to businesses to create jobs. A helping hand should be given to working families to try to keep up with increased costs for health care and college tuition and gasoline. These are the basics of life. This administration has ignored it. By ignoring it they have created an economic climate that has destroyed jobs instead of creating them.

Mrs. BOXER. Will the Senator yield?

Mr. DURBIN. I am happy to yield to my friend.

Mrs. BOXER. Would you keep the chart up. This is a shocking chart. This is not about politics or rhetoric. This is a fact. The fact is, we came off of the Clinton administration where 20.7 million new jobs were created, and we are at the end of the Bush administration and a loss of 1.6 million jobs. They will make every excuse in the book for it. The fact is, we have that kind of record, even though we are in raging deficit spending.

I am an economics major. Granted, it was a long time ago that I went to college and I got my degree in economics, but one of the things they taught us in economics 101 was that when you wanted to rejuvenate the economy—deficit spending. So here we have a President who is deficit spending, who has stolen every penny from the Social Security trust fund to pay for his tax cuts, throwing hundreds of billions—let's be exact, between \$120 billion and \$200 billion at Iraq with no end in sight to bear the burden of that war, let alone the human loss of life, and with all of this deficit spending we see a loss of 1.6 million jobs. It is shocking to see this type of record.

The President goes around with the music blaring, saying how great his economic program is, as my colleague pointed out, and all of these great new jobs that are being created. I want to ask my friend, for the jobs that are being created—and there are some, although it is very anemic—isn't it true that the average pay of those jobs is approximately \$9,000 less a year than

the pay of the jobs that have been lost? If my friend, in answering that question, could talk about what that means to families who have to pay the higher costs of health care, college tuition, gas prices, and all the things we need to pay for, it would be helpful.

Mr. DURBIN. I would be happy to respond to that question. I would say if you listen carefully, the President's regular response when asked about whether there is enough employment in America is: This administration will not rest until every American has a job.

The President better plan on staying up late at night, all through the night, for the next 3 weeks-plus of this campaign, because Americans are having difficulty finding jobs.

The point the Senator made is an important one. I have met with some of these unemployed people, many of whom worked for years, even decades, in good-paying jobs. They live in nice houses, their kids go to good schools, they had savings accounts, a car in the driveway—maybe two or three, vacations were planned. Then all of a sudden the bottom fell out. They lost the job. I met with them and listened to them about their desperate efforts to find another job. They are in a situation where they will take a lot less money for a job just to go back to work. The potential employer says: "Wait a minute, you are overqualified. Because you are overqualified we are not going to hire you because we know you'll take something better that comes along," so they can't get employed. But if they luck out and get one of the lower paying jobs, what will they have to sacrifice? Will it be their savings? Will it be the college education of their child? Will it be the home they live in? You can't tell what it means.

But if this President says he won't rest until every American has a job, he better stay up at night for a long, long time because we have lost more jobs under his Presidency than any President's since Herbert Hoover. For those who are not students of history, he was the President during the Great Depression, a depression which our parents lived through and will remember as the toughest time in their lives.

This President has created a climate in this country where the number of jobs is not growing. It did not have to be that way. Take a look at what happened under the Clinton administration. The Clinton administration was creating 2.6 million jobs a year. The Bush administration has been losing about 200,000 jobs a year.

You say to yourself, What was the difference? The difference was the Clinton administration put together a sound fiscal policy for America. It was not easy. In fact, it passed the House and the Senate—I served in the House at the time—by one vote in each Chamber. Vice President Gore cast the deciding vote. President Clinton did say that in his administration we are going

to take deficits seriously. I know the other party, the Republicans, say they are fiscal conservatives but we believe that getting the deficit under control is critically important if we are going to rejuvenate this economy and bring down interest rates and have more capital investment.

We did it. It was painful. Many Members of the House and Senate lost their seats because they voted for this plan. But it worked. As a consequence, under the Clinton administration jobs were created.

Now take a look at what this President has done. Claiming to be a fiscal conservative, this President now has us in a position where we have the largest deficit in the history of the United States. How can this be? The President will say, Don't blame me for 9/11. Don't blame me for the recession that was inevitable. Don't blame me for the war in Iraq. But the honest answer is he has to accept the blame for an economic policy that called for tax cuts during this same period, tax cuts primarily focused on the wealthiest people in America. That is what has been driving deficit numbers to a great extent. That is something for which you can blame the Bush administration.

Many of us believe a tax policy that would have helped smaller businesses, family farmers, and individuals struggling to pay the bills for their families could have put real juice in this economy, as the Senator from California suggested, rejuvenating it at the right level at a lower cost.

To give to a person making over \$200,000 a year another \$5,000 or \$10,000 or \$20,000 is gilding the lily. Their life is pretty comfortable. To give them \$20,000 more means more stocks purchased, more money invested. But it is not the same kind of expenditure as when you give \$5,000 to a working family which turns around and says now we can consider the downpayment on a car, we can get the washer and dryer, a little remodel job on the kitchen, we can put the money away for our son and daughter for a college education, we can make sure we are planning for a brighter future for our family. It is the difference between night and day.

There was a moment in a movie, which was controversial, called "Fahrenheit 9/11." President Bush was speaking to a group. I don't know where it was located. He was on film. He was in his tuxedo and the people all around him were in tuxedos, and he said something along these lines: Some people say you are the upper last class. They call you the wealthy. They call you the upper level. But I call you my base.

It was supposed to be a humorous line, but there was more truth than humor. The President has served his base well with his economic policies. He has said to those people who are well off: You are my first priority. His economic policies have been directed to help them, time and again, at the expense of working families, at the expense of the worst deficit in our history.

So we have a choice. We have a choice to make on November 2. More of the same? Continuation of this policy, risking more jobs lost, putting more burdens on working families?

Take a look at the long-term unemployment in this country. The long-term unemployment in 2000 was 649,000 people. Now it is almost three times that amount, 1.7 million people. Long-term unemployed, meaning they have tried and tried and cannot get back to work.

Take a look at who is better off because of the policies of the Bush administration. These charts tell you what happens here. The household income in America is down, under the Bush administration. If you think you are pedalling faster and not going any farther, this chart tells you why. You may be making a few more dollars, but the cost of living for working families has gone up.

How have the CEOs at the major corporations done under the Bush tax policy, the people making dramatically more money than the people working in the office and factory? The CEO compensation went up 20 percent. Take a look at the HMOs, the insurance companies that have been protected by this administration. Their profits have been up 84 percent.

Do you think you are paying more for gasoline today than you were 4 years ago? This is the chart: \$1.47 was the average price of gas in 2001. The average price of a gallon of gas in 2004 is \$1.92. And when we hear the price of a barrel of oil is over \$50, it may be a good thing for the oil companies, but it is bad news for American families and a lot of businesses.

Why are these airlines going into bankruptcy one after the other? I was on a plane the other day—United. At the end of the flight, as we landed, the flight attendant came on and said: Thank you for flying United. I know you had a choice of many companies that are in bankruptcy or near bankruptcy. That is what he announced to the passengers. Everybody kind of laughed, but it is a sad reality.

The cost of fuel, the cost of oil, and our dependence on foreign oil instead of an energy bill that moves us toward independence have left us vulnerable as an economy and left American families vulnerable paying for the bills.

Where is the leadership? Do we really need 4 more years of wrong decisions like these, decisions that would not challenge the Saudis and their oil supplies and instead say America is going to move forward to energy independence so we can't be held captive by OPEC and the Saudi Arabian oil cartel? That is the difference. That is the case.

We are suggesting there ought to be a better vision for America, and move us away from dependence on Mideast oil, move us toward an economic policy to give working families a fighting chance. You haven't seen it for 4 years.

Tonight, this administration through the President is going to try to justify some of the harsh realities.



Mrs. BOXER. Mr. President, will the Senator yield for a question?

Mr. DURBIN. Yes.

Mrs. BOXER. Mr. President, I ask unanimous consent that Senator REID be granted the hour which will come to me postcloture.

The PRESIDING OFFICER. Is there objection?

Mr. CORNYN. We object.

Mrs. BOXER. I ask unanimous consent that it be yielded to Senator DASCHLE.

The PRESIDING OFFICER. Is there objection?

The Senator has the right to give it to Senator DASCHLE under the rule.

Mrs. BOXER. I make that point.

As I listened to my friend in his usual way of kind of tying together the pieces and as we get ready to watch our Presidential candidate tonight, I am wondering if my friend is beginning to see a pattern by this administration which is kind of just coming in.

Mr. REID. Mr. President, will the Senator yield for a parliamentary inquiry?

As manager of the bill, am I not entitled to be given by the Senator from California 1 hour of time? As manager of the bill, as I understand it, I have the right to be yielded 1 hour of time by any Member.

The PRESIDING OFFICER. The Senator is correct and the Chair was in error, not realizing that Senator REID was the manager of the bill on this side of the aisle. The Chair apologizes to the Senator from California. She has a matter of right to give the hour either to Senator REID or Senator DASCHLE.

Mrs. BOXER. Mr. President, I might say that I am going to give my hour to Senator REID.

Mr. REID. Thank you, Mr. President.

Mrs. BOXER. I am sorry for the interruption.

As I hear the Senator from Illinois talk—and I think back to the first debate where I believe all of America now knows there was no plan for Iraq following the stunning military victory. There was no plan for after that military victory, and we are paying a heavy price. I have come to this floor and eulogized those being lost.

There is no plan for Iraq.

By the way, that was pointed out not only by Democrats such as Senator KERRY, Senator BIDEN, and Senator DODD, who sit on the Foreign Relations Committee, but also by Senators LUGAR, CHAFEE, and HAGEL, who also sit on that committee. There was no plan.

I am asking my friend, as we look at the disastrous factual statistics on this economy, whether he believes there really was a plan as to how we were going to continue the Clinton administration record on job creation, stem the loss of manufacturing jobs, and stem the loss of outsourcing jobs, which, shockingly, people in this administration say is good for our economy. Was there a plan? Was there a plan to make sure that health care pre-

miums would be affordable for our people? Was there a plan to lower prescription drug prices for our people through importation? Was there a plan for gas prices? My God. My friend put up a chart—\$1.81 average. People in California would be thrilled at \$1.92 a gallon. We are looking at \$2.30, \$2.40, \$2.20, \$2.50 a gallon. When the Senate voted in a bipartisan way to beg this administration to stop filling the Strategic Petroleum Reserve so we could put downward pressure on the prices, nothing has really happened.

To conclude my question, I am beginning to see a pattern of kind of a “flying by the seat of your pants” administration where there is no plan to make life better for people, whether it is our men and women in uniform in Iraq, whether it is our consumers, our middle-class families, working families, and all of our families in regard to health care and gas prices.

Could my friend comment on that bigger picture?

Mr. DURBIN. I would be happy to respond to the question.

First, Mr. President, may I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 21½ minutes remaining.

Mr. DURBIN. Mr. President, let me say to the Senator from California that she has really come to the heart of the problem. The President said in his first debate that being President was hard work. He said that over and over again. This is hard work. This is hard stuff. These are hard things to do. I don't doubt it. Being President of the United States may be the toughest job in the world. But sadly, the President, despite the hard work he has experienced, doesn't understand the hard work families have to go through just to make ends meet. If he were a little more in touch with these families and their own struggles, he would understand why we need a man or a person in the White House standing up for them and understanding the challenges families face every single day. And it hasn't happened.

The Senator from California mentions outsourcing. It is true. The head of the Council of Economic Advisers in the Bush administration sent a report to Congress saying that the outsourcing of jobs was a positive, a good result; sending jobs overseas was good. He explained that that would mean more competition and lower costs, completely overlooking the obvious. When a good-paying job leaves America, it is not likely the person who lost it is going to get another good-paying job, or get it soon. It is likely that that follow job is not going to have the same level of benefits for the person who just saw their job outsourced.

This administration plays by a strange economic textbook. That economic textbook calls for total free market forces despite the consequences. Even under this administration, the President has seen what the free market unbridled can lead to.

I put as exhibit A Enron. If you do not have a government through its President and regulatory agencies keeping an eye on some corporate activity as we keep an eye on individual activity, terrible things can occur—and they did occur in Enron, a business that defrauded a lot of innocent people out of their life savings, not to mention misrepresentations made in terms of the status of that business and the impact it had on so many other businesses. But this President steps back every time someone suggests that he needs to stand up to free market forces that are not serving America. He will not stand up to pharmaceutical companies that are overcharging Americans. He wouldn't let the Medicare agency bargain for lower prices. No. Let the free market work its will. The free market is working its will at the expense of a lot of senior citizens and families who can't afford their prescription drugs.

Did the President get on the phone as he promised as a candidate and call the OPEC cartel when they were holding oil off the market and driving up prices in America? No. Let the free market work its will. You know what happened. Gasoline prices have gone through the roof, airline fuel prices have gone through the roof, and America's economy has suffered. More jobs are being lost, more airline employees are being laid off, and we see businesses dependent on fuel struggling across America.

When it came to a tax break, did this President take into consideration that the cost of a college education is going up more than 20 percent a year in many institutions and that families with bright students who want the best chance in life just can't imagine their son or daughter graduating with \$100,000 in debt and a diploma? Did the President think about that when he decided to look at the Tax Code to help families? No. No, there was no provision in there for the deductibility of college education expenses. The President said to let the market work its will at the expense of many of these families.

Langston Hughes once referred to the group of people that I am talking about. He called them “people for whom life ain't been no crystal stair.” He was a person who understood that people get up every morning and struggle—struggle to keep their family together, struggle to make ends meet, struggle to try to believe that their kids will be better off than they are. These families would like to believe there is somebody someplace in Washington who cares, someone who understands we are headed in the wrong direction in this country in so many instances.

We are losing jobs. We are seeing important jobs outsourced. We are seeing our deficit at record levels. These are the harsh realities.

The Senator from California says it does not appear that this administration has a plan. In many instances, it

does not appear this administration has a clue. It is as if the President, with those auditoriums filled with thousands of fans, does not take the time to step outside the auditorium and talk to an average family about what they are going through as their cost of health insurance goes up and the cost of living goes up as well.

## IRAQ

I will use my remaining time of morning business to speak to the other issue brought up by the Senator from California. That, of course, is the situation in Iraq.

We had a report through the Senate Intelligence Committee and Senate Armed Services Committee this week from Mr. Duelfer who went back to Iraq and for the second time spent months and millions of dollars to look for weapons of mass destruction. He came back and told us they are not there. We cannot find them.

Think about that. Think of how often President Bush, Vice President CHENEY, Secretary Rumsfeld, Secretary Powell, and others told us we were in imminent danger from an attack from Saddam Hussein because of arsenals of chemical and biological weapons and the rebuilding of the nuclear weapons in Iraq. That was the justification. That is why we had to invade. That is why we could not wait. And it was all wrong. Totally wrong.

Now comes the administration saying, no, it was not really about weapons of mass destruction, despite the fact they said that then over and over again. It was the fact that Saddam Hussein could not be trusted and was an evil man. It was about the fact he may have had the desire—the new word, “desire”—to build weapons of mass destruction and it really was about the Oil for Food Program in Iraq.

Really? Go back and check the tape on statements made by the President as to why we had to send our Armed Forces into harm's way. The statements made by the President do not quibble: weapons of mass destruction, yellow cake, uranium coming into Iraq, linkage between al-Qaida and those who were responsible for September 11, al-Qaida and Saddam Hussein.

Now, today, that evidence, that case, has evaporated. It is gone after millions of dollars have been spent desperately trying to find evidence of one weapon of mass destruction.

Trust me, those who are following this debate, had this administration found a tiny shred of evidence of weapons of mass destruction, it would have been front page news around the world. They could not find a thing.

The intelligence was bad. The reasons for going to war, given to us by the President, was just plain wrong.

Where are we today? Mr. President, 140,000 of our best and brightest, our soldiers, marines, our airmen, those in the U.S. Navy, our guardsmen and reservists, got up this morning in Iraq and went to do their duty and risk their lives for America. Over a year

and a half after our invasion of Iraq, there is no end in sight. They say we hope someday soon to have elections. We are not quite sure how much of Iraq will be safe to vote. We hope to have an election and we hope to have the Iraqis take over. Those are two good goals. I hope we can reach them.

But we have to acknowledge the obvious. This administration was not prepared for the war in Iraq. They were prepared for the invasion. Our troops did a masterful job in a very short period of time. But this administration was not ready for what followed. Isn't that the most basic thing to ask of a Commander in Chief? Don't send my son or your son into battle unless you are prepared to give that soldier everything they need to be safe, to win, and to come home. This administration was not prepared.

I know that because for the last few months I have spent time on behalf of Illinois soldiers, demanding they have body armor to protect themselves in Iraq, one of the most basic things one would think we would provide, demanding we have armor plating on Humvee vehicles so as they travel across Iraq they do not fall prey to the homemade bombs and rocket-propelled grenades, demanding we put the necessary defensive equipment on helicopters so we will not have Guard and Reserve and Regular Army helicopters shot out of the sky because they were not properly equipped.

Why would I be doing this, a year and a half after the invasion, after giving the Bush administration every single penny they asked for to execute this war? I am doing it, and many others in the Senate and Congress are doing it, we are doing it because this administration was not prepared for the war in Iraq.

The losers are over 1,000 American soldiers who have lost their lives, and the 7,000 bravely wounded. I have met many going to a veterans hospital, Jefferson Barracks, right outside of St. Louis, meeting a young soldier, quadriplegic as a result of injuries sustained in Iraq; going to Walter Reed Hospital to meet these brave young men and women who have lost an arm, a leg, both hands, suffered head injuries. They are there with their families trying to put their lives back together, still proud of their service to this country, as they should be.

But as you walk away from the hospitals, you think we could do more. We should have been ready. We were not ready. But we could not wait. We could not wait for the U.N. inspectors to finish. We could not wait for a real coalition to come together—taking nothing away from the coalition we have, let's be honest. When you pick up the morning paper, the casualties, the soldiers who have lost their lives are overwhelmingly American soldiers. I am glad the Brits are with us. I am glad another 30 nations have given us some assistance in this regard, but when it comes to putting lives on the line in

Iraq every single day, trust me, it is America front and center. And it has been for a long, long time.

When it comes to paying for this war, it is the American taxpayers front and center. We have spent over \$1 billion a week on the war in Iraq and there is no end in sight. We appropriated almost \$20 billion to start rebuilding Iraq and we are not spending it. Why? It is a vicious circle. Let me tell you what it is.

You cannot stabilize Iraq until you move the economy forward. You cannot move the economy forward until you build basic infrastructure such as electricity, and you cannot build basic infrastructure if you have insurgents and terrorists and guerillas blowing up everything you build. This vicious circle suggests there is no end in sight.

So the President has driven our national bus into a cul-de-sac and now challenges Senator KERRY to explain how to get out of this mess. A lot of us think that even giving the President the authority to go forward, he should have been prepared. He should have known what we were getting into.

Ambassador Bremer said, within the week, we did not send enough troops there. Had the right number of troops been sent at the right time, it could have been a more peaceful environment, but instead it is dangerous and American soldiers are still living in fear of what is going to happen from day to day.

At the same time, we turned our back on the obvious target, Osama bin Laden. I went to Afghanistan in the first codet with Senator DASCHLE, the first daylight codet that was allowed into Afghanistan, to Bagram Air Force Base, to a closed briefing by our intelligence agents about Osama bin Laden. They put up this huge aerial photo of the Tora Bora Mountains and they drew a tiny circle on the map. They pointed to all Members of Congress and the Senate and said: This is where Osama bin Laden is and we are going to nail him. This tiny circle.

I left there thinking, great, that will break the back and the morale of this terrorism network of al-Qaida. But it didn't happen. The Bush administration did not execute it well. They did not bring in the troops. They did not capture Osama bin Laden. He is not only still on the loose but al-Qaida is spreading like a cancer across the globe.

Where is our coalition to fight al-Qaida? It is the coalition that was stiff-armed by this administration when it came to the invasion of Iraq, when the President said, We will do it alone. We do not need you. Bring it on.

Remember when the President said, “Bring it on”? Well, they brought it on and, sadly, we have a lot of soldiers who have sacrificed so much for their country because of it.

We need to turn this corner. We need to have a new vision. We need to have a leader who will reach out to the world and reestablish America as a leader willing to work with others, not

that any country should ever have veto power over our national defense. That is our call. That is our decision.

But we know, as President Bush's father knew, that it is a coalition of nations that makes us stronger. When we decided in the Persian Gulf war to bring Arab nations and their soldiers into that war as part of our coalition, it did not just add more soldiers in the field, it added an element that is missing in this war in Iraq.

Why are we being criticized so roundly in Arab States? Because we went into Iraq without waiting for those who could and would have helped us. This President could not wait, and now our soldiers are paying the price. I hope the American people make a decision to move forward with a new vision for this country, not to repeat the same mistakes again and again.

We have made mistakes when it comes to our economic policy, and we have paid a dear price for it. We have made mistakes when it comes to our agenda in Congress. We do not take up the serious bills that America's working families expect us to take up. We have generated the biggest deficit in the history of the United States to leave our children. We have the costs of war that are over \$1 billion a week, and no end in sight. And, sadly, we are still losing our soldiers.

I was on the phone yesterday, as I have tried to so many times, to call the families of Illinois soldiers who have died overseas. I have not been able to get through to all of them, and I can understand some of them just don't want to take phone calls. That is understandable. And each and every one of them is a profile in courage. They are so proud of their son or daughter who has lost his life or her life in Iraq, and they are proud they served their country. I am, too. But I also want to take some pride that we have policies that are going to reduce the likelihood that more soldiers will end up losing their lives.

This administration has been in total denial about the reality of the threat in Iraq, total denial about the reality of what continues as a war in Iraq, total denial when it comes to understanding that we have lost a worldwide coalition that stood by our side after 9/11 and now wonders why the United States wants to go it alone.

I want to make certain, as I end these remarks, that we understand that in this great Nation we live in, we do have a chance to make a choice. And that chance will come on November 2.

Mr. President, it is my understanding that as part of my unanimous consent agreement, that when I finish and yield the floor, a quorum will be questioned.

The PRESIDING OFFICER. The Senator has to actually suggest the absence of a quorum.

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

Mr. DURBIN. I object.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

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

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

Mr. REID. Mr. President, the Senator from Texas wishes to speak for 20 minutes as in morning business. The time will count toward the 30 hours. Following that, Senator DURBIN, who has already used his hour, or his designee, would be recognized for 20 minutes to speak as in morning business. That time would also count against the 30 hours. That is the request for which I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

The Senator from Texas.

Mr. CORNYN. Mr. President, can I ask the distinguished Democratic whip if from the 20 minutes allotted to our side I could consume 10 minutes, and then Senator TALENT be recognized to speak for 10 minutes, and then Senator DURBIN be recognized for his time?

Mr. REID. Absolutely. And that following Senator DURBIN, or his designee, we will return to a quorum call.

The PRESIDING OFFICER. Is there an objection?

Hearing none, it is so ordered.

The Senator from Texas.

AMERICANS ARE STRONGER, SAFER, AND BETTER  
OFF

Mr. CORNYN. Mr. President, I was sitting in my office watching on television the proceedings in the Chamber, and I was inspired to come to the Chamber to respond to some of the comments I heard on the Senate floor. I expected to be watching debate about reform of the oversight that this body provides for the intelligence community and homeland security but instead watched what appeared to be part of the Presidential campaign playing out here on the Senate floor.

I just want to respond to some of the things that I heard, and not at great length. But I think in fairness to the American people they should not be fed just one side, which I think is fraught with inaccuracies. So I think a few facts are pertinent.

First of all, I would say that after listening to the distinguished Senator from Illinois, you would wonder why in the world anyone would want to live in the United States of America today because things are so bad we might as well give up and depart for somewhere else. And you may have noticed, Mr. President, people are not knocking

down the door to leave the United States of America because somehow we are no longer the land of opportunity and freedom and hope.

Indeed, just the contrary is true. People are literally dying to get into the United States by any method they can because they recognize that America still is the last best hope of freedom-loving people anywhere in the world.

For example, we heard some very dire statements made about job figures. Well, it just so happens that since August 2003, we learned today, 1.9 million new jobs have been created in the United States of America—1.9 million new jobs. That is not because the Government created the jobs, but it is because Government created the conditions that allowed the risk takers and the hard-working people all across this country to create jobs, by investing and building opportunities for those who wanted to find work.

Now, the truth is, as we all know, we came out of a very difficult time at the beginning of President Bush's first term in office when he started his Presidency because during the end of President Clinton's term we were going through a recession. The recession had just started then. Then we know that the terrible events of 9/11 followed on shortly thereafter, with tremendous negative impact on our economy in addition to the terrible loss of human life.

Then there were the corporate scandals at the highest level of corporate America which caused the public to lose confidence in the marketplace.

Thanks to the efforts of this President and this administration, this Congress, thanks to the fact that we lowered taxes for hard-working men and women, it allowed them to save more, invest more, and for small businesses to create more jobs. Indeed, we are coming back with 1.9 million jobs being created since August 2003.

If we had agreed with our colleagues on the other side of the aisle about what course to take, the recovery would have been killed in its infancy because their solution was to raise taxes, not to lower taxes and let people keep more of what they earn. Yet what they want to do is play the card of class warfare and accuse this President and this administration of favoring part of the population, the wealthiest, over the rest of America.

The fact is, the tax cuts that were passed by this Congress affected every taxpayer, lowered the tax rates for even those of the most modest means, and are responsible for creating 1.9 million jobs.

We continually hear criticism about this President's policy in Iraq and in the global war on terror. Our colleagues on the other side of the aisle have a short-term memory because the only reason we took Saddam Hussein out of Iraq, as the bloodthirsty dictator that he was, and put him in a prison cell, is because of the authorization of this Congress. An overwhelming

majority of the Members of this Congress, of this Senate, voted to authorize the use of force in October of 2002, to enforce U.N. resolutions which Saddam Hussein had defied since 1991.

I was at the same Senate Armed Services Committee where Mr. Duelfer testified a couple of days ago. While he confirmed that the intelligence the President relied on and this Congress relied on with regard to weapons of mass destruction proved not to be correct—and we are working in this bill to correct those deficiencies in our intelligence gathering and analysis capability—he did confirm Saddam Hussein had corrupted the Oil for Food Program, was evading sanctions, chased the inspectors out of his country because he didn't want them to know he was in the process of rebuilding his capacity to rearm himself with weapons of mass destruction as soon as those sanctions failed.

Indeed, former Ambassador Paul Bremer, who served as the head of the coalition efforts to rebuild Iraq, said:

The president was right when he concluded that Saddam Hussein was a menace who needed to be removed from power. [The president] understands that our enemies are not confined to al Qaeda, and certainly not just Osama bin Laden, who is probably trapped in his hide-out in Afghanistan. As the bipartisan 9/11 commission reported, there were contacts between al Qaeda and Saddam Hussein's regime going back a decade. We will win the war against global terror only by staying on the offensive and confronting terrorists and the state sponsors of terror—wherever they are. Right now, Abu Musab al-Zarqawi, a Qaeda ally, is a dangerous threat. He is in Iraq.

I hope those who listen to the debate and the politics of this season and the attempt to score political points by criticizing this Nation's policy with regard to the global war on terror understand exactly what is going on. We are in the silly season, where sometimes the statements being made in pursuit of scoring political points stray way too far from the facts.

The fact is, America is stronger and safer and better off as a result of President Bush's leadership and as a result of the leadership of this Congress. We have created opportunity for more Americans. America is more secure than we were on 9/11. We are constantly working, including here today, to make it safer. We have created 1.9 million jobs since August 2003 as a result of the policies of this Congress and this President. If we had accepted the rationale of our colleagues across the aisle and raised taxes and let spending run amok, then we would still be in very dire straits, indeed, and not on the road to recovery.

I yield the remainder of the 20 minutes allotted to our side to the Senator from Missouri.

Mr. TALENT. I thank the Senator for yielding.

Mr. President, how much of the 20 minutes remains?

The PRESIDING OFFICER. The Senator from Missouri has 11½ minutes.

Mr. TALENT. Mr. President, if the Senator from New Jersey would agree, I ask unanimous consent for an additional 5 minutes, and I would, of course, agree that he could have an additional 5 minutes, if we could modify that previous unanimous consent request.

Mr. LAUTENBERG. Speaking for our side, is the Senator asking for 5 minutes from our remaining time?

Mr. TALENT. No, 5 minutes in addition to my 11 minutes, and then my request would be that you would have an additional 5 minutes, for a total of 25.

Mr. REID. Parliamentary inquiry, Mr. President.

Mr. TALENT. Under the same parameters as the unanimous consent request of the Senator from Illinois, I ask to extend the 20 minutes to 25 minutes on each side. I think I can do what I need to do if I have about 15 minutes.

Mr. REID. As I understand, the Senator from Missouri would be recognized for 15 minutes, and Senator DURBIN or his designee would be recognized for 25 minutes.

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent that Senator LAUTENBERG be the designated substitute for Senator DURBIN.

Mr. TALENT. If the Senator from Nevada will yield, it is only a minute, but a minute is a minute. I think I had 11, so an additional 5 would be 16 minutes.

Mr. REID. And further, the consent agreement said that following the statement of Senator DURBIN or his designee, we would return to a quorum call.

The PRESIDING OFFICER. That is correct.

Without objection, it is so ordered.

The Senator from Missouri.

Mr. TALENT. I thank the Senator from Nevada. I don't mean to quibble over a minute. On the other hand, the Rams would probably have won the Super Bowl a couple of years ago if they had had another minute, so one never knows.

Mr. REID. Mr. President, if my friend would yield, those of us who served in the House know how important a minute is.

Mr. TALENT. And the Senator knows, I also served in the House and came from there more recently than he did. I do guard my minutes jealously.

Mr. REID. In the House, how we got to speak was, we were entitled to 1 minute a day. We were always guaranteed 1 minute a day. But most of the time that was all we got all week long, that 1 minute a day.

Mr. TALENT. The Senator has had a similar experience as I have. Having prepared a nice set of remarks on issues about which he feels passionately and gone to the floor manager in the House and asked how much time he could have and being told: Well, a couple of other people have expressed a desire for time; how about 90 seconds.

The PRESIDING OFFICER. Speaking from the Chair and the observation of

the Chair, I never served in the House, and we might observe the same rules here some days.

Mr. TALENT. I thank the Senator from New Jersey and the Senator from Nevada for their flexibility. I will proceed with my 16 minutes as best I can.

Mr. President, I share the observation of the Senator from Texas that our friend from Illinois is certainly very angry and seems to be rather negative about the prospects for America. He would probably say he is negative about the administration, but he seems to describe an economic and foreign policy picture that is very bleak. I don't think it reflects reality or what most Americans believe is reality. I am certain it does not reflect the views or the policies of the administration.

I do think it is important to get some of these charges correct. I don't have time to go through everything. I want to talk about a couple of things that have interested me. I don't generally get up here to participate in these debates that are clearly part of the Presidential campaign. I am here to try and do things. I have an agenda I am trying to accomplish, and others share it.

I was distressed when the Senator from California referred to some of the remarks of the Senator from Utah and said: Talk about flimflam, talk about misleading the seniors.

That was with reference to the Senator's comments regarding the Medicare prescription drug bill, which I happened to rather like and I supported. It is already helping thousands of Missouri seniors, and I don't think that is flimflam. I will get to that in a minute.

The Senator from Texas correctly pointed out that when the whole issue of jobs lost over the last few years comes up, it is important to keep in mind, before blaming President Bush, that President Bush was not in office when the recession began. Americans all across the country understand there is something called a business cycle, an economic cycle in the country. I don't tend to blame Presidents for recessions. I blame them if they have long-term policies that depress the economy over the long term.

I agree with the Senator from Texas, if you want economic growth—and we should all want that because we cannot do anything we want to without growth; we cannot fund education, we cannot have good health care, or a strong defense, and we cannot have retirement security without growth.

How do you get growth? Our Democrat friends believe you get it by raising taxes on people. What the Senator from Illinois said—they didn't used to think that. There was a time not so long ago when there was a bipartisan agreement that, if you wanted growth, one of the things you did was cut taxes. That is not some kind of modern conservative philosophy. That is what John Maynard Keynes thought; that is what FDR thought; that is what LBJ and JFK thought. But they don't believe that today. They are entitled to

their beliefs, but they are not entitled to blame President Bush for a recession that was in effect and had started before he assumed office and was magnified by events over which he had no control—the attack on 9/11 and corporate fraud.

I don't blame any President for that either, but it didn't happen on President Bush's watch. He took steps to get the economy moving. He proposed a tax cut, which we passed despite the opposition of many—although not all—Members of the other side of the aisle. He proposed tort reform, restrictions on abusive lawsuits, which I think is the most important thing we can do to get the economy going. That was filibustered by the other side. You can filibuster if you want to, but you cannot filibuster and then blame somebody else for not getting things done.

You heard from the Senator from Illinois that energy prices are too high. I am on the Energy Committee. It is one of my priorities to get energy prices down. We put together a really good Energy bill. We got it all the way through the process, with one vote left. We could not take that vote. Do you know why? It was filibustered. Is it President Bush's fault that the Energy bill was filibustered—a pro-production, pro-jobs, pro-growth Energy bill?

Many Members on the other side joined us in trying to defeat the filibuster, but there were not enough. We lost three-quarters of the other party. Senator KERRY voted for the filibuster.

Iraq. We hear over and over again that there was no reason, no plan, no coalition. There was a reason and it goes back to 1991. I remember during the 1990s, when people criticized the first President Bush because he didn't get rid of Hussein. He was trying to appeal to the U.N., and he left Saddam Hussein in power.

I was in the House all through the 1990s on the Armed Services Committee. This man and his regime was an organic threat to the interests and security of the United States of America. Everybody saw it. He had attacked his neighbors twice, lobbed missiles all over the country. He used weapons of mass destruction on his own people. We cannot permit an anti-American tyrant to take control of that part of the world.

I believe very strongly that President Clinton was moving toward a resolution of that when he left office. Look at the statements he made then and the statements he has made since then. Even if there had not been a 9/11, we would have had to do something about Saddam Hussein and, no, we could not wait longer. How long are you supposed to wait? At what point do arguments in favor of waiting really become just a disguise for doing nothing and not wanting to admit it?

No plan. The plan was to remove Saddam Hussein and replace him, with the help of the Iraqi people, with a liberal democracy that would be an ally against terrorism. Saddam Hussein is

gone. We have had the provisional convention. We have a provisional government in place. We are going to have elections in January. Prime Minister Allawi stood on the dais in the House and said that. He also said: We are going to stand with you. He said—I remarked on this—"as you have stood with us, we will stand with you in the battle against terrorism."

No coalition. Look, this kind of a military effort, no matter where it occurs, and whether the U.N. supports it or not, is going to be 95-percent led and executed by forces of the United States of America. In the air war in Bosnia, which everybody supported, even though there was no U.N. resolution in support of it, 95 to 97 percent of the airpower was American.

There is one very important coalition partner—the Iraqis. It is incorrect to say that 90 percent of the casualties have been American. We have taken casualties, but they are taking them too, and they will take more and more as they assume responsibility for this war.

The Medicare prescription drug bill. The Senator from Illinois says it is a terrible political conspiracy on the part of the President to delay the full implementation of the bill until after November 2004. Nobody's proposal would have been implemented before November 2004. I didn't like that. I complained about that. I thought, well, in 1965 they did the whole Medicare bill in 8 months. Why does it take so long to set up one new feature? Everybody believed that. There were not any of their proposals that would have taken effect before November of 2004. I don't like that, but that is not a political conspiracy. I don't know if the Senator from Texas heard that. I had not. You cannot bargain.

Look, this is the reason for the Medicare prescription drug bill—and I have 200,000 senior citizens in Missouri who have no insurance for their prescription drugs. They are paying not only out of pocket, which is the first thing that is wrong, but they are paying the highest price because when they walk into the pharmacy, it is them against the big insurance companies. The whole idea is to get them into a pool because if you are part of a big pool, you have economies of scale and prices will be lower. That is what this bill does. I don't have time to go into length on this issue.

The bargaining with the prescription drug companies is going to be done by the organizations that put the pool together—like we have discount cards, one, for example, that AARP puts out, and AARP bargains with the prescription drug companies and you buy the AARP discount card and you get the discount. People are getting that discount today.

If I go to the car dealer and buy an automobile, I may bargain with the dealer about the price of the car. I am not going to bargain about the price of the tires on the automobile. That

doesn't mean there was no bargaining over the price of the tires; it means the automobile manufacturer did it. The difference between us and them on this—and it is a legitimate difference—is they want a one-size-fits-all, Government-dominated program where the Government would directly do the bargaining with the drug company.

There are worse things than that. We thought ours was better. We wanted a number of different options for seniors, where the people who organized the options would bargain with the prescription drug companies. It is a difference of philosophy because they are more trusting of the Government than we are. It is not some kind of conspiracy with the drug companies.

How much time do I have left?

The PRESIDING OFFICER. The Senator has 6 minutes 32 seconds.

Mr. TALENT. I think I can do it in 6 minutes.

This is the reason I got up. President Bush actually has a plan to lower health insurance premiums. It is a pretty good plan. It is my plan. He kind of got it from me and Senator SNOWE and Senator BOND and a couple of us over here, those of us who have worked on this since 1997 when I was in the House. I don't like people saying my plan is not a plan.

President Bush wants two things. He wants medical liability reform—reform of frivolous lawsuits in medicine. In Missouri, they know about this because we are losing doctors because malpractice insurance premiums are going up due to a problem with frivolous lawsuits.

The Senator from Texas told me they just passed a bill to reform that and their health insurance premiums are going down substantially, and I know this is happening all over the country. If you cut that risk of the frivolous lawsuits, where people are recovering many more times the value of actual injuries, insurance premiums will go down. President Bush wants that. We didn't get that here because it was filibustered. His opponent in the election supported the filibuster.

How can you say he doesn't have a plan? You can say you disagree with the plan if you want—you filibustered it. The plan I have that the President supports is called the association health plan.

Most of the people who do not have health insurance in the country are working people. They work for small businesses or are farmers. They cannot get health insurance because it is more expensive to buy health insurance as part of a small group than it is as a big national pool.

There is a reason everybody else who has health insurance, except people who work for small businesses, get in as part of a national pool. Think about that for a minute. You work for a big company, you are part of a big labor union plan, Medicare, a national pool, Medicaid, a national pool. You are a Federal employee, retired Federal employee, retired military, you get it as

part of a national pool because there are economies of scale to insuring a large group. Administrative costs are less, and the bargaining power is more. You get more for less. You get better quality health insurance at less cost and no sacrifice of access or quality.

What I would like to do and the President would like to do is allow small businesses to do the same, to get health insurance through their trade association, so that my brother—and I have mentioned him on the floor before—who has a little restaurant in St. Louis—and I encourage anybody within the sound of my voice to patronize it; great hamburgers, Mr. President—he would like to get health insurance for his people as part of a big group. He would get it then. He is an employee of his corporation, his little business. He has to buy it on the small group market. But what if he could join the National Restaurant Association and become part of a 10-, 20-, 30-person pool and get health insurance on the same terms as if he worked for Anheuser-Busch headquartered in St. Louis or Hallmark headquartered in Kansas City. The health insurance premiums would go down 30 percent, at no cost to the taxpayers because it is not a Government program. It empowers small businesses to do what big businesses can do.

We hear over there how they do not like big business. They are not supporting this. It has passed in the House year after year with bipartisan support. The President supports it; his opponent does not.

Mr. President, look, there are differences between President Bush and Senator KERRY. The nature of our elections, unfortunately, is our candidates—and I can assure voters of this—are never as bad as they make each other out to be. They are both better people than you would believe from the commercials, but there are big differences of opinion. And I am proud of the fact that with the support of many people on the other side of the aisle, my party in leading this Congress and my party's leader at the White House has proposed a series of measures that empower small businesses and farmers that create jobs, that lower health insurance costs in innovative ways that will not cost the taxpayers a lot of money, that has built up our defenses, has taken the fight to the terrorists and has stood with respect but clearly for the commonsense cultural values of this country.

I would say in each of those areas, there is a big difference between my party's nominee for President and the other party's nominee, as much as I respect him and as often as I have worked with him on various issues in the past. With the greatest respect to the Senator from California and the Senator from Illinois, that "ain't" flimflam. That is not misleading anybody. That is the way it is. If we are going to debate out here on the floor

regarding the Presidential election, we ought to at least get it right.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

IRAQ

Mr. LAUTENBERG. Mr. President, I will use our time to discuss a couple of subjects, one of which relates to the present debate or dialog, and that is the position of our respective parties on behalf of the interests of the American people. After that, I will talk about the terrible attack that took place in Egypt against a group of Israelis and what the world is saying about events such as that.

First, what we heard in the debate a little while ago was the fact that the reason, as I heard it—and I am willing to be corrected if wrong—that one of the reasons we went to war in Iraq was a resolution that was passed in this body, in the Senate—talking about the resolution that was passed in October 2002—giving the President authority to send our troops to Iraq. That hardly was the reason we did that.

We did not mandate in this body that we go to war. What we said was: OK, Mr. President, if you know about those weapons of mass destruction, and if you know that al-Qaida has a presence there, and if all of these threats are directed at world peace and a threat to the security of the United States, we give you permission, we give you support to send them.

We never relinquished our support for the troops in Iraq, nobody here, not even the most tranquil of the personalities. Everybody said: Take care of our troops. Senator JOHN KERRY stood up and said: Take care of our troops.

I was not in the Senate at that particular moment, but I have been back here again since the beginning of 2003. There was never a moment when it was suggested that we would not support our troops and their needs, the basic things.

So when we were told that all these threats were there, that we have to do it to protect ourselves, that 9/11 was fresh in our memory, that we felt we had to get out there before we had another 9/11 thrust down our throats that would kill more Americans, we said: OK, let's do it. Let's go ahead and make sure that we wipe out these things that menace America's population, that menace American citizens.

That was the reason we did it. Then we found out that we were duped. That is what happened. We were fooled. We were misled, and now everybody knows it. Yes, Senator JOHN KERRY had the same information President Bush had. The fact is, Senator JOHN KERRY did not manipulate the information, did not make sure that people were identifying tubes and pipes as part of the threat that Iraq raised to us and to world peace.

Much of that was, if not fabricated, tainted, biased. Some of our most distinguished Government servants, our

distinguished Secretary of State Colin Powell, made such a convincing argument in front of the U.N. and in front of the world at large about where these weapons were stored, how they were transported, and so forth. And all of us—I speak for myself—have faith in Secretary Powell, a distinguished soldier, great statesman, brilliant man, honest—honest. He later on said in a public release that he, too, was deceived by the information that he received.

Now when we try to suggest that we were parties to the origination of this war, it is an outrage. I felt, too—and I was not in the Senate, but I said it publicly, people were still hearing me occasionally—that I supported the thrust to go to war in Iraq because of the ominous reports we had.

It was not that we wanted to throw American lives in there. We are now about to deploy some 1,500 Guard people from New Jersey. I hope that tomorrow I will be able to be there to wish them well when they depart New Jersey. It reminds me of a long time ago when I also was transported out of New Jersey to a ship up in Massachusetts so I could go to Europe during the war. I want to be there tomorrow. They are all concerned. They are frightened. The families are frightened. Their spouses are frightened. Their kids are frightened. We are in a mess, we are in a quagmire, and the world is looking at us and listening to the messages that say we are doing well, we are prepared for the Iraqi takeover fully for the next election.

We hear, well, maybe the next election cannot be held as we thought it might be in the whole country, maybe only part of it, maybe just the part that we think is friendly.

The assertion when Prime Minister Allawi was here, the interim Prime Minister who made his speech at the joint session, that we should be assured—I heard President Bush say we should be assured that things are on the right track. In other words, do not believe what one sees in front of them. No, no. Listen to what we tell people coming from the administration. Listen to the fabrications. Listen to the stories about Senator JOHN KERRY's lack of courage, unwillingness to support the troops. There is an unwillingness that stands largely in our sight about an unwillingness to serve when the country was sending its people to Vietnam, where 58,000 of them perished on the battlefield. For Vice President CHENEY, he said, and I quote him, I think—if I do not quote him, I am sure about the general content of what he said, and that is: I had other priorities. He received almost a half dozen deferments.

President Bush's service, yes, I know, it was 30 years ago, and what does it matter? It matters because it shows character. That is what it does. It shows character. President Bush did not want to be over there where the fighting was tough, where one's life



might be at risk. No, no. He managed to have a sweetheart duty and never went to war when he could very well have, with the bravado that is now exhibited. He could have gone to war and stood alongside people like JOHN KERRY and Max Cleland, those who paid a price for their loyalty to country.

I saw a commercial running on TV this morning. I found it shocking. Widows, apparently, whose husbands perished in the Korean War were saying they did not trust JOHN KERRY's judgment because, why? It is because the Bush administration and the political operation there has succeeded in poisoning the minds of Americans.

Do not believe the fact that Senator KERRY got three Purple Hearts, deservedly, oh, no. They want to make the judgment from the White House. Those judgments were made by the medical department of the U.S. military, and they were confirmed by the highest authorities in the military.

The medals for valor, the Bronze Star and Silver Star—I served in Europe during the war and I know what it took to get those medals. It took heroism. I did not get one of those medals. I did my job the best I could. But JOHN KERRY earned his medals, and they are being questioned to try to show he is unpatriotic.

The fact that he rebelled against the purpose of the war in Vietnam after he served, boy, what kind of backbone that takes. The man knows the policy is wrong, and it turned out to be wrong, and it turned out to be a terrible loss of life, but he fought the battle. He exposed himself to danger, to death. He did it. What kind of courage that is. That is not the kind of courage we saw from a young George W. Bush, not at all, or from Vice President CHENEY. I think Attorney General Ashcroft also had a few deferments. There is a list of them.

I think the race against former Senator Max Cleland, who lost two legs and most of an arm and struggles to get out of bed every day and do what he has to—he is a courageous man and he lost because he was portrayed as soft on defense. He was portrayed as soft on defense by those who also had Vietnam deferments.

The country was in a rage, with demonstrations all over the place, but JOHN KERRY took up the challenge and went to war.

So now when I hear these spurious assertions that one cannot trust JOHN KERRY, well, I will say, if I was lost in the woods and had a choice between JOHN KERRY or George W. Bush getting me out, I know JOHN KERRY can make a decision. I know he can find his way. I know he can survive when the going is tough. I know he had the guts to reach into the water to pull out one of his companions who was likely to drown and saved his life. The man says so all over the place.

I think the country would be far better off if we followed JOHN KERRY's courageous character and tried to find

a way out of the mess. We are almost a year and a half after President Bush declared the mission was accomplished. It is almost 18 months ago but more importantly it was more than 800 lives ago. We have now lost over 1,000 people and more than 800 of them since May of a year ago, and they are still trying to portray what the President said as gospel: mission accomplished.

He said, bring them on. Boy, that one got to me because I know what it is like to be worried about the enemy. They shoot at you. Bring them on? I never wanted to see a German uniform. I can say that. I never wanted to see more of the enemy. I wanted to make sure I did my duty. I wanted to make sure that I got through. I wanted to make sure I got back to my widowed mother and my kid sister. That is what I wanted to do. So we never said, bring them on. I have never heard of another Commander in Chief say, bring them on.

I do not want to elongate this discussion, but I must say when I see these character assassination ads that run on television regularly, I do not hear them talking seriously about the job recovery, no, no. Some jobs are newly created but not as many as we lost.

They talk on the other side about how JOHN KERRY is going to raise taxes. Outrageous, the thought that he had voted to increase taxes. No, they would rather vote to increase the deficit and to increase our indebtedness. That is what they want to vote for. Let America owe so much money that we may one day tip the world's economy into a recession mode. That was said by former Treasury Secretary Bob Rubin, a very reliable voice. Both Republicans and Democrats had faith in Bob Rubin. He said if this indebtedness continues to grow, we could upset the world's economy, not just ours. And I believe it. Anybody who has ever been in business, anybody who has ever paid bills, anybody who has ever lived in a serious adult life knows that indebtedness is a killer. But the administration managed to turn things around. It wasn't my doing, I can tell you. I tried to help. When I left here, we were having surpluses, a couple of hundred billion dollars in surplus with forecasts of a \$5 trillion surplus at the end of 10 years. That has turned around. Instead, we expect about a \$7 trillion deficit after 10 years.

We have managed to take this economy and turn it on its ear, borrow from Social Security, threaten Medicare with insolvency in 15 years. By 2019, the expectation is that Medicare will go belly-up at that time. Social Security? We are borrowing everything available there. Why don't we tell the people the truth? Why don't we talk about those issues in depth?

In the debates coming up tonight and another one next week, I hope the focus will be on what kind of plans each of the candidates has. What kind of plans has President George W. Bush for getting us out of Iraq? What kind of

plans does he have for getting this economy back into surplus performances year after year? What kind of plans does he have to fulfill the obligation he took on with the Leave No Child Behind Act? It is one thing to enact legislation, to create law; it is another to pay for it. When it comes to paying for it, that didn't happen.

When you think about these tax cuts, we were accused before by one of our distinguished colleagues on the other side of trying to create class warfare. That is the cheesiest thing I have ever heard. Class warfare? I happen to be in a class of income earners who did very well in America, I and two other kids who came from the same poor neighborhood that I did. Their father worked in the same mill my father worked in, and my father died at 43 from an occupationally hazardous environment. We built a huge business, a huge business. We went from nothing, three of us together, kids in their 20s, and we built a business that today employs 40,000 people. That is the old-fashioned American way. I made some money with this, as did many others who succeeded in business. We did it the old-fashioned way.

Class warfare? I come from working-class stock, and I am proud of it. But because I have been successful, because this country was the enabler that permitted me to be successful, as everybody else who has been successful here, I say I don't need a tax cut. It will not do me any more good. I can't buy more, I can't eat more, I can't do more, and I want it distributed among the ordinary people who work every day, struggling the way I remember my mother and my father did just to keep things on an even keel, to provide clothing, to provide food, to provide decent shelter. I lived in the back of the store for a lot of years, I can tell you, four of us in one room. Nobody wants to hear those stories anymore. The Great Depression is a thing of the past. But we do understand when people want to rise above their circumstances and educate their children and make sure they have a chance at a job, a career, and a family where they can afford the ordinary things of life—not the luxuries.

So we can't talk about class warfare. If there is class warfare, boy, it is over there. They say take the upper class, give them a lot of money back, and don't worry about those poor people or those who now have two jobs, who now find their purchasing power is substantially reduced, who now are worried about what it is going to cost for health care and who are worried about pensions.

I was at a hearing the other day on the financial condition of the airlines. What they want to do is to get rid of their pension obligation. If you work 26 years for an airline, a factory, or a company, work 27 years, count on your pension, and wake up one day and find out it is not there, what do you do? You are 55, 60, 65 years of age. These are terrible blights. I hope we are going to see something of the truth.

## TERRORIST BOMBING IN EGYPT

Mr. President, I want to discuss another subject. I want to discuss the news we heard today of a raid in Egypt aimed at a bunch of Israelis who were there on vacation—brutalizing, suicide bombers, the whole thing. An Israeli official says maybe it was al-Qaida. Obviously it was some mad group.

What I see lately is disturbing trends regarding the various criticisms of Israel. We have seen two prominent church bodies decide to take away their investments from Israel because of Israel's—maybe it is because Israel wants to defend itself, to keep its people alive. Maybe it is because Israel wants to live as any other country—in peace, without torture, without suicide bombers ripping up the society.

The Israelis have lost over 1,000 lives since 2000. Think of it in terms of America and the numerical equivalents because their population is so much smaller. One thousand citizens of Israel would be the same as 48,000 Americans lost to terror. Heaven forbid it, but that is the truth of the matter.

Israel has taken appropriate measures to defend itself against the terrorist threat it faces every day. Israel has made tough choices to defend her people. But now we are seeing these respected, mainstream church organizations contemplating divestment campaigns against the State of Israel. I wish they would talk about ending the violence that has been the pattern there for so long. There is so much violence and strife in the region, not dissimilar to that which we are facing in Iraq.

There is a trend. You can see it in the talk of a divestment campaign—blame Israel first. The innocents killed by terrorists are ignored, but there is a disproportionate focus on civilian victims of Israeli military operations against terrorists. To blame Israel for the turmoil and violence in the Middle East is outrageous. Review some of the recent history in the Middle East, events that had nothing to do with Israel. Yet when I was in Syria with other Senators, we heard the President of Syria, President Assad, say all the problems that exist in the area are because of Israel.

Millions died in the Iran-Iraq war. It had nothing to do with Israel. In Sudan, Arab Muslims are murdering thousands of Black Christians—nothing to do with Israel. Iraq invading Kuwait in 1991 and threatening Saudi Arabia had nothing to do with Israel. The Taliban took control of Afghanistan and severely oppressed women and gave safe haven to terrorists—nothing to do with Israel. None of these events had anything to do with Israel, yet somehow or other the region's problems are Israel's fault.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 seconds remaining.

Mr. LAUTENBERG. Mr. President, with that, I will close my comments and hope the world takes a look at

what is causing the problems within Israel and her right to defend herself.

I yield the floor.

## QUORUM CALL

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 1, Leg.]

Frist

The PRESIDING OFFICER (Mr. CRAIG). A quorum is not present. The clerk will call the names of absent Senators.

Mr. FRIST. Mr. President, I now move to instruct the Sergeant at Arms to request the presence of absent Senators, and I ask for the yeas and nays on the motion.

Mr. HARKIN. Parliamentary inquiry: Are we not in a quorum call?

The PRESIDING OFFICER. We have had a quorum call, and a quorum is not present.

Is there a sufficient second on the motion?

There is a sufficient second.

Mr. HARKIN. Mr. President, parliamentary inquiry.

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

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from Vermont (Mr. LEAHY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 85, nays 4, as follows:

[Rollcall Vote No. 205 Leg.]

## YEAS—85

Akaka	Conrad	Grassley
Alexander	Cornyn	Gregg
Allard	Corzine	Hagel
Baucus	Craig	Harkin
Bayh	Crapo	Hatch
Biden	Daschle	Hutchison
Bingaman	Dayton	Inhofe
Bond	DeWine	Jeffords
Brownback	Dodd	Johnson
Bunning	Dole	Kennedy
Burns	Domenici	Kohl
Byrd	Dorgan	Kyl
Cantwell	Durbin	Landrieu
Carper	Ensign	Lautenberg
Chafee	Enzi	Levin
Clinton	Feingold	Lincoln
Cochran	Feinstein	Lott
Coleman	Fitzgerald	Lugar
Collins	Frist	McCain

McConnell  
Mikulski  
Miller  
Murkowski  
Murray  
Nelson (FL)  
Nelson (NE)  
Nickles  
Pryor  
Reed

Reid  
Roberts  
Rockefeller  
Santorum  
Sarbanes  
Schumer  
Sessions  
Shelby  
Smith  
Snowe

Specter  
Stabenow  
Stevens  
Talent  
Thomas  
Voinovich  
Warner  
Wyden

## NAYS—4

Allen  
Bennett

Breaux  
Inouye

## NOT VOTING—11

Boxer  
Campbell  
Chambliss  
Edwards

Graham (FL)  
Graham (SC)  
Hollings  
Kerry

Leahy  
Lieberman  
Sununu

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

Mr. FRIST. What is the pending business?

The PRESIDING OFFICER. The Bingaman amendment has been set aside.

Mr. FRIST. Mr. President, the two distinguished whips have done a lot of work on the resolution before us through yesterday, last night, and over the course of the morning. As people have been saying, we have come to a stall period, and we really do need to refocus on the resolution itself. We are down to a very few remaining amendments that were agreed to. The list was agreed to last night. I urge our colleagues to allow us to progress on the underlying resolution and on those amendments so we can progress with a lot of business that we have to do. But we cannot do the other business until we address these amendments.

I understand everyone's rights, but I remind everybody that we are in a cloture period, and we invoked cloture. I believe the vote this morning was 88 to 3. Therefore, I urge us to stay on the business we are now on and to address the amendments. Once we complete the amendments, we will proceed to the cloture vote on the underlying resolution itself.

We have just used a procedural vote. We have not had to use procedural votes very often over the last couple of years. I am disappointed to have to force Members to come back to the floor, but we do need to focus on the business at hand. We have other issues to address, such as the FSC/ETI bill and the Homeland Security appropriations that we are doing. We cannot get to those until we address the business at hand.

Some people are saying we ought to go home or we should not do the Nation's business. We are talking about intelligence reform, the safety and security of the American people, and we need to address those issues now.

We do have the FSC/ETI bill, the Defense authorization bill, and the Homeland Security appropriations, when they are available, and we will take those up. But we have to complete this bill first.

On the business at hand, I have an amendment at the desk, which has

been cleared on both sides. I do ask consent to call up a modified version of my amendment, which is at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. FRIST. Mr. President, again, this amendment was an amendment that, last night, we said we would be addressing today. We have Members who are trying to work on that business. Again, I plead with Members on both sides of the aisle to allow us to address the intelligence oversight of the Senate. The American people expect it. I know individual Senators have certain rights to put a block and to obstruct, but we are talking about the Nation's business.

We are about ready to adjourn over the next hours, but it looks as though, because of the obstruction, it is going to be days now, but we are going to stay here. The American people deserve it. The 9/11 Commission Report said act and we have acted, and now we are in that final few feet of this sprint, and we are there, but we are having this obstruction.

The amendment I just asked to turn to is part of the underlying business. Again, we just heard another objection. So I am frustrated, but nevertheless we are going to stay here and we are going to complete the Nation's business.

I am prepared at this juncture to yield the floor to allow business. I understand Senators have rights and can speak under rule XXII, but I do want to at least advise Members that we cannot just sit in a quorum call like we have for the last little bit throughout the afternoon. The American people deserve more. We are here to work. We are here to produce. We are here to address the safety and security of the American people. If Members want to debate this resolution, please come forward and do it. It is the resolution that is the business on the floor. We will have votes as necessary through the afternoon and through the evening, hopefully on substantive amendments. We will have procedural votes, if necessary, to bring people back to conduct the Nation's business.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DOMENICI. Will the Senator yield?

Mr. MCCAIN. I have the floor. I would be glad to yield to the Senator from New Mexico for purposes of a discussion.

Mr. DOMENICI. Yes, discussion of this bill. First, I want to say I have a little amendment pending, but believe me, I do not intend to delay things. I will offer it with Senator BINGAMAN, so I am not running to my office, and the Senator does not have to call me back with anything.

I want to tell the Senator why things are taking so long. We have Senator HARKIN. He has a legitimate point. I mean, the whole law of the land on big

subjects that the conferees know nothing about in appropriations should not be changed. The Senator from Iowa can speak for himself, but I have a situation where the conferees on that subcommittee have not had a hearing on the huge program called the milk subsidy for America. They changed it. They extended part of it. They added a new subsidy and a new forward contract.

Now, how do they know how that affects Oklahoma, California, or Texas? They do not, but there are enough people on the conference to do that, and Senators know about that.

Now, I am a player, and there is nobody who has more respect for what the Senator is trying to do than I, but there comes a point where one cannot stand it anymore. People want this big bill to protect our country, Homeland Security, but they do not have to protect some cows along with it, do they? We are not here for a cow protection program; we are here to protect America.

So if they do that—I do the rules, although not very often, but that bill has three perfect points of order in it. I say to the leader, they will be made, and they are all debatable. Unless they can get to the floor to make a motion to table, we will be here and then we can talk a little bit.

So the great desire of the Senator to get out of here Sunday, I can tell the Senator that if he brings that bill out here with that on it, we are here until Wednesday.

That is a cinch.

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

Mr. MCCAIN. I thank the distinguished Chair, and I thank the Senator from New Mexico and respect always his opinion and his passion.

Since the Senator from Iowa is in the Chamber, I would like to perhaps do something that may be pleasant for him, and that is I will yield to him for 5 minutes without losing my right to the floor, if he would like to describe his plans to the body. No?

Mr. HARKIN. I thank the Senator from Arizona. I did not hear what he said.

Mr. MCCAIN. I said I would be glad to propound a unanimous consent to yield to the Senator for 5 minutes without losing my right to the floor, if the Senator would like to describe what he intends to do.

Mr. HARKIN. I thank the Senator from Arizona. I did not hear what he said.

Mr. MCCAIN. I said I would be happy to propound a unanimous consent to yield to you without losing my right to the floor, if you would like to describe what you intend to do.

Mr. HARKIN. I thank the Senator for that kindness.

Mr. MCCAIN. I ask unanimous consent to yield to the Senator from Iowa for 5 minutes and then regain my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. The Senator asked what my plans are. My plans are to protect my farmers.

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

Mr. HARKIN. My plans are to fight for what we in the Agriculture Committee—

Mr. MCCAIN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Iowa.

Mr. HARKIN. I say to my friend from Arizona, my plan is to fight for an agreement that was hammered out in the Agriculture bill a couple or 3 years ago that everybody signed up on, everyone agreed, the President signed it.

It is not right. I tell my friends, it is not right to treat farmers in one area of this country different than the other. For the last 50 years, this Congress has responded to disasters, whether they are earthquakes or tornadoes or floods or hail or fire or hurricanes. For 50 years, we have responded, and not once, not once have we offset it. It has always been in emergency spending.

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. Not once until 2 years ago they did it once, and that was corrected. Now they want to do it again. Once was once too many. Now they want to change the underlying structure of the farm bill. I am telling you, it is not right to do so.

I thank the Senator from Arizona for giving me the time to explain why I am doing what I am doing. I thank the Senator.

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

Mr. MCCAIN. I would like to do the same thing with the Senator from Arkansas in just a minute. I would like to make a point to my friend from Iowa and others. I don't think there is anyone else in this body who has been viewed in as many ways as one who is—maybe the word is obstructionist and disagreeable from time to time on issues with which I do not agree, but let me say I have never filibustered, nor have I ever tried to prevent the passage of legislation as long as I have been able to have my amendment, make my point, and get a vote and move forward.

I say to my friend from Iowa, I think for the good of the body here, on Friday afternoon, I would be glad to vote on any amendment he would propose. I would be glad to debate and vote, because I just do not think it is good for the institution for us to stay here until Tuesday, basically doing nothing. I am not sure we satisfy our constituents by doing so.

Now, if it is agreeable—I ask unanimous consent to yield 2 minutes to the Senator from Arkansas, without losing my right to the floor—excuse me, Louisiana. My deep apologies. I do know the difference between Louisiana and Arkansas.

Ms. LANDRIEU. I thank the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank my distinguished colleague for yielding.

I am objecting also because of an issue that is of great concern to me and to the people of Louisiana. It is in this \$137 billion tax bill that we have worked on very hard for 2 years. Our leaders in the Senate have done an excellent job under very difficult circumstances. It was a House committee, without the cameras rolling and without a real record of it.

The only people taking bullets for us, who are the men and women on the front line in Afghanistan and Iraq—in this case the Guard and National Reserve—the only people taking the bullets were left out of the bill completely. They were not the top of the list, they were not in the middle of the list, and they were not in the bottom of the list.

So I am slowing the Senate down until I can get this message out, and talking to as many reporters and others who will talk so I can tell them the truth and what happened. I can talk to my colleagues if we are going to stay here a day or 2 days or 3 days. They have been in Iraq for over a year and a half, 2 years, and another weekend is not going to hurt me. We need to talk about a plan to work through it. But I am not leaving them on the cutting-room floor.

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

Mr. MCCAIN. I would like to say again to my colleagues, as one who has a reputation for disagreeing from time to time, I think we should let the body move forward and decide on these amendments. I believe we could work out agreements that would allow for amendments to be voted up or down on these very compelling issues.

I share the concern and view of the Senator from Louisiana. I think that issue needs to be discussed and debated. I am not sure just holding up the body is the answer.

Finally, I ask unanimous consent for my colleague from Oklahoma to speak for 3 minutes, without losing my right to the floor, and then the Senator from Massachusetts.

I ask unanimous consent for 5 minutes to the Senator from Oklahoma without losing my right to the floor.

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

AMENDMENT NO. 4027 TO AMENDMENT NO. 3981

Mr. NICKLES. Mr. President, I call up amendment No. 4027.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 4027 to amendment No. 3981.

The amendment is as follows:

(Purpose: To vest sole jurisdiction over the Federal budget process in the Committee on the Budget)

At the end of Section 101, insert the following:

“(e) JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, including:

(1) the functions, duties, and powers of the Congressional Budget Office;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as “rescissions” and “deferrals”;

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.”

AMENDMENT NO. 4041 TO AMENDMENT NO. 4027

Mr. NICKLES. Mr. President, I call up amendment No. 4041 to amendment No. 4027.

Mr. KENNEDY. Point of order, Mr. President. Parliamentary inquiry: As I understood it, the Senator from Arizona yielded for points of discussion. I ask the Chair if he would not rule. I ask if he asked consent if he would be able to yield, for the point of discussion, to other Members here? As I understand it now, the Senator is offering an amendment. That is not discussion. I make a point of order.

The PRESIDING OFFICER. The Senator yielded for a specified period of time.

Mr. KENNEDY. And not for discussion only?

The PRESIDING OFFICER. Simply for a specified period of time.

Mr. KENNEDY. What is the request now that is before the Chair?

Several Senators addressed the Chair.

Mr. MCCAIN. What is the pending business?

The PRESIDING OFFICER. The Senator from Oklahoma has the right to call up an amendment.

Mr. KENNEDY. Mr. President, what is the request?

Mr. MCCAIN. What is the pending business before the Senate?

The PRESIDING OFFICER. The Senator has called up an amendment and has sent it to the desk, and a second-degree amendment as well, which is his right.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I believe I was recognized.

For the information of my colleagues, to help clarify, I believe I understood the underlying Domenici amendment was set aside.

Mr. MCCAIN. Mr. President, I do not believe the pending amendment was set aside. It required unanimous consent.

Mr. NICKLES. My understanding—I will ask the Chair, but it is my understanding the Domenici-Craig amendment was set aside. Under the unanimous consent agreement that was entered into yesterday, there were several amendments to be pending, that are in order. One of those amendments is an amendment I had, dealing with the budget office. I am just trying to get in, too.

I have modified it at the request of the chairman of the Government Operations Committee. This is not a significant amendment, but it is an important one and I am trying to advance the movement of this bill, to have a pending amendment. I have now modified it. I have a second-degree amendment pending to it, that Senator KENT CONRAD and myself are cosponsoring.

It now means that would be the pending amendment to the underlying bill when we go to the regular order on the bill. I would like for us to finish this bill.

I know some people wish to speak at length because they happen to be upset about the Homeland Security bill. I may support them in their efforts. That remains to be seen. But I do think it is important we finish the bill that is pending, and there are four or five amendments that are out there. Maybe two or three of those amendments will be agreed to and we can finish the Homeland Security bill in a very short period of time.

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

Mr. MCCAIN. Before I yield to the Senator from Kentucky—I mean Massachusetts—

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 4041 to amendment No. 4027.

Mr. NICKLES. I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. HARKIN. I object.

The assistant legislative clerk continued with the reading, as follows:

Strike all after the first word, and insert the following:

“JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, and except as otherwise provided in the Congressional Budget Act of 1974, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, which are:

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

Mr. REID. Mr. President, it does not take consent to stop reading. I seek recognition. I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I want the attention—

Mr. MCCAIN. I have the floor, Mr. President.

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

Mr. MCCAIN. Has the time of the Senator from Oklahoma expired?

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

The Senator from Arizona has the floor.

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

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. The Senator from Massachusetts was waiting to say a few words. I ask unanimous consent to yield to the Senator from Massachusetts for 5 minutes for the purpose of discussion, followed by the Senator from Nevada for 2 minutes, with my right to regain the floor.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I ask unanimous consent to speak before Senator KENNEDY for 1 or 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I direct this to my friend from Oklahoma. I have the greatest respect for the Senator from Oklahoma. But it is not appropriate when neither manager is on the floor to send an amendment to the desk. It is not the way we do things around here. I ask unanimous consent that the action taken by my friend be vitiated. That is not fair. I say that with all due respect. We have been here for the last 3 or 4 days.

Mr. NICKLES. Mr. President, will the Senator yield?

Mr. MCCAIN. Once, shame on you; twice, shame on me. The Senator from Massachusetts was recognized.

Mr. REID. My time is not up.

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

Mr. REID. Mr. President, I ask unanimous consent that the action taken by the Senator from Oklahoma be vitiated, and that we go back to where we started before he offered his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I have no objection.

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

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, my friends and colleagues from Iowa, Florida, and Louisiana have outlined very briefly some of their concerns about how they felt the minority had been treated in an arbitrary way in the conference committee.

I want to remind the Senate that we had a 78-to-15 vote in the Senate to tie the tobacco buyout with the FDA regulations, and that particular proposal came back. We had not asked that the tobacco buyout be in the tax bill. But, nonetheless, the House decided to put it in the bill. Then when it came back here, the decision of that conference was made to take care of the tobacco companies and give short shrift to the children of this country.

I think it is going to be appropriate that many of us talk about that and make sure the American people understand that.

Finally, we have also had the issue on overtime. Three times we saw the decision made in the Senate to repeal the administration's overtime—twice in the House of Representatives. This was given 6 minutes in the conference committee.

I think the working families of this country have a right to understand and know what is in that FSC bill. I for one intend to use my time to make sure that they do.

I thank the Senator from Arizona for yielding.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to say again I am not sure that the situation on Monday, or Tuesday, or midnight tonight, or Wednesday, or whatever, is going to be any different than it is now. I have been assured by the leader that we could have any amendment within reason considered, debated, and voted on in a reasonable length of time. I hope my colleagues will consider doing that.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. MCCAIN. I would be glad to.

Mr. DURBIN. If I am not mistaken, it is possible to amend the conference committee report which was sent to us for consideration on the floor of the Senate. The Senator suggested amendments several times. I ask if he would please clarify that.

Mr. MCCAIN. I think the Senator knows that conference reports are not amendable. But I would also respond by saying as frustrated as many of us are with conference reports, especially appropriations conference reports coming out with little things in them that we never anticipated, if you want to delay it 1 day, or 2 days, or a week, the result is basically going to be the same. I think we all know that.

Mr. GREGG. Mr. President, will the Senator yield for a question?

Mr. MCCAIN. I would be glad to yield for a question by the Senator from New Hampshire.

I am learning.

Mr. GREGG. The Senator has spent some time there, and we appreciate it.

Mr. President, I ask the Senator from Arizona if he would be willing to allow me to go forward with a unanimous consent request which the Senator from Massachusetts, Senator KENNEDY, and I have agreed to which would extend the higher education bill and which would in addition allow us to save the taxpayers \$100 million from money that is now being paid out to banks that are getting unconscionably high rates of return on student loans, and take that money and apply it so that teachers who go into underserved districts or in matters such as special education could receive a much higher forgiveness of their loans, raising their forgiveness from \$5,000 to \$17,000.

I was wondering if the Senator would allow me to offer a unanimous consent request. I believe it has been signed off on by both sides.

Mr. MCCAIN. I would be glad to.

I wonder why the Senator missed this one. What happened? Are we asleep at the switch? Everything else is in here.

Mr. GREGG. That is a good point.

Mr. MCCAIN. There is all kinds of fun in that. I don't know why you missed that one. Of course, we have homeland appropriations coming down. That is loaded with pork. The Senator from New Mexico just mentioned they changed the formula on milk to the tune of about \$2.4 billion.

Mr. DOMENICI. They haven't yet.

Mr. GREGG. This is within the jurisdiction of my committee, and the Senator from Massachusetts and I have worked on this. We think it is important for existing students who are paying this ridiculous interest rate—the Government is paying this ridiculous interest rate—and use the money to help teachers who are going into underserved areas. Will the Senator allow me to do that?

Mr. MCCAIN. I would be glad to.

Mr. KENNEDY. I am in strong support.

Mr. MCCAIN. I am happy to yield for a question by the Senator from Massachusetts.

Mr. KENNEDY. Will the Senator agree with me that even though I might strongly support what the Senator from New Hampshire has stated, I would like to defer action because my friend and colleague Senator HARKIN is not here at the moment. He may or may not object. He objected to it earlier. I hope the Senator will address this later on in the afternoon or evening.

Mr. GREGG. Will the Senator from Massachusetts yield the floor at this time? At some time I would like to put the body on notice that we need to handle it today.

Mr. MCCAIN. Mr. President, I appreciate the work of the Senator from New Hampshire and the Senator from

Massachusetts on this issue. I have been reading a lot about it. I think it is disgraceful and outrageous, and I think every Member of this body agrees with it. I hope we can get this done today because it is as egregious as the Senator from New Hampshire described.

I have little doubt about the outcome of this vote, but I will continue to remind my colleagues that the so-called reorganization resolution is a farce. The hypocrisy was bad enough when the resolution was laid down Wednesday evening. Since that time, Members' parochial interests have whittled away the little new oversight authority that would be transferred to the renamed homeland security and governmental affairs committee. The result is nothing more than a name change for the committee.

I associate myself with the remarks of Senator VOINOVICH, who made some comments last night when he further exposed this sham for what it is. We should adopt this proposal to not rename the committee but keep it the Governmental Affairs Committee since we really are not making any substantive changes.

In today's Washington Post, there is an excellent column by David Ignatius. David Ignatius says in the article:

"It's outrageous. The American people should be angry," says former Senator Bob Kerrey, who was a Member of the Sept. 11 commission and for eight years served as a member of the Senate intelligence committee. He argues that it would have been better to drop the executive-branch changes if Congress was not going to reform itself. "These are secret agencies," he explains. "Unless you put in place strong oversight, it isn't going to work."

In fact, Senator KERREY and others argue with the consolidation of power we are making it more dangerous because there is no oversight. We may have not only remained in neutral here as far as increasing congressional oversight, but since we are consolidating power, what this proposal does is even more dangerous to America than the status quo.

The 9/11 Commission in its report described congressional oversight of intelligence as "dysfunctional." They did not say it needed improvement; they did not say the system could use a tweak here or there; they said it was dysfunctional and that it needed comprehensive change. So we in the Senate supposedly committed to doing just that. We formed a working group, held discussions—they were interesting discussions, by the way—committed to bringing a bill to the Senate, and now we are here.

What have we done? Have we embraced comprehensive change? No, we haven't. We haven't even embraced a modicum of change. We have said that the status quo is fine with us, and as far as the Senate is concerned, September 11 never happened. It never happened, if you look at what is being done in the name of responding to September 11 and the recommendations of the 9/11 Commission.

Now, we are tinkering with the oversight responsibilities of the Intelligence Committee but certainly nothing substantive. When I go home to Arizona and I say: My friends, we have really reformed intelligence; we have changed the Intelligence Committee from a B committee to an A committee. How do you like that? They are going to be overwhelmed when they hear that we have changed the Intelligence Committee from a B committee to an A committee. I can see the Scottsdale Rotary Club rising to their feet in applause for this incredible change we have made in the way we carry out our intelligence oversight responsibility.

I apologize for engaging in a little bit too much hyperbole.

We took away from the new committee jurisdiction over immigration, then the Secret Service. I have to relate to my colleagues a funny story in case they missed it. I was on the Senate floor with the two sponsors of the amendment that would keep the Secret Service under the Judiciary Committee when they said: You know, the Secret Service really wants to be under the Judiciary Committee. I have encountered hundreds of Secret Service agents, and I have never had a single one come up to me and say: Senator, please put me under the oversight of the Judiciary Committee. Never. I guess I have not spoken to the right agents.

Anyway, all that is remains of the committee on homeland security is the name. I wouldn't be surprised if someone objected to that on jurisdictional grounds.

The new committee, as the Senator from Maine and the Senator from Connecticut will attest, the new committee will have responsibility over 34 percent of the budget and 3.9 percent of the employees. About all that it will be responsible for is FEMA and the Office of the Secretary. That is right, over 96 percent of the employees of the Department of Homeland Security will fall under the jurisdiction of other committees, not the committee on homeland security. So much for real reform.

One of the recurrent themes has been the overload of the Department of Homeland Security because of the number of committees they have to testify before during the course of a year. The number, as I remember, is 88 different committees and subcommittees, et cetera. I hope the Senator from Maine will assert exactly how many committees and subcommittees under this revolutionary new reorganization the Department of Homeland Security will have to testify to.

Now, a word about the Department of Homeland Security, the White House, and the administration. While we were trying in our amendment to move the TSA—a radical idea—to move the Transportation Security Administration under the new Department of Homeland Security, which I think garnered 22 of my colleagues' votes, along

with myself, while we did that, we got these calls: Way to go, we are with you, we are with you. This is a great thing to do. You have to move the TSA into the Department of Homeland Security.

I said: Fine, will you issue a statement saying that? No, no, no, we cannot do that. We cannot issue a statement saying we support such an amendment. We might make somebody mad.

We saw the result of that outrageous attempt to move the organization called the Transportation Security Administration under the jurisdiction of the committee on homeland security. I will admit in retrospect I cannot imagine why anyone would assume that the Transportation Security Administration should fall under the committee on homeland security.

Anyway, we aren't changing things here. We have decided the status quo is good enough, and we are sticking with it.

I again quote from David Ignatius' article in the Washington Post this morning:

Senators were patting themselves on the back yesterday for passing some of the intelligence reforms recommended by the 9/11 Commission.

I was one of those. I was praising the work that was done as far as executive reorganization. It was landmark legislation, the first major reorganization of Government since 1947. It was an incredible job.

But behind the scenes, the legislative process has been an egregious example of congressional politics as usual.

Legislators have embraced the commission's call for a national intelligence director and a national counterterrorism center that would, in theory, coordinate intelligence efforts in the executive branch. But they have ignored or gutted the commission's proposal for similar reforms in the way Congress oversees intelligence.

"Of all our recommendations, strengthening congressional oversight may be among the most difficult and important," the commissioners stressed in their final report. They urged that Congress give its intelligence committees control over both authorizations and appropriations—so that the committees would finally have the muscle to provide real oversight.

Why did the Senate bill scuttle these internal reforms of what the commission called "a dysfunctional" system? Because they would threaten the turf of powerful legislators. To be blunt, the Senators put their own perks and prerogatives ahead of the Nation's security.

That is a pretty tough statement.

"It is outrageous. The American people should be angry," says former Senator Bob Kerrey.

By the way, Senator Bob Kerrey left part of his leg on the battlefield at Vietnam and received the Congressional Medal of Honor and was also a member of the 9/11 Commission and for 8 years served as a member of the Senate Intelligence Committee.

He argues that it would have been better to drop the executive-branch changes if Congress was not going to reform itself. "These are secret agencies," he explains. "Unless



you put in place strong oversight, it isn't going to work."

Because the real power lies with the appropriations, the intelligence agencies know they can safely ignore pressure from the Intelligence Committee. Indeed, major contractors that do business with the intelligence community, such as Lockheed Martin, Boeing, and TRW, are said to spend little time lobbying the intelligence panels because they know the appropriators have the power of the purse. CIA Directors recognize the same reality. They can ignore the intelligence committees as long as they keep stroking the appropriators.

We will have a status quo Intelligence Committee without combined authorization and appropriations power, a committee that handles only a tiny fraction of homeland security issues, and we will be right back where we started. So let's be honest with ourselves and with the American people. We aren't changing things here. We have decided that the status quo is good enough, and we are sticking with it.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, no matter how many times you say something that is not true, it does not make it true. I am not going to belabor the point other than to say we have spent a lot of time doing what the 9/11 Commission recommended. Did we do everything they asked? No, we did not. Did we do 90 percent of what they asked? The answer is yes, as I explained on the floor on more than one occasion with the charts where we checked off what they asked for and we did. Again, I repeat, it does not matter how many times you say something that is not true, it does not make it true.

Now, people can minimize all they want. The committee on homeland security will be created as soon as we complete this cloture fiasco we are now involved in. As I read on the floor here yesterday evening for half an hour, only getting into two directorates, the homeland security committee that will be formed could hold hearings every day next year and still not complete all the policy decisions that are made regarding terrorism in this country. Yes, they may not have all the employees, but they have the policy that is important to make our country safer.

We start out with the basic Government Operations Committee, and we do not change that one iota, and we add to that four directorates. For three they have total 100 percent responsibility, and for the fourth one they have partial responsibility.

I repeat for the third time today, no matter how many times you say something that is untrue, it does not make it true. You cannot have it both ways. We have people telling us that we may establish nothing out of this committee, but yet we have people here

grousing from 10 different committees saying we gave them too much. You cannot have it both ways.

Now, I know there is some disappointment on the part of the Senator from Maine, and I have heard very little from the Senator from Connecticut. I know he has been away for religious observances, but I have kept in close contact with him. I think he realizes the glass is not half empty, it is half full.

This committee is a good committee. It is going to be one of the most significant committees in this Congress. It is going to increase the brawn and muscle of the Government Operations Committee tenfold. We took jurisdiction from 10 standing committees and gave things to the new committee.

Now, as an example, let's just take my committee. I have been chairman on two separate occasions of the Environment and Public Works Committee. We have wide-ranging responsibilities in that committee. But one thing we have that is most important is the Federal Emergency Management Agency. I have spent a lot of time on that committee.

When I served in the House of Representatives, Congressman Al Gore was chairman of a committee called Investigations and Oversight, and we spent weeks doing investigations regarding FEMA. I know a little bit about it. It is a very powerful institution. The new government operations/expanded homeland security has complete jurisdiction over that, except for flood control. Flood control has always been with the Banking Committee. It took all day yesterday to work something out so that the new Government Operations Committee could still have that.

So, Mr. President, when we complete our work on this—and we are going to complete it pretty soon—people will be striving to get on the committee that will be chaired, at least for the next couple of months, by Chairman COLLINS; after that maybe Senator LIEBERMAN.

But the point I want to make is I know people have been putting in the mind of the distinguished Senator from Maine that she got nothing. Isn't it terrible what they did to you? The fact of the matter is, I read only partially here on the Senate floor last night the responsibilities of this new committee. The responsibilities are terribly significant.

We still have work to do on this resolution. I am disappointed that it has not been completed. I want the record to be spread with the fact that Senator MCCONNELL and I did not do a perfect job, but we did the best job we could do, and we have worked for weeks trying to do something that was very hard to do; that is, change what this body does.

Everyone hates change, as when I started my remarks, whether it is a change in your family relationship, as I explained when my daughter left to go to college, or whether it is a committee you feel strongly about.

I talked to a Member of the Senate today, and he said: Today was a big change in my life. I said: What? And he said—I am not going to embarrass him and use his name; this happened at lunchtime—he said: I have been using the House gymnasium for 22 years. He said: I switched; today I started using the Senate gym. He said: You have no idea how hard that was for me to do because even though I am a Senator now, I have used that gym for 22 years.

People hate change. They fight change. And I have to say, I have never changed; I still use the House gym.

So I am sorry, because I have talked to her personally, and I am sorry the Senator from Maine is disappointed in the jurisdiction she has. I am sorry we could not give her more jurisdiction. But, believe me, she will do a good job, because there is so much to do. I have worked here with a lot of different Senators in the years I have been in the Senate, and I have found very few people as competent and as resourceful and who work as hard as the Senator from Maine. I know when she gets this committee, even though she feels slighted that she did not get more, she will have her hands full doing what she will be doing very competently.

So the main point I want to make here, for the fourth time—and I am not going to apologize to anyone for the work I did on this. Not to anyone. I worked hard. It was hard to get where we are. And I repeat, if people think we did nothing, why have I been berated the last few days about: How could you do this? How could you take this from me? And I used, every time, the example of FEMA. FEMA is no insignificant matter. We took significant matters from 10 standing committees and have given them to the new government operations, expanded homeland security committee.

I am going to continue to support the legislation. I have kept the 9/11 Commission advised. This is not an end run we have done on the 9/11 Commission. Oh, isn't it surprising? Why didn't REID keep us informed? REID kept them informed.

Now, I wrote a book, published a history book, and people criticized my book. They can if they want. I defend what is in my book, and they defend what is in their report. The 9/11 Commission—I have said on this floor, not on one occasion, not on two occasions, I cannot count how many occasions I have complimented my friend, Congressman Lee Hamilton, and Governor Kean. I know Lee Hamilton very well. I have known him for 22 years. I do not know Governor Kean very well, but I surely like him. I know how competent he is. I know Roemer, who served there; Slade Gorton, an outstanding Senator whom I served with; Bob Kerrey, one of my good friends, whom I think the world of. They did a wonderful job.

We have given the 9/11 Commission and the people of America, as I said, most everything the 9/11 Commission

recommended. The 9/11 Commission, by the way, did not tell us how to reorganize the Senate. What we are doing here does not take the President to sign off on. We do this on our own. This is what we are doing. This is one of the most significant changes in the history of this Congress.

Now, people say: Well, big deal; it is not a very big change. I think it is a significant change. Remember, we got rid of a subcommittee on Appropriations. We created a new subcommittee. We gave a lot of muscle to the new Intelligence Committee.

I checked off here yesterday all the things we gave to the new Intelligence Committee. We got rid of term limits, which they complained about for so long, increased staffing and made it bipartisan, so now it is not divided 3 to the minority and 23—I don't know the exact number, but about that—33 to the majority. It is now divided 60/40. That is the way it should be.

Congress should create a single, principal point of oversight and review for homeland security. Congressional leaders are best able to judge what committee should have jurisdiction over this department and its duties.

This is not something I dreamed up. This comes directly from the 9/11 Commission. Page 421 of the 9/11 Commission, what did they say? They said:

Congressional leaders are best able to judge what committee should have jurisdiction over this department and its duties.

We did that. Now, is it in keeping with what my friend for 22 years, Senator McCain, thinks we should do? No. He thinks we should do things differently. But we made decisions he does not agree with. That does not mean we are all right, but that does not mean he is all right either. I mean, he is all right—not right on this issue. So we did as the 9/11 Commission said we should do.

Again, it is not as if we were doing something that was significantly more important anyway. But I read yesterday all the many responsibilities that this committee has. I want to find this again. I am turning to my loyal staff here. This is directorate No. 1. The responsibilities are very significant. And for someone to say this is not important, I defy reason to say this is not important.

This committee has jurisdiction over this: To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government—and it always says "State and local"—to integrate such information in order to, A, identify and assess the nature and scope of terrorist threats to the homeland; B, detect and identify threats of terrorism against the United States; and, C, understand such threats in light of actual and potential vulnerabilities of the homeland.

No. 2, to carry out comprehensive assessments of the vulnerabilities of key resources and critical infrastructure of the United States, including the performance of risk assessments to deter-

mine the risks posed by particular types of terrorist attacks within the United States, including assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks.

I say through the Chair to my friend from Maine, if you spent 6 months of the next congressional session having congressional hearings on this, you would have your plate completely full just on this. But we didn't stop there. I have gone through two of the obligations, responsibilities they have. But there are 17 more, such as: To integrate relevant information—I am skipping a little bit—analyses, and vulnerability assessments in order to identify priorities for protective and support measures by the Department, other agencies of the Federal Government, State and local government agencies; to ensure the timely and efficient access by the Department to all information necessary to discharge the responsibilities.

No. 5, to develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution systems, information technology, telecommunications systems, including satellites, electronic, financial, property record storage, transmission systems, emergency preparedness communications systems, and the physical and technological aspects that support such systems.

I say, these responsibilities may not be very glamorous. You may not be calling people in that are part of the 41,000 Transportation Security Administration, but it sure is important to my family and the people of the State of Nevada that we do some good work to find out about a national plan for securing our electricity, our satellites, our electronic and financial records storage and transmission systems. That requires some congressional hearings.

If somebody is chairman of that committee and ranking member or a member of the committee, I think that is something they should focus on, at least for a little while.

No. 6, to recommend measures necessary to protect key resources and critical infrastructure of the United States, in coordination with other agencies of the Federal Government.

No. 7, to administer the homeland security advisory system, including exercising primary responsibility for public advisories related to threats to homeland security; to review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence-related information, other information related to homeland security.

No. 9, to disseminate information analyzed by the Department to Homeland Security, agencies of State and local governments, and private sector

entities with such responsibilities to assist in the deterrence, prevention, preemption of, or response to terrorist acts against the United States.

I think that is a pretty heavy responsibility. To say this is nothing, you haven't given us anything.

No. 10, to consult with the Director of the Central Intelligence Agency—right now we still have a CIA Director—and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information relating to threats of terrorism against the United States; to consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law-enforcement-related information; to ensure that any material received pursuant to this act is protected from unauthorized disclosure; to ensure that any intelligence information is shared, retained, and disseminated consistent with the authority of the Director of the CIA.

So for someone to say: What is this? You wasted all of our time here. We should not have done anything. It is an insult, I told people this is, if not the hardest thing I have ever done, one of the hardest in all the time I have been in Congress. For someone to stand and say, You didn't do anything, what I would suggest to the Senator from Maine, if she doesn't like this committee, turn it over to somebody else. I will bet a lot of people would like it. The ranking member right under her, I bet they would love to have this committee.

To request additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism against the United States; to establish and utilize, in conjunction with the chief information officer of the Department, a secure communication and information technology infrastructure, including data mining, and other advanced analytical tools, in order to access, receive, and analyze data and information.

Again, there are not a lot of employees involved in this, but if we depended on that—I don't know the number of employees we have in the Federal Government; it is over 2 million, millions anyway—how many employees were involved, you would just ignore the FBI. There are only 11,000, only 11,000 out of approximately 2 million. I don't know that exact number, a very tiny percentage of what the FBI makes up of the overall workforce, but it is still real important.

What I am talking about is, that is going to be the responsibility of this committee, and it is also important.

I am still only through No. 13. We have six more to go in the first directorate. I have three more directorates to go through to show what this new committee that a small minority here think doesn't amount to much, I am

saying it amounts to plenty. If this committee does its job—and I say without any hesitation that I know that Senator LIEBERMAN and the distinguished Senator from Maine will do a good job—they will have a lot to do. They make sure to listen in one ear about all they don't have to do, but let's also listen with the other ear about all they have to do. Some people like to denigrate anything we try to do about this institution. Some like to tear it down.

No. 15, to ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department are compatible with one another and with relevant information databases of other agencies of the Federal Government; B, treat the information in such databases in a manner that complies with applicable Federal laws on privacy.

That is one of the biggest issues. I did a poll in Nevada a few years ago, and my staff, when they came to me, was stunned. In Nevada, the most important issue was not health care, it was not education, not the environment, not jobs—it was privacy. People in America are extremely concerned about privacy. We have all these electronic tools to do all kinds of things. And we want to make sure people's privacy is protected. One of the obligations of this committee is to see what can be done, with all the electronic apparatus we have for collecting intelligence and protecting the homeland, that it doesn't interfere with my family's privacy. That is a responsibility this committee will have when we complete it.

No. 16, to coordinate training and other support to the elements and personnel of the Department.

No. 17, to coordinate elements in the intelligence community with Federal, State, and local law enforcement agencies and the private sector, as appropriate; to provide intelligence and information analysis, and support to other elements of the Department.

And who does this cover? Who does this committee look to, to gather information? One of their defined legislative responsibilities—it is in this RECORD right now, we are making legislative history with the jurisdiction of this committee, but this is also in the underlying amendment that is now before this body, covered agencies: The Department of State, the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, the National Imagery and Mapping Agency, the Defense Intelligence Agency, and any other agency of the Federal Government that the President considers appropriate.

This is the legislative history that we are making to establish what this committee has to do. For someone to say their dealing with the CIA, FBI, NSA, and the DIA is not important, well, that is too bad because it is important.

We also have another directorate, and I will only cover a couple because there are four. The fourth one doesn't have total coverage over that. That is the one where immigration—they only have part of that—relating to security.

The Judiciary Committee has jurisdiction over immigration as it relates to policy matters, as I understand it. They have security matters. I may not have defined it as policy, but they don't have 100 percent of the other directorate.

One of the directorates they have is emergency preparedness and response. I already talked about FEMA being part of their responsibility—and a big responsibility FEMA is, Mr. President. It is one of the most important agencies we have in the Federal Government today. As we speak, they are doing gallant work in Florida, Alabama, and Georgia as a result of the hurricanes. We lend that agency to foreign countries because they are the best in the world when there is an emergency. I have learned over the years that the most important thing they work on is water-related emergencies across the country, with flooding and those kinds of things. Floods are caused by lots of different things. So what does the FEMA have to do? They do this:

All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—A, of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects; B, of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard; of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards.

Mr. President, I first became aware of the work that FEMA does when we had a disastrous flood in northern Nevada. We don't get much rain in Nevada, but we had a lot of snow in the Sierra Nevada Mountains. We had early rain. That water came down without warning. And as I traveled to Gardnerville and Minden in Douglas County, one of my friends there, a farmer who had lived there for a long time, said: Look out here. A little river that a child could walk across most of the time was like a raging river. Cottonwood trees that were 100 years old

were being thrown down the river path like toothpicks. By the time I got to northern Nevada, coming in a different airport because the regular airport was closed, FEMA had already set up operations and started life-sustaining operations, feeding people. They had already set up locations for businesses that had been devastated to come and make their claims.

If we did nothing else other than transfer FEMA from the Environment and Public Works to the new homeland security committee, that is a tremendous new responsibility for that committee—in addition to the page after page of other stuff I read that is their responsibility.

For the fifth time, people can come on this floor and keep saying what we have done is inconsequential and doesn't mean anything, but saying that doesn't mean it is true. I want everybody within the sound of my voice to understand some of the things we have transferred to this committee. Remember, this was already an A committee. It had lots of work to do. That is why some people around here are saying, What are people complaining about? It is already an A committee. They are getting a lot of stuff to do, other responsibilities from 10 different committees. What more do they want?

Well, I guess they want more. I say the glass should be half full, not half empty. It may not be perfect, but it is certainly pretty good.

We have to complete this legislation. There are six amendments, a couple maybe we can work out. Some of them probably we will not be able to work out, and a couple will be withdrawn. We are close to being able to finish. As I understand the parliamentary aspect, first of all, sometime tomorrow, if all time is used, we will vote on the amendment now before the body. After having completed these amendments, then we will vote on the underlying resolution—invoke cloture on that and, of course, there are 30 hours to run on that. When that is completed, this will be done.

The Senate, without having to go to the House of Representatives or the President, will have made one of the largest changes in the history of this body by reorganizing the legislative branch of Government. So, again, we transferred matters from Agriculture, Armed Services, Commerce, Energy and Natural Resources, Environment and Public Works, Finance, Foreign Relations, and Judiciary, so I think we have done a good job.

I am disappointed that my friend from Maine is apparently disappointed in thinking she is not going to have enough to do. I want her to know that the distinguished Senator from Kentucky and I did the best we could. Remember, this is not a dictatorship we have here, it is a legislative body. We cannot just suddenly decide what we want and it happens. It is a process that I talked about last night.

Legislation is the art of compromise. That is why you don't see much reorganization in the legislative branch of Government, because it is hard to do. As the President said in the last debate: This is hard work. It is hard work what we have done.

Again, I am disappointed that she is disappointed because I have the highest respect for her. I want her to know that I have only touched, this afternoon, on a very few things that she has to do. There are so many other things that this committee has. As I said, in years to come, what we have done this afternoon and what we will do on this legislation will be laid out before the Senate, so it will be easy for referrals and other things this committee will do.

This is one of the directorates, emergency preparedness and response:

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response shall include: Helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies; coordinating other Federal response resources in the event of a terrorist attack or major disaster; aiding the recovery from terrorist attacks and major disasters; building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters; consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and finally, developing comprehensive programs for developing interoperative communications technology and helping to ensure that emergency response providers acquire such technology. So please do not tell me this committee does not have a lot to do. This committee will be one of the most important committees there is.

I say, in closing, to my friend from Maine, when I first came to the Senate, I received a phone call from Howard Metzenbaum. Howard Metzenbaum said: We finished—I think it is called the Steering Committee—and you are going to the Appropriations Committee. I was so excited about that. He said: You have a choice of two other committees you can go on—either Environment and Public Works or Government Operations.

I said: Senator Metzenbaum, I am so thrilled about being able to be on Appropriations. You decide which one I should go on.

He said: It does not matter. They are both great committees.

He chose for me Environment and Public Works. One reason he chose that is because in those days—I don't know if it is still the same way—a member of the Government Operations Committee, even though you were a new member, you were entitled to a staff person, someone assigned to you. They figured they would give that plum to someone else.

My point being, the Government Operations Committee has always been a good committee, but it is going to be a really good committee now. I think it will be on the par of Armed Services. I think it will be on the par with any committee we have. I will sleep well knowing that my friend, the distinguished Senator from Connecticut, Mr. LIEBERMAN, and my friend, the distinguished Senator from Maine, Ms. COLLINS, will be the two leading that committee. I know they have the ability to do a good job in meeting all the responsibilities this new committee has, including all the responsibilities they had to start with.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Maine.

Ms. COLLINS. Mr. President, as I was listening to the Senator from Nevada, it brought back memories of the night when he started reading from a book he wrote. I think it was about, if I remember correctly, Searchlight, NV. I was listening that evening to him, and much to my surprise, I actually got caught up in the story of Searchlight, NV. It was delightfully told, and although the Senator was clearly killing time that evening, I learned a lot about his upbringing and his talent in telling a story.

This afternoon, I feel we have once again seen his talent in telling a story. I think it is unfortunate that the Senator from Nevada is personalizing this debate. This debate has nothing to do with the Senator from Maine. The authority over homeland security could have been given to a brandnew committee or some other committee.

What is important to me is that we try to address the recommendation made by the 9/11 Commission. I want to read that recommendation because it is very clear, it is very straightforward. It says:

Congress should create a single, principal point of oversight and review for homeland security.

It goes on to say:

Congress does have the obligation to choose one in the House and one in the Senate. . . .

It certainly says the congressional leaders are best able to judge which committee should have jurisdiction over this Department and its duties, but it makes very clear that it should be a single committee, and we have not come close to doing this.

I admire the Senator from Nevada. He was extremely helpful to me when I was managing the intelligence reform bill over 10 days' time. I looked to him often for advice. I admire his experience and his knowledge, but the recommendation is very clear. It says "a single, principal point of oversight." It says "choose one." It does not say which one. It did not have to be Governmental Affairs. It could have been a new committee. It could have been some other committee. But it says "choose one," and we did not choose one. This plan does not even come close to choosing one.

We know that between the House and the Senate, the Department has to report to some 88 committees and subcommittees. Here in the Senate, I think it is around 26 committees and subcommittees. We reduced those by maybe one or two. We still have the Judiciary Committee with significant jurisdiction. We still have the Commerce Committee with jurisdiction over the two largest agencies within the Department of Homeland Security—the Transportation Security Agency and the Coast Guard. You can make a case that the Coast Guard has a lot of nonhomeland security functions, but certainly the homeland security functions of the Coast Guard should have been transferred to the new committee. And certainly the TSA, the largest agency within the Department of Homeland Security with 51,000 employees, should have been transferred.

Under the proposal of the Senator from Nevada and the Senator from Kentucky, certain responsibilities were transferred from the Judiciary Committee, but those have been reversed in the course of this debate. In fact, the first amendment on the floor had to do with a Customs responsibility that had been transferred, and before either the Senator from Maine or the Senator from Connecticut were even given the courtesy of a phone call about that amendment, it was adopted by the managers of the bill. They immediately transferred away from the new committee some jurisdiction. Then they went on to suggest the adoption of other amendments as well.

My point is this: This jurisdiction does not have to come to Governmental Affairs, but what it should go to is a single committee. We should not pretend we are fulfilling the recommendation of the 9/11 Commission—the very specific recommendation of the 9/11 Commission—that Congress should vest this responsibility in a single committee because we have not come close to that.

That is the issue. The issue is not whether Governmental Affairs is the right committee. The issue is not whether Governmental Affairs has other jurisdiction. The issue is, are we going to try to follow the recommendation—the very strong recommendation—of the 9/11 Commission to consolidate oversight of the Department within one congressional committee. Are we going to follow the advice—no, the plea—of Secretary Tom Ridge that we consolidate jurisdiction so he and his top officials do not have to be constantly racing up to the Hill to testify rather than concentrating on the security of our country, because that is what this is about.

This is not about turf battles—this should not be about turf battles. This should not be about power plays. This should not be about power grabs. It is about how we can best improve congressional oversight over a department that is critical to the security of this

country, and that is the Department of Homeland Security.

The Senator from Nevada referred to the Senator from Connecticut. Perhaps he missed some of the debate yesterday. He is extremely attentive to the floor, but at times did step out. The Senator from Connecticut could not have made clearer yesterday his disappointment with this resolution, and he argued against the amendments that even the modest transfers provided in the Reid-McConnell resolution.

The staff of the Senator from Connecticut has told me they are certain the Senator from Connecticut would want me, since he is not able to be here today, to make very clear to his colleagues in the Senate that he shares, indeed he mirrors, my concerns.

The Senator from Connecticut has worked very hard to make sure the major recommendations of the 9/11 Commission are implemented, and that is not what we are doing here.

At best, we are taking a very modest step forward, but let's not pretend that we are in any way implementing the recommendations for a single congressional committee in the Senate to have jurisdiction over the Department of Homeland Security.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I ask unanimous consent to speak as if in morning business for a period of 5 minutes.

Mr. REID. No objection, as long as the time continues to be counted against the 30 hours.

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

UNANIMOUS CONSENT REQUEST—S. 2823

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 711, S. 2823.

The PRESIDING OFFICER. Is there objection?

(Several Senators addressed the Chair.)

Mr. REID. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Idaho.

Mr. CRAIG. Mr. President, you can see by my unanimous consent request the alarm I brought to the Senate floor just now. The reason that happened is because I was attempting to bring to the floor a very critical issue that this Congress and this Senate have refused to address this year. It is a bill called AgJOBS. It is a bill that has more than 60 Members of this body as cosponsors, and yet it is a bill that nobody wants to talk about right now and nobody wants to deal with in the final hours of this 108th Congress.

The reason I brought it up now, and I worked it through the Rule XIV process over the last several weeks, is because when we talk about homeland security, we are talking about border security, we are talking immigration reform, we are talking about identifying

8 to 12 million undocumented foreign nationals in this country.

We have seen this Congress, this Senate, toil mightily over the last 2 weeks to try to address the 9/11 Commission's study and to reshape our intelligence community, to enhance our national security and homeland security. But this Congress has left one part of that effort unfinished.

This year, we have refused to address one of the greatest problems in our country, and that is an immigration policy that has resulted in 8 to 12 million undocumented workers.

For the last 5 years, I and others have tried to deal with one small aspect of this issue, those foreign nationals who come to our country in agriculture. There are about 1.6 million individuals in our agricultural work force, and most of them are undocumented. Yet they come here to work and harvest our fields and to process our foods, to allow this great agriculture of ours to be the most abundant in the world, and yet we will not give them a reasonable and legal status so they can continue to work, continue to return home across our borders with a degree of fluidity, without fear to go to their families. The current system has effectively locked them inside this country, in the shadows.

We have created for ourselves a monstrous problem, and the American public knows it. It is all about homeland security, and it is all about border security, and yet, oh, my goodness, we just could not get to it this year.

I have worked for several years to produce the AgJOBS legislation. It is bipartisan. Senator TED KENNEDY is my primary cosponsor, and we have worked very hard to keep it bipartisan. The numbers on the same bill have grown rapidly in the House, because this is an issue whose time has come and yet somehow we just do not have time to get to it.

So I thought it was important one more time, in the waning hours of the 108th Congress, to try to bring it to the floor and at least talk a little bit about it. When I risked bringing it to the floor, my goodness, papers flew and chairs tipped over as people rushed to the microphones to object. Is it a matter of timing? Is it a matter of opposition to reform? Oh, no, it is a matter of, gee, we just do not want to talk about this issue this year.

Let me serve notice to the Senate right now—I do not oftentimes do this—but when there are more than 60 Members of this body who are ready to debate an issue and vote on it, we will get a vote. With a bipartisan coalition nationwide of more than 400 groups that have come together, from the American Farm Bureau to the United Farm Workers, saying, for goodness' sake, Government, get your act together, solve this problem, create a program that moves us forward, that gives a legal status for people to work in this country who do the kind of work that many Americans would

choose not to do, we will get a vote. That is what the AgJOBS is about. It means the reduction of illegal immigration by a reasonable program that allows that kind of safe, productive, economically beneficial movement in our country.

Of the nearly 12 million undocumented population, the vast majority do not create or even pose any threat. They are here, they are hard working, they work 12 and 14 hours a day, and they save their money, because they want to feed their families, they want a better life for their children, they want the same opportunity that has always beckoned hard working people to America. Some of them would like to be U.S. citizens; many would not. Many want to go home to their families across the border or overseas at the end of the work season. They are here to better themselves and to better their families, something all Americans can understand.

By their presence, they better us. They make our lives better, and in this issue with American agriculture, there is no question, they help to produce the abundance on the supermarket shelves and the family tables of America.

When I said "serve notice," here is what I am serving: I will not give up on getting a vote on this bill and passing it. The bill is ready to move now. Its time has come. I have been trying to move it this year. If we don't move it this year, when we get back this next Congress, this bill will move. We will vote on this issue. If not the old Congress, then the new Congress will face this issue. They will face it in a variety of ways.

Some will say, let us do a large, all-inclusive immigration bill. Fine, while the committees are spending the 10 or 12 months or 2 years to try to figure that one out, we are going to vote on this one because it is a small piece of a very large puzzle, but it is the right piece. It will show we can cooperatively do what we ought to do in a fair and responsible way to create an earned status so these folks can work here in a legal way and can move freely back and forth across the borders, dominantly between the United States and Mexico, but clearly with other countries of the world, too. We want to eliminate these human hazards of the kind that have been created along the Mexican-American border, where last year more than 300 people died, many of them in the deserts, in the hot sun, or being smuggled in the back of trucks, trying to get here to work, because we have a program that does not function.

That is why I came to the floor, and I am sorry if I caused undue alarm on the part of some of my colleagues. I was quite confident that at some point someone would object because some would argue this issue's time has not yet come. It will come. It may be January, February, or March of 2005, but it will be on this floor for a full, constructive, and positive debate and a vote up

or down, possibly with the opportunity for some amendments, because this is legislation that now demands our consideration.

Americans want our borders controlled. They want undocumented foreign nationals identified in our country. This is a small step in the right direction of that effort to accomplish that goal.

Amnesty is not the solution. It has been tried before and it has failed.

The current system has not worked either, and opposition to amnesty should not be an excuse for tolerating a dysfunctional status quo.

AgJOBS avoids the problems and limitations of past initiatives and other proposals. AgJOBS is the only proposal that addresses the problem for both the short term and the long term.

In the long term, when willing American workers can not be found to work in our fields, that shortage would be addressed through a reformed H-2A program. The current program is so burdensome and costly that it now supplies only about 2 percent of our farm workers. It will take time to implement reforms that allow H-2A to meet our needs with legal guest workers.

In the short run, while H-2A reforms are being implemented, the earned adjustment program in AgJOBS would stabilize our current agricultural work force. Trusted, proven workers who have already been working here in 2003 and 2002 and before would be allowed to stay and continue to work.

A reformed H-2A program, made workable with the red tape cut out, would meet future work force needs and mean the earned adjustment program would not have to be repeated.

A realistic, workable guest worker program actually would reduce illegal immigration.

The last time the United States had a substantial agricultural guest worker program, apprehensions of undocumented workers actually plummeted, from almost 900,000 in 1953 to a low of 45,336 in 1959.

Whatever other aspects of this so-called "bracero" program were subject to criticism, history proved that its 500,000 farm workers entered our country legally, worked in jobs citizens did not want, obeyed our laws, returned home at the end of the work season, and dramatically reduced the demand for, and supply of, undocumented labor.

Increased enforcement of our laws is part of the solution, and we've made progress.

In the last decade, we have tripled the number of agents enforcing border and immigration laws.

Worker identification checks have intensified.

Apprehensions have skyrocketed above 900,000 a year and formal removals have increased sixfold.

High-tech initiatives are coming online.

We are poised to take up the FY 2005 Homeland Security Appropriations bill, which again increases resources in this area.

However, more enforcement is only part of the answer.

This is demonstrated by the fact that, despite more enforcement, over the last decade, the undocumented population has more than doubled.

The self-described "experts" who say, "Just round them up and deport them," are only proposing an excuse, not a solution, while the situation just gets worse. That is the cruelest amnesty of all.

Instead, we must manage our borders and our immigration system better.

AgJOBS is a critical part of doing just that—managing our borders better and improving our homeland security by bringing hundreds of thousands of individuals up out of the shadows and into a legal system.

We can never neglect the humanitarian side of this, as well, that we should treat with dignity and humanity those who labor to put the food on our families' tables.

Mr. President, I yield the floor.

Mr. KENNEDY. It is a privilege to join Senator CRAIG today in urging the Senate to pass this important jobs bill for immigrants in agriculture. We have been struggling for decades to find a solution to the heart-wrenching problems facing so many farm workers for so long.

The Agricultural Jobs, Opportunity, Benefits, and Security Act—AgJOBS—is an opportunity to correct these long-festering problems. In a landmark agreement, both the United Farm Workers and the agricultural industry support this solution. It gives farm workers and their families the dignity and opportunity they deserve, and it gives farm owners a legal workforce.

The bill is a compromise, and it has 63 Senate sponsors, with almost equal numbers of Democrats and Republicans. More than 400 organizations across the country support it. They include advocates for farm workers, such as the United Farm Workers, the Farm Labor Organizing Community, and the Farm Worker Justice Fund. They include business groups such as the U.S. Chamber of Commerce, the National Council of Agricultural Employers, the American Nursery and Landscape Association, and the American Farm Bureau Federation. They include civil rights groups such as the Leadership Conference on Civil Rights, Latino organizations such as the National Council of LaRaza, the Mexican American Legal Defense and Educational Fund, and the League of United Latin American Citizens.

It is a bill whose time has come. In fact, we should have passed it long before now, because the need is so great, and the current situation is so untenable. For economic, security, and humanitarian reasons, Congress ought to complete action on this legislation before we adjourn for the year.

The AgJOBS bill is good for both business and labor. The Nation can no longer ignore the fact that more than half of our agricultural workers are un-

documented immigrants. Growers need a reliable and legal workforce. Workers need legal status to improve their wages and working conditions. Everyone is harmed when crops rot in the field because of the lack of an adequate labor force.

The AgJOBS bill provides a fair and reasonable process for these agricultural workers to earn legal status. It reforms the current visa program, so that employers unable to obtain American workers can hire the foreign workers they need.

Undocumented farm workers are easily and unfairly exploited by unscrupulous contractors and growers. Their illegal status deprives them of bargaining power and depresses the wages of all farm workers. Our bill provides fair solutions for undocumented workers who have been toiling in our fields, harvesting our fruits and vegetables.

The bill is not an amnesty. To earn the right to remain in this country, workers have to demonstrate past work contributions to the U.S. economy, and also make a substantial future work commitment. These men and women will finally be able to come out of the shadows, identify themselves, and provide evidence that they have worked in agriculture, so that they can continue to work hard and play by the rules.

Hard-working migrant farm workers are essential to American agriculture. We need an honest agriculture policy that recognizes the contributions of these workers and respects and rewards their work.

The legislation will also modify the current temporary foreign agricultural worker program, and it does so in a way that preserves and enhances key labor protections. It strikes a fair balance. It also benefits employers, by streamlining the visa application process and reducing paperwork for employers.

This legislation will also unify families. When temporary residence is granted, a farm worker's spouse and minor children will be allowed to remain legally in the United States, but they will not be authorized to work. When the worker becomes a permanent resident, the spouse and minor children will also be granted that status.

In the wake of the terrorist attacks of September 11, we can no longer accept policies that fail to protect our borders. Congress has periodically invested millions of dollars to increase the number of immigration border patrol agents, improve surveillance technology, and install other controls to strengthen border enforcement, especially along our southwest border. Yet, almost everyone agrees that these steps have failed to stop illegal immigration. The proof is in the numbers—several hundred thousand people a year continue to enter the United States illegally, and a significant part of the workforce in many sectors of the economy, especially agriculture, is undocumented.



One major unintended effect of our border enforcement strategy has been to shift illegal border crossings to the harsh desert and mountain terrains along the border, causing significant increases in deaths. According to the U.S. Border Patrol, since 1998 nearly 2000 people have died attempting to make the difficult journey across that border. Desperate migrants are being drawn into criminal smuggling syndicates, which increase the danger of violence to border patrol officers, border communities, and the workers themselves. As Stephen Flynn, an expert on terrorism, noted at a recent Congressional hearing, these "draconian measures" have produced chaos at our borders, which "makes it ideal for exploitation by criminals and terrorists."

The AgJOBS bill will make legality the norm and reduce illegal immigration. It provides reasonable rules that are realistic and enforceable. It replaces the chaotic, deadly, and illegal flows at our borders with orderly, safe, and legal avenues for these farm workers and their families. A workable and legal program for foreign workers crossing our borders will strengthen our security, substantially reduce crime and enable immigration enforcement authorities to focus their resources on terrorists and criminals trying to enter the country illegally. We need laws that recognize reality, so that legality is the rule, not the exception.

In this post-9/11 world, we cannot afford to ignore the fact any longer that so much of today's agricultural workforce is undocumented. The AgJOBS bill enhances our national security and makes our communities safer. It brings undocumented farm workers and their families out of the shadows and makes it possible for them to pass thorough security checks. It shrinks the pool of law enforcement targets and enables law enforcement officers to give priority to terrorists and criminals. It will make our communities safer, because once immigrants become legal, they will no longer fear deportation if they report crimes to law enforcement officers.

Reducing the size of the undocumented population also reduces the ability of suspected terrorists to hide. The half million or more undocumented farm workers eligible for this program will undergo rigorous security checks when they apply for legal status. Future temporary workers will be carefully screened to meet security concerns. Law enforcement resources will be more effectively focused on the highest risks.

Opponents of this legislation offer no workable solutions to the serious problems of current law. Yet they have blocked our efforts for a genuine debate on the issue. We cannot be complacent any longer. I urge my colleagues to support this needed legislation. It is long past time to end these dangerous conditions, and to do it in a

way that not only improves the lives and working conditions of all farm workers, but also enhances the security of our Nation. I urge my colleagues to approve this legislation, and I look forward to its enactment into law as soon as possible.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Will the Senator yield for a unanimous consent request?

Mr. ENSIGN. Yes.

The PRESIDING OFFICER. The senior Senator from Nevada.

Mr. REID. Mr. President, the Senator from Nevada wishes to speak; also the Senator from Louisiana. Even though there has not been a lot of order here today, I wonder if we could attempt, at least for a short time—how much time does the Senator wish to speak?

Mr. ENSIGN. I would like to speak for 10 minutes in morning business.

Mr. REID. The Senator from Nevada, 15 minutes in morning business. The Senator from Louisiana, 15 minutes. So 15 minutes to the Senator from Nevada, Senator ENSIGN, followed by the Senator from Louisiana, 15 minutes, and then we would return to a quorum. Is that appropriate? I ask consent.

Mr. HARKIN. Reserving the right to object.

Mr. REID. It is 15, 15, go back to a quorum.

Mr. HARKIN. OK.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Nevada.

Mr. ENSIGN. Mr. President, I thank the senior Senator from Nevada for allowing us to cooperate to get some time to talk about a couple of issues that are related to what we are talking about today.

I want to talk about the Duelfer report that has been reported widely in the papers are in our national news in the last several days.

The Duelfer report proves one thing—Senator KERRY was right about the coalition of the bribed and coerced. They were the countries that opposed the war in Iraq. They were the corrupt members of the U.N. Security Council who were brought off by Saddam Hussein.

Back in June, when I introduced the Oil-For-Food Accountability Act, I stated that I believed Saddam Hussein, corrupt U.N. officials, and corrupt well-connected countries were the real benefactors of the Oil-for-Food program. I noted there was evidence that they profited from illegal oil shipments, financial transactions, kickbacks, and surcharges that allowed Saddam Hussein to build up his armed forces and live in the lap of luxury.

The just-released 1,200-page CIA report confirms those allegations and details even more. The report states that some \$10.9 billion, that's billion with a "B", was secretly skimmed from the U.N. oil-for-food program for Saddam to use as he pleased.

The report outlines how Saddam Hussein used lavish gifts of oil vouchers

and contracts to secure the support of countries to lift U.N. sanctions on Iraq and oppose American initiatives in the Security Council. And this might be the most important point I make today—an Iraqi Intelligence report indicated that one nation—France—was bribe to use its veto in the U.N. Security Council against any effort to use armed forces in Iraq, and France later threatened to do just that.

France was not the only culprit in corruption. France was joined by Russia and China—also permanent members of the U.N. Security Council—as the top three countries in which influential individuals, companies or entities received oil vouchers. According to the report, Russia received 30 percent of the vouchers, France 15 percent and China 10 percent.

The real "coalition of the bribed and coerced" is the three members of the U.N. Security Council that were bought and sold by Saddam Hussein. The three members of the Security Council that profited immensely as long as Saddam Hussein remained in power.

The oil voucher system used by Saddam through the U.N. Oil-For-Food program was clever in that the vouchers were negotiable and could be resold to oil companies or other buyers at profits of 10 to 35 cents per barrel.

A voucher for 10 million barrels could generate between \$1 million and \$3.5 million to the holder of those vouchers.

The report notes that Benon Sevan, the former top U.N. Official in charge of the oil-for-food program was himself a recipient of Saddam's scheme. The report says that Mr. Sevan was allocated 13 million barrels of oil, of which 7.3 million were cashed in. There is also information about how Saddam's illicit oil profits were used to rearm Iraq. The report details how Saddam's deals with Chinese companies helped Iraq improve its missile capabilities. Russian companies provided barrels for antiaircraft guns, missile components, and missile-guidance electronics. French military contractors offered to supply Saddam Hussein with helicopters, spare parts for fighter aircraft and air defense systems. On the WMD front, Duelfer reports that using the Oil-for-Food program, Saddam Hussein was making a point of procuring the resources and establishing the networks to start a massive effort to produce chemical-weapons production just months after sanctions were lifted.

With Saddam's coalition of the bribed and coerced in place as three of the five permanent members of the UN Security Council, no amount of coalition-building by an American president was going to preserve the sanctions on Saddam Hussein. No amount of diplomacy was going to get those countries to enforce Security Council resolutions by force. They were permanent members on Saddam's payroll. The CIA report notes that Saddam had succeeded: to the point where sitting members of

the Security Council were actively violating resolutions passed by the Security Council.

So when I hear talk about some kind of a global test, or the need for UN Security Council approval for the use of force this Senator turns away in disgust because, with the release of the Duelfer report, we have names, dates, and amounts of bribes to prove that our critics, including the UN, do not have the moral authority to judge our actions. They are not motivated by security interests, humanitarian needs or any other noble cause. They are motivated by greed. America's freedom to use force wisely and justly is truly the world's best hope for peace and security. God bless President George W. Bush for having the courage to stand by his convictions.

He is doing his job. It is time, now, for the U.S. Senate to follow the 9/11 Commission's recommendations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I think under the unanimous consent agreement that I am entitled to speak for the next 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

#### TAX RELIEF

Ms. LANDRIEU. Mr. President, the Senator from Nevada makes some interesting points. I will have more to say about that specific issue later, as will other Senators from this side. But I am glad that he brought up the point of greed because it is actually something that I am going to speak about myself but as it relates to a different aspect, a different bill, and a different issue, but basically the same "sin," if you will.

Unfortunately, it is not our allies who are committing this sin, it is us right here. We are debating now, over the course of the next several days, and have actually been debating for 2 years, a tax relief bill prompted by the World Trade Organization's decision that some of the things in our U.S. Tax Code were contrary to the free trade principles that most of us—not all of us but most of us—espouse. So that decision set in motion a very necessary effort to address that decision by changing some things in our Tax Code.

Of course, anytime you open up the Tax Code there are many people interested in changing the words, the letters, the titles, the paragraphs, and the provisions. Sometimes a change in one word could mean a \$1 billion windfall for a particular company, or millions of dollars of windfall for particular entities. There is a lot of interest every time this body opens up a tax bill.

Two years ago when it came to the attention of some of us that a tax bill would be opened, and then as the 9/11 tragedy happened and as we saw men and women from our States going to the front lines to fight in Afghanistan and Iraq, and as we watched some of our health units, particularly in New

Jersey, New York, Pennsylvania, right here in Washington, DC, and Virginia respond to some very tough casualties that this country experienced, some of us began to think: What could we do in this tax bill to honor the men and women who are on the front lines?

Not being on the Finance Committee, I wasn't aware of all the specific aspects, but I knew there would be maybe hundreds or thousands of entities, corporations, big and small, groups that thought they were entitled to some sort of tax break.

For the life of me, I didn't think we would have any trouble at all when a group of us got together—Senator BOXER being one, Senator MIKULSKI, Senator MURRAY, Senator DASCHLE, Senator REID, Senator BOND, the Senator from South Carolina, LINDSEY GRAHAM, and many others—and thought, having been to a lot of parades and flag-waving ceremonies for our troops, maybe there would be a way we could help them in this tax bill.

I know it is not the focus, but we figured—or I thought—there would be lots of other people who were trying to get in. So why don't we try to get our troops in? The good part of this story is we did in the Senate, with the help of Senator GRASSLEY, Senator BAUCUS, and many members on the Senate Finance Committee who worked long hours, many weeks, many months negotiating a bill that would correct the original problem that the World Trade Organization had, and provide some tax relief, according to their views and other people who wanted tax relief; we put in a tax benefit of \$2 billion for the men and women who are actually on the front lines, the guardsmen and reservists who have become a larger and larger component of our fighting force, who leave their regular jobs, leave their families, and leave their regular civilian life, put on their uniforms and go to the front lines.

We know from reports which we have read and from our own experience representing our Guard and Reserve in our own States that 40 percent of these men and women take a cut in pay to go to the front lines. Not only do they take the bullet, not only do their Humvees get blown up on patrols, but they also take a cut in pay to go.

Some of us had the notion that maybe in this bill, whether it was going to be \$350 billion or \$75 billion or \$100 billion, now it is \$137 billion—I would like to show you what that looks like. This is only part of it. This is what a bill looks like that has tax relief provisions of \$137 billion. This is just part of it. I am going to get the rest of it because it is a lot of pages.

Some of us had the foolish notion that maybe the Congress could find one page, one paragraph, one letter to include tax relief for American businesses that are doing the right thing, the patriotic thing, by filling the pay gap that these men and women are experiencing. When they leave their civilian life and they put the uniform on,

and they pick up their paychecks from the Army, Air Force, or the Navy, they get a substantial cut in pay. Some of the employers are making them whole and doing the right thing, the patriotic thing. We thought surely in this tax bill we could give a tax credit to those small businesses because times are not good everywhere in some States and communities. Really, the whole economy is weaker than we had expected and these small businesses are struggling.

But I don't know why Chairman THOMAS from California who wrote the bill, and the House leadership of Congressman DELAY and Speaker HASTERT, couldn't find one page or paragraph to include them. So they were left out. They weren't in the top of the list, they weren't in the middle of the list, and they were not at the bottom of the list. They are not on the list.

We stand here and talk all weekend about our intelligence reorganization to secure ourselves. We talk about spending and the investment in our defense to secure ourselves. Let me just ask anyone who would want to come to this floor, or Chairman THOMAS, if he is listening to me, what could we be thinking if we are not even keeping the paychecks of the men and women on the front lines whole? No bonus, no extra, just keep their paycheck whole, just to keep their house payments up, just to keep the car notes for their spouse who is at home so they can continue to work and transport the children, just keep the children's trust funds moving along so they don't have to make that up when they come home—what could they be thinking? They weren't thinking very well on the House side. They took it out.

If we could afford \$2.5 trillion in tax cuts in 2001, I think we could at least allocate one-tenth of 1 percent to our troops on the front lines who are protecting us today.

I want to say another thing to the businesses that are in this bill. I have a lot of companies in Louisiana that are going to benefit from this bill. I have not a word to say about that. I am happy they are in. I am sure they have good reasons. I am sure it is going to help create jobs.

But I have a word to say to the businesses in the United States of America. No business would be here, no business could operate, no business would have international trade, no business would have stockholders, no business would have a profit sheet, no businesspeople would be paying taxes on profits they made if it were not for the men and women in uniform who go to the front lines every time we have a conflict, a peacekeeping mission or a war to undertake to protect their commercial interests.

I am confident that the businesspeople who are represented in this bill know that. I know they are not going to blame me for taking a few days to talk about it. I know they will say, Senator, you are right. We are

grateful to the men and women in uniform. We are actually a little embarrassed because we are in the bill and they are not. It is not their fault. It is nobody's fault. But the House leadership who wrote the bill left them out.

We have in this bill help for investors who want to invest in a subway system in Paris. I like NASCAR. Lots of people in my State go to NASCAR races. We have tax relief for NASCAR. We have tax relief for ceiling fan importers with Home Depot. I shop at Home Depot. I like Home Depot. But we left out the Guard and Reserve.

I don't know. I am just starting to think that unless the cameras are on nobody remembers the truth. It is only the photo opportunities or the rallies or the parades that everybody goes to. We wear the pins and the flags, but when it comes to the budget and to the tax bill, we leave them out.

I don't think our troops need a lobbyist. I thought we were their advocates. Mr. President, \$137 billion and we could not allocate \$2 billion, not \$1 billion, not half a billion?

I will speak about this as often as possible for the next couple of days. I tell my leadership, I don't want to make people's lives miserable. I am happy to talk with our leadership and the Republican leadership about any time agreements that make people's weekends convenient, but I could not in good conscience not spend some hours—whether it is 2, 5, 10, or 30—talking about the 5,000 men and women who have been deployed out of Louisiana, who are on the front lines, whose employers, whom I know personally, are making their paychecks whole.

We had the chance to help out small business, to help our National Guard and Reserve. Somebody, somewhere, on the other side of this Capitol made a decision that is immoral, unconscionable, and most certainly not justifiable.

I will present for the record some names of families. I will present some hardship cases so the record is clear about the kind of families we have turned our backs on and the kind of employers who are doing the very best they can. While they are hiring a replacement, because they obviously need the job done, and sending the paycheck overseas, the Government of the United States, which is supposed to be on their side, decides we do not want to help them because we have higher priorities.

What higher priorities could we possibly have in the Tax Code at this time? If any one of my colleagues wants to explain to me and anyone else what could be a higher priority, I would appreciate it. If there is something else in here for the Guard and Reserve, for the military, to support our troops directly, please tell me. Maybe I didn't get to read the whole report.

I was on the Armed Services Committee for several years. Eventually, I

hope to be on Defense Appropriations where I can do more work along this line. I know one thing, last year the Guard and Reserve, despite the fact these are the most dedicated and patriotic men and women—they will go the distance. They do not complain. They do not even like to say what is wrong because they feel sacrifice is what they do. I understand that. They came 5,000 people short of their retention goals. Could it possibly be because, although the soldiers do not mind making the sacrifice, they are getting belly sick of their spouses and their wives and children making sacrifices more than the rest of us are making? Why can't we sacrifice and help them? Why do they have to continue to make the sacrifice? When we have the opportunity, we say no.

Drastic pay cuts, bankruptcies, foreclosures—these aren't exactly the kinds of challenges members of the American military reserve signed up for when they volunteered to put their life on the line for us and for a country as great as this. For all of our pompous talk about how patriotic we are in this Congress, the least we can do is keep their paycheck whole.

Let me talk about three families I actually know. I will be in the Chamber talking about more.

Janet Wright is from Hammond, LA. Her husband Russell is in the Marine Corps. I have the Marine Corps pin on today in honor of our men and women. He makes \$60,000 a year in the civilian world. He was activated and made only \$30,000. He took a 50-percent pay cut. Mrs. Wright said that after a couple of months she started to put water in her children's cereal while her husband was gone because she had to count every penny. That is what happens when we give out \$137 billion: We cannot help the Wrights. We don't have enough money to help the Wrights, so they have to put water in the children's cereal bowls.

Scott is a Navy reservist from California. He lost his home when he was activated and he lost nearly \$1,000 a month in pay because the Navy job was different than the civilian. People say, Senator, that is impossible. There is a law that protects people from losing their home. I know that. You cannot foreclose on someone's home when they are on the front line. But the problem is, the bills add up and when they have to come home, if they have not paid those monthly notes and they cannot pay it within a certain amount of time, the foreclosure happens.

I don't understand how we don't have any money to fix it. How can I go home and tell my Guard and Reserve, I'm sorry, we didn't have any money, but here is \$137 billion we gave out to everybody else? I am not going to do it. I can't go home. So I would as soon stay here because I don't have a thing I can tell them, not a thing I can say.

I will tell more stories about real people. They are calling my office right now and sending letters. We are getting

a lot of e-mails. I will come down here until I hear from Chairman THOMAS. We are sending a letter to the President at 6 o'clock today.

Let me say on the record I don't think the President of the United States knows they were left out. He has a lot on his mind. I understand that. And I know this is only one of a thousand things he has to consider, literally, weekly. But I am sending him a letter to let him know. I cannot amend this bill; it is beyond my power to amend it. It is against the rules. But the bill could be vetoed and this could be included. Or the President could send a message to his House leadership that says, you must have made a mistake; we should have included this. We obviously could afford it and he could promise to fix it.

I hope that is a response we will get over the next couple of days. I don't know. I know he is very busy on many other things right now. There will be a big debate tonight, but this is something I had to bring to our attention.

Over 410,000 members of the National Guard and Reserve have been activated since September 11. Secretary Rumsfeld has predicted that number may go up to 640,000. That is a lot of families dependent on us to make good decisions for them. This was not a good decision made by the House leadership. I will do everything in my power to get them to change their mind, to change the bill, or to promise they will put in this \$2 billion or \$3 billion—whatever it will cost to close this pay gap—so the men and women who leave your State of Illinois or my State of Louisiana or the Senator's State of Ohio or the Senator's State of Massachusetts, when the soldiers leave to go overseas, they have confidence that when we have a chance to help them keep their pay whole, keep their benefits intact, give them some support in the spousal support program we have established, we are there for them.

I understand the Senator from Massachusetts will speak and I understand the Senator from Iowa will yield the time to make that possible. But if my colleagues are wondering why the process has slowed down, why we are having a hard time getting a schedule for the next couple of days, this is one of the reasons. This is the reason I am voting against the bill and will be speaking about it as the days go forward.

I yield the floor.

Mr. REID. It is my understanding that the majority has people who want to speak. I know the Senator from North Carolina is here and wishes to speak for 10 minutes and the Senator from Massachusetts wishes to speak for up to 30 minutes. This would be as if in morning business. Senator KENNEDY will speak for up to 30 minutes. Of course, the time counts against the 30 hours we are working under now. And we would ask that the majority be recognized for up to 30 minutes, to match that of the time for Senator KENNEDY,

with the first 10 minutes being for the Senator from North Carolina, and that time also be counted against the 30 hours. I ask unanimous consent that be the order.

The PRESIDING OFFICER (Ms. MURKOWSKI). Is there objection?

Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, while my good friend the Senator from Louisiana is in the Chamber, I commend her for the enormously persuasive case she has made and say I agree with her 100 percent and will certainly do everything I can to support her.

The point is, we passed this underlying bill in June, and the conferees were appointed in July by the Senate of the United States. The House of Representatives did not even appoint their conferees until the end of last week, and did not have their first meeting until Monday of this week, and we are trying to jam this legislation through the Senate late in the afternoon on a Friday, and the cloture motion was filed the first thing this morning before there was 1 minute of debate on it.

Ms. LANDRIEU. Yes.

Mr. KENNEDY. I say that both in terms of the substance, which is so powerful, and the process and the procedure in standing for the Guard and Reserve, I commend the leader. There is an arrogance among the chairman of the House Ways and Means Committee and the Republican leadership that ends up and results in this kind of a situation where they say: Well, there won't be people over there who will stand for the Guard and Reserve. We will send it over there late either last night, which they would have done if they had been able to get these printed up, or we will have it over there on Friday morning, and they will all want to take off on Friday, so they will go ahead and pass it. That is the view.

I commend the Senator from Louisiana for the substance and commend her for the process as well. And I will take the time not just at this moment but also to comment about the same legislation, how Chairman THOMAS and the Republican leadership are prepared to take care of the tobacco companies but not take care of America's children. That was the choice. You could have done both. I would have supported looking out after tobacco farmers who are having difficulties on that. I would have supported having the tobacco companies pay for that particular bail-out. But it should have included the protection of America's children, and the Republican leadership refused to do that.

It refused to look out after American workers. We have passed—three times in the Senate, twice in the House of Representatives—a prohibition against this administration's repeal of the overtime provisions that affect 6 million of our fellow workers, primarily the first responders. Police and firefighters and nurses: They are three of the largest groups that were going to

be affected. We passed that three times. The House of Representatives passed it twice.

We had 5 minutes of discussion on it from the proponents of it in the same conference. I was there. So that is certainly one of the reasons that we speak and we are so concerned about those provisions. We will have a chance to address those matters. But I do want to speak to the Senate on two other matters briefly this afternoon.

#### AFGHAN ELECTIONS

Madam President, one is the greatest intelligence failures in our history occurred on 9/11, and the seeds of that disaster were planted long ago in Afghanistan, whose people will participate tomorrow in the historic election to select their next President. I know my colleagues share my deep respect for the Afghan people and the many others who worked so hard in recent months to make these elections possible.

The elections already have been postponed three times, and the parliamentary elections that were to be held this weekend have now been delayed until next year. President Karzai has shown tremendous courage and determination in the face of multiple assassination attempts. He and the vast majority of the Afghan people have demonstrated an impressive commitment to a free and democratic Afghanistan.

Yet Afghanistan still faces fundamental threats to the casting of ballots on Saturday, let alone its long-term stability and prosperity. Elections are vitally important to the process of rebuilding a free country, but they are not a panacea for the myriad of problems that face the people in Afghanistan. Those problems will still be there the day after the elections, and the Bush administration, Congress, and the American people cannot afford to be distracted from the ongoing efforts that will be required to bring peace and stability to Afghanistan.

We made that mistake once before in Afghanistan, in the aftermath of the Soviet withdrawal in 1989, and the result was a failed nation that became the breeding ground for the terrorists who attacked us on September 11, 2001. We cannot afford to allow Afghanistan to fall into chaos once again. Unfortunately, because of its misguided war in Iraq, the Bush administration may bring us perilously close to doing just that.

In the aftermath of the terrorist attacks on September 11, President Bush rightly spoke about the need to put Afghanistan on the right course. He welcomed then-Chairman of the Afghan Interim Authority Hamid Karzai to the White House in January 2002, and said:

The United States is committed to building a lasting partnership with Afghanistan. We will help the new Afghan government provide the security that is the foundation for peace.

Instead of finishing the job, however, President Bush foolishly and recklessly diverted America's attention from the real war on terrorism in Afghanistan

by rushing to war in Iraq, a country that had no operational links to al-Qaida terrorists.

We now know that President Bush began planning the invasion of Iraq from the earliest days of his administration. Finding a rationale to get rid of Saddam Hussein was on the agenda from day one of this administration. Barely 3 months after the most vicious terrorist attack on America, the President already began concentrating on Iraq, not Afghanistan. On November 26, 2001, he said:

Afghanistan is still just the beginning.

And 3 days later, even before Hamid Karzai had been approved as interim Afghan President, Vice President CHENEY publicly began to send signals about attacking Iraq. On November 29, he said:

I don't think it takes a genius to figure out this guy [Saddam Hussein] is clearly . . . a significant potential problem for the region, for the United States, for everybody with interests in the area.

The shift was all but sealed by the time of President Bush's State of the Union Address on January 29, 2002. Karl Rove had told the Republican National Committee that terrorism could be used politically. Remember that speech, that terrorism could be used politically? That is Karl Rove in 2002: Republicans could "go to the country on this issue."

In the State of the Union Address, President Bush unveiled his "Axis of Evil"—Iraq, Iran, and North Korea. Those three words forged the lockstep linkage between the Bush administration's top political advisers and the Big Three: Cheney, Rumsfeld, and Wolfowitz.

What did President Bush say about bin Laden in the State of the Union Address that day? Nothing.

What did he say about al-Qaida? One fleeting mention.

What did he say about the Taliban? Nothing.

Nothing about bin Laden, a fleeting mention of al-Qaida, nothing about the Taliban in that State of the Union Address.

With those words, we lost our clear focus on the most imminent threat to our national security—Osama bin Laden and al-Qaida. The President had checked the box on Afghanistan and was poised to use the 9/11 attacks to advance his Iraq war agenda of a war on Iraq.

The consequences of that decision have been severe for the security of Afghanistan and for the security of the American people. Without a doubt, the war with Iraq has distracted us from the hunt for Osama bin Laden.

The administration botched the battle at Tora Bora in December 2001. By outsourcing the job to warlords in Afghanistan, he let Osama bin Laden escape. Instead of sticking with the job of capturing bin Laden, the administration launched a war with Iraq. Reports indicate that the Bush administration shifted special operations soldiers and

Arab language specialists from Afghanistan to prepare for the war in Iraq. And it recently pulled the State Department's extraordinarily talented assistance coordinator for Afghanistan, William Taylor, out of Afghanistan and sent him to Iraq. Saddam Hussein is behind bars, but he did not attack America.

Meanwhile, Osama bin Laden is probably hiding somewhere in the ungovernable tribal region between Afghanistan and Pakistan planning another attack on America.

Security outside of Kabul is tenuous because we and our allies are overstretched in Iraq and cannot commit sufficient troops in Afghanistan. We have 140,000 troops in Iraq and our allies, another 20,000. It was al-Qaida operatives who trained in Afghanistan who attacked America. Yet America has seven times more troops in Iraq than in Afghanistan.

We obviously do not have enough soldiers to secure Afghanistan. It was the lowest troop-to-population ratio of any postconflict country during the past 60 years. President Karzai asked for 20,000 new troops for election security at the NATO summit last June. The U.N. reportedly estimated this summer that it would take somewhere between 5,000 and 15,000 additional troops to secure this Saturday's election. Sadly, what NATO and the United States eventually provided fell far short of that requirement—3,000 troops total. Spain agreed to send a battalion to Afghanistan for election security only after the Government pulled its troops out of Iraq. Our allies can't meet NATO requests for a minimal increase in troops for Afghanistan because they too are bogged down in Iraq.

This administration's lack of credibility with the international community has made it almost impossible to obtain the necessary troop commitments to win peace in Afghanistan. Because the international community is unable to provide adequate security in Afghanistan, the forces of the Taliban and al-Qaida continue to strike regularly. Most experts believe that elements of the Pakistani security services continue to support the Taliban and that Taliban forces are able to move freely between Afghanistan and Pakistan and can launch attacks on American and Afghan forces before retreating to their sanctuaries in Pakistan.

The Bush administration's Ambassador to Afghanistan admits what has become the obvious truth on the ground: The Taliban ranks are growing in Afghanistan.

Our Ambassador Zalmay Khalizad told reporters in September:

With regard to Taliban, I have to say that there may have been some growth in the numbers of their people that are active. There has been some effort, obviously, at recruitment, increased effort at recruitment in the refugee camps and in the madrasas.

Ambassador Khalizad also tells us that he still sees a "strong link" be-

tween al-Qaida and the Taliban in Afghanistan. Three years after our invasion of Afghanistan to deny al-Qaida its sanctuary under Taliban protection, the Taliban and al-Qaida still retain a strong relationship in Afghanistan. How did the Bush administration ignore the fact that America cannot be safe until Afghanistan is stable and al-Qaida no longer has a haven there?

As a result of the poor security, President Karzai still does not have full control over his country and is forced to negotiate with warlords who control private militias with forces numbering in the tens of thousands. A recent report by Human Rights Watch summarized the issue well:

Political repression by the local strongmen is the principal problem. Through the country, militarized political factions . . . continue to cement their hold on political power at the local level, using force, threats, and corruption to stifle more legitimate political activity and dominate the election process.

Our inability to secure Afghanistan means that opium production is at record levels. Funds from the drug trade are being used to finance attacks against our troops and against the Afghan people. They are being used to operate the private armies of the warlords and rebuild the ranks of the Taliban. They are pouring fuel on the fire of instability and terrorism. Yet the administration failed to give a priority to shutting off the drug trade in Afghanistan, and the result has been predictably destructive.

Two weeks ago, Robert Charles, our Assistant Secretary of State for International Narcotics and Law Enforcement, painted an ominous picture in his testimony in the House International Relations Committee. He said:

On the narcotics front, tied like a ball and chain to security, justice and economic development, we stand in the darkness of a long shadow . . . President Karzai and other Afghan officials have said that drug trafficking and the corruption it breeds may be the biggest threat right now to Afghan's long-term security and democratic future.

The CIA and the United Nations estimate that the crop of poppies for 2004 will be 20 to 40 percent greater than last year. That means 500 tons of heroin. No wonder Afghanistan now accounts for 75 percent of the worldwide production of opium.

The long shadow that Robert Charles described is the shadow of our misguided war in Iraq. The forces and resources we are pouring into Iraq could have been used and should have been used to end the drug trade in Afghanistan, regain control of the country from the warlords, and dismantle their militias.

Last month, LTG Walter Sharp of the Joint Chiefs of Staff told the House International Relations Committee that less than half of the approximately 40,000 people targeted in Afghanistan for disarmament had actually been disarmed. The operations manager of the U.N. disarmament program on the ground in Afghanistan told the Financial Times that fewer

than 10,000 of the targeted individuals had been disarmed. Clearly, the effort to dismantle the private militias has fallen drastically short with dangerous consequences for Afghan stability.

In June, local militias killed five aid workers from Doctors Without Borders in a brutal attack. In July, that distinguished nongovernmental organization pulled out of Afghanistan after 24 years of helping the Afghan people. Their loss is a sad commentary on the continuing violence and the Bush administration's misguided handling of Afghanistan. The failure to crack down on the narcotics trade, the continuing domination of much of the countryside by warlords, and the inability of this administration to provide sufficient troops to stabilize the country are major setbacks to the war on terrorism. Clearly some progress has been made. I hope the elections tomorrow will proceed without incident. But if we had not rushed to war with Iraq, much greater progress could have been made and certainly would have been made in Afghanistan, and America would be safer today. Yet President Bush continues to deny this obvious reality. Incredibly, he told a campaign rally in Ohio last week that as a result of the U.S. military, the Taliban no longer is in existence.

Representative RON PAUL, a Republican Congressman from Texas, does not agree. As he said on September 23:

A picture of Afghanistan has been painted, I think, overly optimistic. You read the newspapers, what you're talking about doesn't even exist from the reports that I have read about what's really going on. And when you hear about the Doctors Without Borders leaving, after having been there through the Russian occupation. The U.N. wants to leave. Protection of the president is very precarious. We don't know what will come of that.

The airport's getting bombed. There's estimates that 90 percent of the country, at least a very large percent of the country, is under the occupation of the Taliban and the warlords. We have a serious disconnect here and we have to be—as Americans and as members of Congress, we have to be realistic and not hide from the realities of what is happening.

That is from a Republican Congressman from Texas. I couldn't agree more.

In the aftermath of 9/11, it was clear that America had to deal effectively with Afghanistan as the highest priority for our national security. It was clear that America could not be safe if Afghanistan remained unstable. Instead of finishing the job, we rushed off to fight a different war, the war in Iraq. We squandered the tremendous worldwide good will that flowed to America after 9/11. We alienated longtime friends and leaders in other nations on whom we heavily depend for intelligence for support in the ongoing war against terrorism. Distrust of America has soared throughout the world. We are especially hated in the Muslim world. The past 2 years have seen the steepest and deepest fall from grace our country has ever suffered in the eyes of the world community in all our history.

All this is the heavy price our country has paid because of the war in Iraq that America never should have fought. We cannot afford to continue down this dangerous path of incompetence in foreign policy. We know that America has to do better.

As I have said before, the only thing we have to fear is 4 more years of George Bush.

Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

#### UNEMPLOYMENT

Mr. KENNEDY. Madam President, earlier today, the Department of Labor issued its report on the state of unemployment in the country. I want to just comment on this. It is official now that President Bush will be the first President since the days of Herbert Hoover and the Great Depression—over 70 years ago—to preside over a net loss of jobs during his Presidency.

Today's job numbers show that only 96,000 were created last month, which is even lower than economists had predicted in order to keep up with population growth. Even worse, a third of the jobs created were in temporary positions. Another third were government jobs, which means the private sector job creation is far from recovering.

The official unemployment rate is 5.4 percent, but the real rate of unemployment and underemployment is 9.4 percent. More than 400,000 workers have stopped looking for work because they are so discouraged. They are no longer counted in the official rate. Another 4.5 million are working part time because they cannot find full-time jobs.

Part-time workers and temporary workers earn less money than full-time permanent employees and often do not even receive benefits. America's workers have been out of work for months. They have finally found a job, but it is part time or temporary, so they take a huge cut and have no health insurance. Temporary workers earn about 40 percent less a week than the rest of the workforce.

Of the 8 million unemployed workers, nearly 22 percent are long-term unemployed; they have been out of a job for more than 6 months. This long-term unemployment rate has been over the 20-percent mark each month since October 2002, 2 consecutive years, which is the longest streak since this data has ever been collected.

Despite these record highs in long-term unemployment, President Bush allowed the unemployment insurance program to expire last December. These workers have worked hard, played by the rules, and paid into the unemployment trust fund, which now has \$20 billion in it. But the President had said no to extending unemployment benefits for these workers.

Do we understand that, Madam President? You don't get unemployment compensation; you are not eligible unless you have worked and con-

tributed to the fund. The reason the fund was set up was for just this kind of condition, where workers have been working, want to work, and need to work, but the economy slows down, so they receive unemployment compensation for a period of time, generally 26 weeks. It has been extended 13 weeks in particularly high unemployment areas. It is just enough to cover the mortgage and put some food on the table and put gas in the automobile. It is interesting that Bush No. 1 extended the unemployment compensation three times, when we never had the economic and adverse economic conditions we have at this time. But this President will not extend it to help these workers.

The job situation is even worse for people of color. The unemployment rate for African Americans is more than 10 percent—almost double the national average—and for Hispanics, it is 7 percent. And women are not faring well in this economy. The income of low-income single mothers has gone down by 3 percent every year in the Bush economy—3 percent constantly down.

But President Bush and the Republican Congress refused to raise the minimum wage, which would benefit primarily women—7 million of our fellow citizens, men and women of dignity, who work hard, clean out the great buildings where American industry is housed, help as assistant teachers, work in nursing homes—primarily women; and many of them have children, so it is a women and children's issue, a family issue. It is also a civil rights issue because so many of those who earn minimum wage are men and women of color. It is a civil rights, family, women and children, and a fairness issue.

Americans believe if you work hard 52 weeks in the year, you should not have to live in poverty. Why is it that the Republican leadership has refused to let us have a vote on increasing the minimum wage? I offered to increase the minimum wage on the TANF bill. What did the leadership do? They pulled the bill. I offered it on the State Department reauthorization bill. They pulled the bill so the Senate could not vote. Here you see the results of that: no long-term unemployment compensation, no increase in the minimum wage.

Now we hear, as I heard on the Joint Economic Committee, about how the hurricanes have really impacted things. We heard other testimony that because of the hurricanes more people are working to try to deal with the problems. All of this is against a background where those workers are facing the perfect storm: the lack of an increase in the minimum wage, lack of unemployment compensation, and the fact that this administration has put in the regulations to deny overtime for up to 6 million American workers. So they are going to work longer and harder—because that is the record if you don't have that protection—and they will make less.

You have those three coming at you and, at the same time, you have college tuition going up 38 percent. Health care premiums are up 59 percent. Gas, 40 percent.

If you can believe it, milk, in Cape Cod, MA, last week was \$4.05 a gallon. It is a little less in other parts of Massachusetts, maybe a little over \$3. But it is \$4.05 a gallon there, and we cannot get an increase in the minimum wage.

So American families are working and working long and hard.

What happens after all this? We have a proposal on the floor of the Senate called the JOBS bill—how much time remains?

The PRESIDING OFFICER. There is 3 1/2 minutes remaining.

Mr. KENNEDY. The JOBS bill was meant to initially deal with the \$4.5 billion problem at the World Trade Organization. What has happened is the Republican leadership in the House of Representatives sent over a \$143 billion program that benefited the tobacco companies at the expense of the children, and also increased financial incentives to drive more American jobs out of the country, rather than bring them home—outsourcing.

My friend, the Senator from Florida, BOB GRAHAM, will address this issue during the course of this debate. We see how this legislation disserves American workers even more.

This is a fierce record and everybody on Main Street knows it. This economy is working fine for Wall Street. It works well for the elites, the elite corporations and the elite individuals. In this economy, we have had four tax breaks—at a time when we are fighting two wars—for the elite corporations and elite individuals. But for the working families on Main Street, they are suffering. Hopefully, they will have an opportunity to express themselves on election day.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. DORGAN. Madam President, I wonder if the Senator will yield for a question.

Mrs. DOLE. Yes.

Mr. DORGAN. Madam President, I understand the Senator from North Carolina is speaking as in morning business under a block of time allocated to the other side by prior agreement.

I ask unanimous consent that following the Senator from North Carolina—if nobody is on the floor—that I be recognized for 15 minutes as in morning business, preserving the remainder of the 30 minutes allocated to the other side. If other speakers on that side are here to follow the Senator from North Carolina, I suggest that I follow them at the end of the 30-minute period.

Mr. REID. Madam President, I ask unanimous consent that the Senator modify his request that for whatever time he uses, the majority have equal



time, subsequent time, and that the time the Senator from North Dakota uses and the time of the majority following him be charged against the 30 hours.

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

#### CONNECTION BETWEEN IRAQ AND AL-QAIDA

Mrs. DOLE. Madam President, in our post-9/11 world, most Americans would agree that to defend our Nation and the freedoms we hold dear we must continue to succeed in the war on terror. As many of my colleagues and I have said, Iraq is the central battleground in the war on terror. The terrorists certainly know what is at stake, which is why they are pulling out all the stops to derail our efforts there. They know that a free and democratic Iraq is a serious blow to their interests.

Collaboration of Iraq's former regime with terrorist groups and its funding of them have not been in question. Democratic cochairman of the 9/11 Commission, former Congressman Lee Hamilton, told reporters that there were connections between al-Qaida, and Saddam Hussein's government. Still, few naysayers have passed up the chance to contest links between Iraq and al-Qaida, links that have existed for more than a decade.

Charges have been made that Iraq was not a haven for terrorists before the war, this statement being made just days after terrorist followers of Zarqawi, arguably the most dangerous terrorist in the world today, kidnapped and beheaded American civilians in Iraq. Reports strongly suggest that Zarqawi himself committed the atrocities.

He and his men trained and fought with al-Qaida for years. Not only was Zarqawi in Baghdad prior to Saddam's ousting, but nearly two dozen members of al-Qaida were there as well. One al-Qaida associate even described the situation in Iraq as "good" and stated that Baghdad could be transited quickly.

Then there is Abdul Rahman Yasin, another terrorist who was in Iraq long before the war. Yasin was a member of the al-Qaida cell that detonated the 1993 World Trade Center bomb. Documents discovered recently by U.S. forces in Saddam's hometown of Tikrit show that Iraq gave Yasin both a home and a salary until the eve of the war in Iraq. When a Newsweek reporter interviewed Yasin's Baghdad neighbors, they told the reporter that Yasin was "working for the government." Is this not a clear example of Iraq not only having a relationship with al-Qaida but also harboring and rewarding a terrorist, a person who was directly involved in a terrorist attack on our soil?

What about a link between Osama bin Laden, the al-Qaida leader himself, and Iraq? The 9/11 Commission Report states that Iraqi intelligence officials and al-Qaida members met in the spring and summer of 1998, and that an

Iraqi official offered bin Laden a safe haven in Iraq. In its 1998 indictment of bin Laden, the Clinton administration asserted that al-Qaida and the Iraqi Government had an understanding that they would not work against each other, and on projects such as weapons development, they would work cooperatively. Is this not evidence of bin Laden and al-Qaida having a collaborative relationship with the Iraqi Government?

In a recent interview with a French newspaper published August 29, 2004, Hudaifa Azzam, the son of bin Laden's mentor, Abdullah Azzam, said the Iraqi regime and al-Qaida had worked together closely before the war. He said:

Saddam Hussein's regime welcomed them with open arms and young al-Qaida members entered Iraq in large numbers, setting up an organization to confront the occupation.

Azzam said that al-Qaida members came into Iraq from Afghanistan, across mountains in Iran, with the help of Kurdish militants. And once in Iraq, Saddam strictly and directly controlled their activities, according to Azzam. Here is yet another example of al-Qaida members infiltrating Iraq and being given safe haven prior to the entrance of coalition forces.

Let me be clear, despite recent political criticisms and media reports that have clouded or even misrepresented the facts, there is ample evidence of terrorists operating out of Iraq prior to the war, and there is compelling evidence of a longstanding link between al-Qaida and Iraq. The bipartisan Senate Intelligence Committee report informs us of this, as does the bipartisan 9/11 Commission Report.

Again, let me emphasize, Iraq is the central battleground in the war on terror. Recently, before a joint meeting of Congress, Prime Minister Allawi spoke of the challenges and continued progress in his country. He offered eloquent words of gratitude for America liberating the Iraqi people. I close today with a simple, but significant, statement that he made without much notice or fanfare. In talking about Iraq he said:

We are fighting for freedom and democracy—ours and yours.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota has 15 minutes.

Mr. DORGAN. Madam President, I believe I asked for 15 minutes.

The PRESIDING OFFICER. That is correct.

#### JOBS BILL

Mr. DORGAN. Madam President, I came to the floor because we are going to have a great deal of business in the final days of this legislative session. Some of the legislation will be very significant. This is one piece of tax legislation that originally came out of the Senate Finance Committee and the House Ways and Means Committee. It rests on all of our desks. It is a large unwieldy piece of legislation dealing with, in some cases, arcane portions of our Tax Code.

There is much in this conference report on what is called the FSC/ETI bill, which is the shorthand way we talk around here. Others call it the JOBS bill. There is much I commend, much that I support, and much that I think represents good work. But I want to talk a moment about some missed opportunities as well.

I am mindful of what Mark Twain once said. It is always easy to be negative. Mark Twain once said, when asked if he would debate: Of course, if I can take the negative side.

They said: We haven't told you the subject.

He said: It doesn't matter, the negative side doesn't require preparation.

I am mindful of that when I am trying to pick apart some pieces of this bill, but I think it is important to talk about missed opportunities at this late date.

I am going to vote for this bill, but I will tell you what is not in it and should be.

We are drowning in debt in this country. We have the largest budget deficit in the history of America, and add to that the largest trade deficit in the history of this country. We are neck deep in debt. We are spending money we do not have, in some cases on things we do not need. We send our men and women to war and say, by the way, we will not pay for that, we will have them pay for it when they come back. We are drowning in debt.

One part of dealing with that debt in fiscal policy is to try to get the revenue into the coffers of the Federal Government that is owed by those who are required to pay taxes.

Let me describe a couple headlines from recent days:

House Negotiators Reject Tougher Tax Shelter Penalties.

Those House negotiators said: No, we do not want to get tough to shut down tax shelters and tax dodgers. I am talking now about very large corporations that make billions of dollars and decide they want to do everything they can do as an American citizen, except they do not want to pay taxes. They do not want the obligation of paying taxes.

Madam President, \$40 billion would have been raised as a result of the provision that was objected to by the House negotiators. That's \$40 billion saved in taxes that will not be paid by companies that should have been full taxpayers.

October 7:

How Big Tax Shelters with Cities Shortchanges the Federal Treasury.

This is about people buying a sewer system. Can you imagine someone wanting to own a sewer system? But cities are now selling their subways, city hall, and the sewer system. Why? Because if they sell it to a corporation, a corporation can depreciate it, and then they can each share in the tax writeoff because a city does not have a tax write off because it is not taxable. So we see these things being sold to

private investors so that everybody wins, except the taxpayer loses, and our debt goes up and up because entities that should be paying taxes are not.

Let me talk just for a moment about the issue of missed opportunities with respect to runaway plants and moving American jobs overseas.

This morning there was an announcement about the number of jobs created in the last month. We need to create about 175,000 jobs a month just to keep pace with the increased population moving into the workforce. This month it was only 96,000 new jobs, far short of what is necessary just to keep pace with the new people coming into the workforce.

Even as we struggled to create these new jobs, we have in place a provision in this country's Tax Code that says to a company: Guess what. If you will just decide to move your jobs overseas, we will give you a tax cut for doing it.

We will give you a big fat tax cut if you move your jobs overseas. Now, I cannot think of a more pernicious, obscene thing to do than to say to American companies, move your jobs and we will give you a tax cut.

If some tax concessions are going to be given, give them to the businesses that create jobs and stay here, not to the businesses that fire their workers and move their jobs to China, Bangladesh, Sri Lanka, and Indonesia.

We voted on this provision and the Senate actually turned it down. Senator MIKULSKI and I offered an amendment that said let us shut down this pernicious tax cut that says to people, move your job overseas and we will give you a benefit. That, it seems to me, should have been a revenue raiser in this bill.

Or how about the proposition of American companies that decide they want to have all the benefits that accrue to being an American citizen as a corporation—because in law we say a corporation is a citizen, artificial citizenship. It can sue and be sued; contract and be contracted with. It wants in some cases all of the opportunities of citizenship in this country except for paying taxes. That is why we see corporations that decide what they want to do is do their business through a post office box in the Cayman Islands. Why? Is that where they run their company, from a post office box? No. What they want to do is shelter their income from this country so they can have all the benefits our country has to offer them but avoid paying U.S. taxes that are required.

Who then pays the taxes? Oh, it is just the working men and women who get up in the morning and dress and go to work all day. They do everything right, and at the end of the day they try to provide for their families and try to pay shelter and transportation, all the things that are necessary to send their kids to school, pay for health care, and then pay taxes as well.

It seems to me this is a terrible missed opportunity to shut down ag-

gressive tax shelters, to shut down the tax opportunities that have come from tax haven subsidiaries of U.S. corporations.

I could go through a list of corporations. One corporation, for example, set up 441 entities in the Cayman Islands alone. Yes, an American corporation, an energy company, for example, set up 441 subsidiaries in the Cayman Islands. Why? Because they do not want to pay taxes.

The Halliburton Company has 17 tax haven subsidiaries, including in Liechtenstein—Panama, Cayman Islands, Liechtenstein. I would like to see these shut down. If you are setting up circumstances where you are doing business through a post office box in the Bahamas or the Cayman Islands or, yes, Liechtenstein, in order to avoid paying taxes, the next time you get in trouble maybe you should call out the Liechtenstein Navy to protect you, or the Bahamian Navy. Someone told me the Bahamian Navy has 20 people.

These companies want all the benefits that can come to an American citizen, but they do not want to pay their fair share of taxes. Again, we have people who get up every morning in this country, they are good citizens, pay their bills, and they pay their taxes, because they want to send their kids to the best schools, and they want to be able to have affordable health care. They want to live in safe neighborhoods. They want grandma and grandpa to have access to health care. They want a good job that pays well. Instead, we have a tax system that says, oh, by the way, we will give you a tax cut to ship your job overseas and oh, by the way, it is fine for you to access, even if you stay here, tax shelters so that if you make money, you do not have to pay, but your workers do. Your workers should pay taxes, but you make \$2 billion, you do not have to pay. Do your business through a mailbox somewhere.

These are enormous missed opportunities, and they are missed opportunities because, as this says—and this is why House negotiators reject tougher tax shelter penalties. What that means is a bunch of people come to this conference and say, no, we want to protect these special deals, we do not want to close these loopholes. The fact is, the American people deserve better. This country is drowning in debt.

People ask, how do you get a handle on the fiscal policy? The first thing you do is you stop this sort of nonsense. You stop subsidizing jobs being exported overseas by American companies that are told by this Government, shut down your plant and we will give you a tax cut if you move your job overseas.

Yes, we voted on that in the Senate and it was voted down. Closing that loophole was voted down in the Senate. My hope would have been with the deficit growing worse and worse, that perhaps in conference, working on this bill, we would have seen a conference

that would have closed these loopholes, closed these shelters, closed off the opportunities that result in such a massive amount of lost revenue to the Federal Treasury at a time when we are deep in debt.

At a time as well when our country is reliant on about 60 percent of our oil from others around the world, it seems to me that we also missed some opportunities to move aggressively in areas to make us more independent with respect to our oil supply. It seems to me that when we have a circumstance where we need additional energy and we reach for 60 percent of that oil from troubled parts of the world, it puts our economy in great jeopardy. When we are talking about incentives for energy production in this country, we could have done and should have done much better. If we do not understand that the 60 percent reliance on Saudi Arabia and Kuwait and, yes, Iraq, Venezuela, and Nigeria is very troublesome to this country, then we do not understand very much.

I happen to think we are going to always continue to use fossil fuels—coal, oil, and natural gas. I also believe we ought to move toward a hydrogen fuel cell future in which we stop putting gasoline through our carburetors; find an inexhaustible supply of energy such as hydrogen, which is ubiquitous and everywhere, and when you use a fuel cell hydrogen vehicle you put water vapor on the tailpipe, you have twice the power to the wheel. What a remarkable future.

We will not get there because the energy companies, particularly many of them that have a vested interest in what we are doing now, do not want to get there. There are some who are very excited about a new Apollo project in which this country describes a completely new energy future. I would hope some of those incentives would have been in this bill, and they are not.

This legislation which is presented to us now over the weekend is legislation that has a number of things that I believe moves us in a good direction, a number of constructive things.

I will make one other point on tax shelters. My colleague Senator GRASSLEY, for example, announced some long while ago that he was going to put a stop these phony lease transactions between cities and companies. Yet, the way this conference report comes out they actually went easier on some of these transactions. The same is true with respect to inversions.

Corporations that decide, we do not want to be American citizens anymore, we renounce our American citizenship, we want to become citizens of the Bahamas. Why? I do not know. Sun, sand, good food. I do not know. They want to become citizens of the Bahamas in order to avoid paying U.S. taxes so they do something called inversion, which is renounce your citizenship.

There was a date set by my colleague Senator GRASSLEY and his counterpart and they said, beyond this date, understand you are in jeopardy when you do

this. Well, guess what. In this conference, they went a year forward from that date. I do not have the foggiest idea why they did that.

By the way, this is not a criticism of Senator GRASSLEY because he has been a leader in shutting down these abusive transactions. My assumption is that the House of Representatives came over once again and said, no, we cannot buy that.

It is unbelievable that corporations that want to renounce their citizenship are given even an inch of ground by anybody in this Chamber, let alone anybody in that conference. We ought to say, you want to renounce your American citizenship in order to save on taxes? Shame on you. You are not going to get tax benefits or tax savings from this Tax Code, not from this Congress. You want to do what is called an inversion and renounce your American citizenship? Then this Congress is not going to give you one cent of benefits in the Tax Code.

Yet regrettably, what has happened here is they have actually given another year's flexibility to the companies that did that, a year beyond the date in which my colleague—and good for him, Senator GRASSLEY—said, here is the date.

Ms. LANDRIEU. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Ms. LANDRIEU. Does it strike the Senator as odd and actually unjust that the same bill that would push the date back for companies to go register in the Bahamas—to give up their U.S. citizenship presumably because they think it is too hard for them to pay their taxes—in that same bill, the men and women who are protecting the right of those businesses to make a profit and to benefit from the great riches of this country were deprived of a tax credit? Does that strike the Senator as an odd way to either begin or end a session of the Congress?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DORGAN. I ask unanimous consent for 1 additional minute to answer my colleague.

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

Mr. DORGAN. Let me answer my colleague from Louisiana by saying of course it is absurd. Let me say it seems to me the first obligation in this Congress is to make sure we are doing what we should do for those men and women who, when called, left their homes, left their families, left their jobs, and went to serve this country. It is unbelievable to me, some of the priorities that have been established around here.

I heard the Senator from Louisiana make the case earlier today. She is absolutely right about that. The soldiers she is talking about should not be put at the end of the line. They ought to be at the front of the line when you talk about trying to do what is right in this bill. I appreciate the leadership of the Senator from Louisiana on that point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, I am a little surprised to hear my friend from North Dakota. This bill has been worked on for a long time here. It passed this Senate with a great amount of support. There are some things here that are very important that we are doing, and all I hear is talk about how bad it is. That is interesting.

I think it has a little to do with politics. There are some things on here we ought to be talking about. Please remember why this bill was offered in the first place. We had a benefit that went to manufacturers, a 3-percent reduction if they shipped overseas. What happened is WTO, the World Trade Organization, said, That is not in keeping with our rules, and they started to levy a penalty, each month, that goes up to 17 percent. Something had to be done about that.

The Senator didn't bother to mention that. He didn't bother to mention all the good things that are on here. I don't know whether that is politics or whether they are trying to talk a little bit about the facts. That would be a surprise.

Ms. LANDRIEU. Will the Senator yield for me to have an opportunity to try to answer that just briefly?

Mr. THOMAS. Really, if you have a question, I will take that. Otherwise I think it is my turn to have the floor.

Ms. LANDRIEU. OK. I would just ask the Senator, did he know that at least my remarks were not at all directed politically to this bill? The Senator is correct. Did he know that when the provision I spoke about earlier left the Senate floor, 100 percent of the Senators, including the leadership of Senator GRASSLEY and Senator BAUCUS, sent our bill over to the House saying, please put our troops at the top of the list if we are going to give out \$137 billion? Did the Senator know they didn't even come back in any part of the list? They are not on the list. I just wanted to ask the Senator if he remembered that that was something we sent over.

Mr. THOMAS. Absolutely. There is no question. But this is the size of the bill. There are thousands of things in there.

I am sorry. I agree with you. I was on the conference committee. We went through this process. But it is the House and the Senate both. When you go through a conference committee you come out with some things added and some things subtracted. I agree with the Senator and supported what she is talking about. But that is not the whole issue in this bill. This is a huge bill.

The other thing that seldom is mentioned is that this is revenue neutral over 10 years. There are offsets to these expenditures which I feel very strongly about because I probably feel more strongly about the deficit than the Senator from North Dakota. But this is revenue neutral. They took enough

things out, and that is one of the reasons some of the things are not in there that people would like in there, because they had to limit it to the amount of offsets they could find to make it work this way.

But what happened then is they took off this 3-percent addition that went to manufacturers because the WTO opposed it and turned it around and gave that to all manufacturers, including people, for instance, who produce oil and who produce coal. It broadened the definition of manufacturers to where nearly every business in this country, then, receives it.

We are talking about jobs numbers, which have grown pretty significantly. We are talking here about strengthening business to create jobs. Somehow we seem to forget that is where jobs come from, is by encouraging and giving incentives to businesses so they will invest and provide an opportunity to create jobs. That is what it is for. I don't quite understand where the Senator thinks jobs come from unless it has to do with businesses that invest and create those jobs.

There are a great many things in there. Everyone could find something they don't like. I thought it was perhaps a little overdone, frankly, in terms of some of the things that were there. I tried very hard to get the tax element of the Energy bill into the bill. We were not able to put that all in there. We did get some energy incentives here, however, which will help some. We all had some things.

There are some things that are particularly useful, just little things that are kind of typical of the many issues that are in there.

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

Mr. THOMAS. When you have medical providers who go to underserved areas, they are given financial incentives to go, and in the past those incentives which caused them to go there were taxable. We were able to take that taxable business out, so we will have more people willing and able to go to underserved areas—nurses, physicians, clinicians, and so forth. I will certainly yield.

Mr. DORGAN. I think the Senator was not in the Chamber when I began my presentation. I did say I intend to vote for this. I said there is much in it that I commend and much that I support, including some of the energy provisions that I believe you just mentioned. I was speaking specifically only about the series of tax shelters representing, in my judgment, a missed opportunity.

But I think the Senator from Wyoming missed the opening comments of this Senator. He probably missed that I did say there is much here to commend, and I was speaking about what I think is a gross abuse, which we call tax shelters, which we have to close, and I think most Members think at some point we will have to close them.

Mr. THOMAS. I did not hear that. I continue to hear a lot of complaint and

criticism when talking about spending when indeed it is revenue neutral, and the Senator didn't bother to mention that. Obviously in a bill this size there are a great many things you can talk about. Obviously no one is going to agree with all of the hundreds of issues that are there.

There are some really good things, some things I thought were particularly good. For instance, ranchers who, because of the drought, had to sell their herd and cattle, they don't have to pay on capital gains now for 4 years. It gives them a chance to get back without having to pay for that.

One of the fairness issues that is there is the idea that States that do not have State income tax, which is deductible from the Federal taxes, but indeed finance through sales taxes, can now deduct the sales taxes, which makes it fair. States can choose to either have income tax, they can have sales tax, they can have both, and then they can have one of the two of them deductible. In the past, sometimes, my State did not have a State income tax, but we had a sales tax and it was not deductible. It will be now. That is a real incentive for people to be able to save some of the money they have.

We also had a provision in there that was put in that had to do with enlarging the loans that are available to small businesses from the Government. The limit was put in there in the 1970s. Of course, that has changed a great deal. Here again, the purpose is to encourage businesses to build up so they can, in fact, hire people, and we do something for jobs.

There are a number of things here that are very good.

As I said, we need incentives for the small production oil wells. If you have an oil well that does not produce a lot of oil, the fact is there is an incentive in here for marginal wells—to have a production tax credit for electricity produced by renewable sources—geothermal, solar energy, those kinds of things which we have been looking forward to in the energy package.

Obviously, I think anyone in effect can find some things in here that wouldn't be their choice. On the other hand, this is a jobs bill. It is designed to encourage the economy and create jobs. That is what it is all about.

I get a little concerned when we seem to direct more attention toward the election which is coming up. I will be happy when that is over so we can talk a little bit more about the merits of the issues. That is what we are here for. It would be a good idea if in fact that is what we do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, is there a specific order under the unanimous consent agreement?

The PRESIDING OFFICER. The majority has up to 30 minutes of debate.

Ms. LANDRIEU. I ask unanimous consent to speak for the next 10 min-

utes, if I am not interrupting anyone's time.

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

Ms. LANDRIEU. Madam President, before the Senator from Wyoming leaves, I want to make a couple of comments regarding some of the things he said. While some Members of this Senate intend to vote for this bill, I am one who will not be voting for the bill. I would like to restate why.

There is only one reason, one specific reason, and I think one compelling reason, that injustice was done in this bill after it left the Senate, and that injustice was that the one provision which would give direct tax relief to the men and women on the front lines, the Guard and Reserve fighting in Afghanistan, in Iraq, or whether it is North Korea, or South Korea, was left out of the bill.

We have a lot of bills, and not all of them are this fat, this full, and this expensive. This is \$137 billion.

In 2 years, we negotiated between the House and the Senate. I know the Senator from Wyoming is aware of this because he helped to put it in. But there was only one provision in this entire bill that would have actually directed some modest tax relief to the men and women in the Guard and Reserve. But for some reason—I am not sure if it was politics, I am not sure if it was an election, I am not sure because I have not gotten an answer yet from anyone about why it was left out. Obviously, we had \$137 billion to spend, and we spent it. We allocated it, but not for the Guard and Reserve.

We send the Guard and Reserve to the front lines. According to Secretary Rumsfeld, we sent 640,000 men and women, 5,000-plus from my State of Louisiana, to the front lines. We can't even send them with a full paycheck.

Some of us thought, gee, if we have this tax bill going through, we have to fix this problem with the World Trade Organization, and surely in the middle of this war at this time we could spend \$2 billion to give tax credit. If we didn't have the \$2 billion, I certainly would not have suggested that we spend it. But we have \$137 billion in this bill.

I am confused. My constituents are confused. The men and women in the armed services are confused and their families are wondering and are very puzzled: How could we possibly be giving away \$137 billion to businesses here and abroad and leave them out?

I am going to stand here for a couple of days and talk about it. I don't have an explanation for it. I don't want to go home because I don't know what I would tell them.

When the Senator from Wyoming says it is politics involved in the opposition of this bill, I think that is a good question. I am not sure of the answer. But I would like to say it this way. Is politics in any way involved in the passage of this bill? This bill, \$137 billion for every corporation, or many corporations that you could think of, big

ones, little ones, ones that make ceiling fans, ones that operate horse racing—just go through it. I am not going to even comment about the benefits of that. I don't want the reporters and the people following this debate to say Senator LANDRIEU objects to anything in this bill except that the Guard and Reserve were left out. That is what I object to. I am not going to even talk about ceiling fans and horse racing, or shipbuilding, which happens in my State. There are lots of wonderful things in this bill. My only question is, How could we possibly have the nerve to pass a bill and leave the Guard and Reserve out?

According to the GAO, the men and women in the Guard and Reserve on the front lines are taking a 41-percent pay cut.

You may say to me, Senator, they knew it when they signed up. Let me answer that. They knew there would be sacrifice. These men and women don't want a lot of pity or attention. They are happy to go. They want to go. They are proud to serve. I know many of them personally. I am proud of them. But I tell you what they did not know: They didn't know that we—when I say "we", I mean this President, the former President, and the leadership of the Armed Services Committee—would make a policy decision that would say that our Armed Forces, instead of relying mostly on Active and a little bit on our Reserve, decided because it is less expensive we are going to rely more on our Reserve and a little less on our Active.

We didn't tell them that because they signed up 10 years ago and we have been making these decisions in the last couple of years. They sign up. They weigh the pros and cons. They want to serve their country. They are patriotic. They say, I will make the sacrifice. But then we changed the rules on them. It is not their job to fix that. It is our job to fix it.

We had a bill coming along. It started 2 years ago. I thought: this is a perfect time to fix this situation. Here is the money. It is small businesses that are writing these checks to keep their pay whole, and surely this country would find money in this bill to do this, and then whatever else they want to do is fine with me. But, oh, no.

Let me make another point about what the Senator from Wyoming said. He said something along the lines that jobs are created by tax cuts. We have to have tax cuts for businesses to grow. I think that is partially correct. I don't think just any tax cut at any time makes business grow, but I will give him that. But I will tell you what makes businesses in America grow. I will tell you what no business could operate without. I will tell you in large measure what this war is about. It is about economic freedom. It is about global trade. It is about peace in the world so people can make a profit. No business in this bill could possibly function without the men and women

in the Active or Reserve units. They wouldn't exist. Yet we have this bill to help companies and businesses, and we can't help the men and women taking the bullets.

I am not voting for a bill like that. I urge my colleagues, if they have decided how to vote, they might want to change their minds. I hope maybe people listening in their States, and maybe some of the families who have actually lost soldiers on the front lines might call their Senators, and say, Senator, if you do not mind, what Senator LANDRIEU is saying makes sense. Please don't leave me out of the bill. You put me in the war. Don't leave me out of the bill. You put me in the photograph, don't leave me out of the budget.

I will say one more thing before my 10 minutes is up.

I know something else about military families, and it is what I love about them the most. They never even want attention. I have had a little bit of a difficult time getting some of the families to call me. Do you know why? Because these men and women understand what sacrifice is all about. They didn't sign up to get rich. They didn't sign up to get an award. They don't really advertise their bravery every day, not like some people around here who cannot wait to show their awards off, et cetera. The men and women in uniform don't do that. So it is hard for them to ask.

I want them to know it is my job as their Senator to ask for them and to fight for them. I don't blame them for not wanting to have their names used. They want to feel self-reliant. But I will be darned if I will sit here and watch this \$137 billion get out of this Chamber and leave them behind.

My colleagues, we are going to be here for a long weekend because I have a lot of things to say about this. My time now is up, but I am not going far. I don't live far from here. I am back and forth from Louisiana, and the house I live in when I am here is four blocks away, so I am not far away. I would stay here for many days to talk about it.

Members in this Chamber feel very strongly about their Guard and Reserve. They know the sacrifices they are making and a mistake was made. Mistakes can be corrected.

At 6 o'clock today I am delivering a letter to the White House. I will read it before 6 o'clock in the Senate. It is being delivered to the President. It is assumed in the letter that he didn't know about this personally, that it was just something that did not come to his attention. But he has the power as the President to fix it, and I hope that he will take that action.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. 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. HARKIN. Reserving the right to object, I hope the Senator's time—I make it clear that under the consent that the Senator's time, however much time he uses, be counted as running with the bill.

The PRESIDING OFFICER. That is correct, it is.

Mr. ALLARD. I thank the Senator from Iowa for clarifying that.

#### THE ECONOMY

We are here today at the end of the session. We have some important legislation yet to act on: this legislation that deals with the economic health of this country; it is legislation that deals with the security of this country. We have been working all session on these two issues primarily, with a plethora of other issues, but we do have some very important bills. The FSC/ETI bill is important, obviously, to sustaining and continuing the economic growth. We have the intelligence bill, the conference report. That is important for the security of this country. We have the Department of Defense authorization bill, which we are still waiting to get passed out of the Senate, the conference report to that. That is also very important.

I will talk a little bit about our economy because today an economic report came out. When we look at this economic report with all that has been happening through 2004, I don't see how anyone can deny this has not been a good year for America's economy.

I think back a little bit when President Bush was elected President and what kind of economy he inherited from the Clinton administration. The economy was going down. It was not doing well. As a result of that, the President decided to address the economic growth of this country and put in place tax cuts that did make a difference. There were 3 years of tax cuts put in place that took the burden of government off of the people of this country, and they produced.

The sector of this economy that produces more jobs than any other is the small business sector. I know because I came from that sector. As a veterinarian, I had my own veterinarian practice, my small business, and I know how taxes can impact the bottom line of the business and how it can affect whether you have any capital remaining to buy new equipment. A lot of new ideas, or creation, comes out of small business, and too much regulation has an impact.

In some ways, with the security challenges this country has faced, we have had to put in rules and regulations for business to be able to sustain their growth and create jobs.

The real choice we have is to do something about the tax burden. It has been working. I will share some of those figures that came out today.

America's economy is doing much better than just good. It has been doing really good. Since August of 2003, more

than 1.5 million jobs have been created; 1.3 million jobs in 2004 alone. The unemployment rate of 5.4 percent today is well above the average employment rate of the 1970s, the 1980s, and the 1990s. For the last 12 months, the American economy has grown faster than the economy of any major industrial nation.

Today's Department of Labor and Bureau of Labor Statistics report, which, by the way, measures payroll—that is an important distinction that I will talk about later—according to that report, the economy added 96,000 new payroll jobs in September, continuing an upward trend in job creation. Employment gains over the last 4 months totaled more than 405,000, and this year the economy has added an average of 170,000 jobs per month. Manufacturers have increased hiring in 6 of the last 9 months and are responsible for more than 70,000 jobs so far this year. And we still have October, November, and December to go.

Unemployment remains steady at 5.4 percent, exactly where it was when President Clinton was reelected in 1996. Unemployment peaked more than a year ago in June of 2003 at 6.3 percent, and the labor force has increased by almost 950,000. The overall number of unemployed has fallen dramatically by 1.2 million since June of 2003. The economic policy of this President, what we have been doing in Congress, has been working.

I will take a little time and talk about the other survey that we have out there, the household survey. There are some remarkable things happening in the household survey. It has increased more than 2.2 million since April of 2003. Those are fantastic figures. They reflect the self-employed. They reflect people who work on a part-time basis. They reflect people who work out of their homes for various reasons—maybe they have a high-tech business and work through eBay to market some products that they have available, or perhaps they are real estate salesmen who have been working out of their home. This gets measured in the household survey.

The household survey measures much more of our economy than just the labor payroll report. That is exciting. During those times when we had some layoffs in the high-tech industry and went through the high-tech slump, people who lost those jobs said, we are getting some bonuses because when they were asked to leave the company they frequently gave them a bonus and they took some of the money to start their own business.

The most logical place to start a small business is out of your home if you can make it work. That is where most of them started their business. You keep your overhead down. You have a phone, you can hook it to the phone line. You can work out of there. What little money you earn you can put it back in the business or put it aside and hopefully buy more equipment and maybe move into a larger

building at some point in time when that business takes off and begins to operate.

So I think it is important to point out that the payroll numbers, as strong as they are, do not reflect the growth of self-employment. According to the household survey, employment has increased by more than 2.2 million, as I said earlier, since April 2003. Again, these are fabulous figures. It reflects the ingenuity of a small businessperson who decides he wants to go out there and apply the American dream. He wants to start his own business. He wants to be self-employed. He wants to be independent. And he wants to be his own boss.

I think America is on the right track.

Now, the National Bureau of Economic Research determined that the latest recession ended in November of 2001, well after this President was sworn into office. Today's numbers are further evidence that the doom and gloom of those challenging the policies of this President is simply unfounded.

We have created and we are witnessing the impact of policies that encourage growth. What did we do? We lowered tax rates on personal income for all taxpayers. The top marginal rate was reduced from 39.6 percent to 35 percent, and a 10-percent bracket was introduced. Where did the real impact of this fall? It fell on small businesses in this country. It helped them grow and prosper. It helped them create a lot of the figures you are seeing out of the household survey—favorable figures, fabulous figures, I might add.

We lowered taxes on business investment, including a much lower tax rate, 15 percent, on dividends and on long-term capital gains. Of great importance is the tax cuts allowed businesses to more quickly deduct the expenses of their investments in machinery, computers, and software. American companies have responded by employing more people and investing more money in equipment and facilities. And in what part of the business sector will you see most of that happening? You will see it happening in the small business sector.

Now, small businesses, they can be organized in a number of different ways. They can be organized as individual entrepreneurs. They can be organized as partnerships, various legal organizations. Family businesses will even incorporate. Professionals like myself, we have professional corporations that we organize in. So when we talk about separating business out into various sectors, no matter how you do it, somehow you are going to affect the small business community, where we see most of our economic growth.

So we have to be careful about attacking corporations and attacking businesses in general because they do create the jobs in this economy. They create employment. They are what America is all about; that is, the principle of free enterprise and people holding their own property and being able to move themselves up in society.

Another thing that happened to help keep our economy moving was the increased child tax credit from \$500 to \$1,000 per child. We also ended the marriage penalty. Married couples no longer pay higher taxes than equivalent singles, which eliminates a perverse incentive against marriage.

We also repealed the estate tax. Probably the most unfair tax we have in this country is the estate tax because the estate tax has been taxed once already, and sometimes taxed twice, and then when you die it becomes a death tax and you have to pay again.

When a family, a small business family in many cases, is struggling to try to get that small business to sustain itself during an untimely death in the family, then along comes the estate tax and whacks that family hard. Many times these are farmers and ranchers who have been struggling to try to save their farm or ranch. In States such as Colorado, where we are getting a lot of rapid growth, there is a demand for real estate, and many times these farmers and ranchers are forced to sell to developers or somebody else who is going to use that land for something else other than the production of crops and livestock. The end result is, we lose an opportunity to have an open space available in States like Colorado where there is a desire to have a considerable amount of open space.

Home ownership is at an alltime high. I am pleased to be able to join with the President in putting forth the American Dream Downpayment Act, where we provide some well-deserved dollars to people, first-time home buyers, in this country. This is for people who have been paying rent who could be owning the same type of dwelling except that the only problem keeping them out of their own house, their own personal dwelling, is the fact that they cannot make the downpayment. So this piece of legislation was desired to help those individuals. By the way, many of them are minorities. As a result of that act, we are beginning to see a lot of growth in home ownership, and particularly among minorities it is getting much better.

There are a lot of positive effects that happen with home ownership. The children tend to be better educated. They become better citizens in their communities. They tend to be more stable. They are not moving around as much. They care; they take an active role in what is happening in their community.

Home ownership is another good story that is coming out of this administration. Sometimes I just do not think we talk enough about it, but it is important. It is important to communities, and it is important to families.

So I summarize and say the good news today is something we need to work hard to sustain. It is important we draw this session to a close. We have some important pending legislation. We need to get that passed be-

cause it will help contribute to the continued growth of this country as far as the economy is concerned. It will help to continue to make America more secure, and it will help because we need to have a strong defense for this country.

Today's numbers, again, are good news, part of a healthy, steady trend of growth and prosperity.

I yield back my time, Mr. President.

Ms. LANDRIEU. Mr. President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from Louisiana.

#### TAX RELIEF

Ms. LANDRIEU. Mr. President, I thought I would take the next 15 minutes or so to review a couple points about the tax relief bill we are considering adopting. There are three or four major pieces of legislation that the Senate is trying to finish in the next couple of days. One of them is the reorganization of homeland security and the Intelligence Committee. One of them is the tax relief bill that we have been working on for 2 years. There are other issues that this Congress is struggling to get finished in the next few days, but the most important issue to me and the one I would like to spend a bit of time talking about now is the tax relief bill that was put together by many of us, or tried to be put together by many of us, over the last 2 years.

That started out for a very good purpose and a very good reason because there was a trade decision made by the WTO that called into question the legitimacy of some part of our Tax Code relative to certain businesses.

We had to take some action or our businesses would have been fined through the WTO because the European Union had prevailed in their argument. So our tax writers got busy and tried to fix that. We need to fix it. But what has happened is, we have done more than fix. We have really messed up some things. Unfortunately, inexplicably, and as a grave injustice, we didn't take care of our men and women in uniform. For the men and women who are taking care of us on the front lines and suffering pay reductions, we are letting pass the opportunity to make their paychecks whole. I am going to spend a few hours over the next couple of days talking about that. Before I do, let me share a fact that maybe some might not realize. We have always had men and women in our Guard and Reserve units supplementing our Active Forces. But never in the history of this country have we relied on the Guard and Reserve to the extent we are today.

Let me share that in the Berlin crisis of 1961, we called up 148,000 reservists;



in the Cuban missile crisis, we called up 14,000; in the Vietnam war, we called up 37,000—for a total of almost 200,000 from 1953 to 1989.

You can see from this chart that just in the last 12 years, in the Persian Gulf War, the invasion in Haiti, the Bosnia peacekeeping, Operation Southern Watch, which is ongoing, the Kosovo conflict, and Iraq and Afghanistan—and this list is not completely up to date—we have called out 364,000 guardsmen and reservists to supplement our Active Forces, to protect this country, to defend this country. These troops have been willing to go at great sacrifice, but the least we could do is keep their paychecks whole. The least we could do, if we are giving out tax credits and tax cuts to other people, is include them in the bill. This conference report that this Senate is considering over the next couple of days, \$137 billion, left them completely out.

We talk about helping small business. This is a picture of one of our soldiers. We left them out but we put in ceiling fans. I know people are not going to believe this, because it is hard to believe. But the guardsmen and reservists and their employers who keep their paychecks whole while they are on the front lines so they can pay their mortgages, pay their car notes, continue to contribute to their children's college trust fund, or just keep their household together, the employers of this country, small employers and large employers, are doing the right thing, the patriotic thing, not mandated by the Government but out of their own good heart, digging deep, keeping those men and women on the front line with a full paycheck.

We had the opportunity to give them a modest tax credit so they could keep that paycheck whole and hire a temporary worker to take the spot of that guardsman or that reservist who went overseas to protect us. And we couldn't find one line, one paragraph, not one word in a \$137 billion tax relief bill for every conceivable commercial, industrial, or manufacturing interest in the country, for our guardsmen and reservists.

I want to show you the state of our Active Reserve. Sometimes pictures help us to understand. I know this subject can be complicated, but it is actually very simple. We just didn't put our Guard and Reserve in the \$137 billion tax bill. We put everybody else in, but we left them out. I am going to stand here until I get an answer why.

In 1940, at the height of the Second World War in the 1940s, this was the Army troop strength. This is where we had to go in the Second World War to defend. This is in the thousands, so it was 600,000 to defend our Nation. Because we, of course, won that war, won the Cold War, defeated communism, we have dropped the active strength force of our troops down to probably the lowest level since 1942. What fills this gap is our Guard and Reserve that are called up when we need them.

When September 11 hit, we needed them and we called them. And they went. And 41 percent of them are going with a pay cut. Some of us got together, Republicans and Democrats on the Senate side, Chairman GRASSLEY and our ranking member, Senator BAUCUS from Montana, and fixed that. Since we have a big, fat tax bill going through, couldn't we possibly give a little bit of money to the businesses that are keeping those paychecks whole, filling the gap, giving us extra strength, Active and Reserve, to protect us?

But for some reason, once the bill left here and got over to the House Republican leadership, it got taken out.

I know Senator BYRD is here to speak so I will wrap up my comments in just 5 minutes. I know he wants to speak, perhaps a little about this and other subjects. But I want to say a few things that the newspapers are saying about this bill.

Let me be clear. I don't oppose this bill for any other reason other than the fact that the \$2.4 billion tax benefit to employers for the Guard and Reserve to help keep their paychecks whole while they are on the front line was left out. There are other provisions of this bill that are questionable. There are other important issues that have been raised by the Senator from Iowa, Mr. MCCAIN from Arizona, and the Senator from Massachusetts. Those are legitimate arguments as well.

But leaving the Reserve and the Guard out and their patriotic employers is more than I can bear to be silent about.

This is some of what some of our newspapers are saying about the general bill.

The Washington Post, October 8:

The bill is aimed at ending a transatlantic trade war by scrapping certain illegal tax subsidies for U.S. exporters that have brought on retaliatory action by Europe. But in the version approved last night by the House, that modest goal is largely overwhelmed in a preelection package of benefits for dozens of constituencies, including NASCAR track owners and mall builders.

That is the opinion of the newspaper. Again, I don't know if the NASCAR track people are deserving or not. Many people enjoy NASCAR in my State. Maybe they are. But I can promise you that nobody in my State thinks NASCAR owners or investors or ceiling fan importers deserve a tax break more than the employers who are keeping whole the paychecks of our men and women on the front line. I can promise you that—not a one. I don't know of a business or a mall or a retail establishment that thinks they should get in line before the Guard and the Reserve.

It was a long line. This is what I call a long line. This is not a thin bill. This is not a one-page bill. This is a lot of lines and a long line. They didn't even get in the middle of the line. They didn't get in the end of the line. They didn't get in at all. It is a grave injustice.

The New York Times, the Boston Globe, the Minneapolis Star Tribune,

and the Las Vegas Journal have all editorialized against this bill for different reasons. I am hoping that many of these newspapers and others that are listening will begin to focus on this issue as to a reason why we should vote against this bill, send it back to conference, redo it.

We all make mistakes. This was a big mistake the House Republican leadership made. I say basically this is a paycheck that we send to our soldiers. Their average pay is \$30,000. According to our own report, these soldiers are getting a 41-percent pay cut. We could have done something to help them, but we chose not to. So I am going to vote against this bill. I know other Senators are joining me in letters being sent to the conferees, which evidently did not make an impression on them—at least not to the point where they kept our provision in. That was passed by 100 votes here, Republicans and Democrats, and it would be paid for with an offset. We didn't ask for this provision to be included without paying for it. It is even paid for. But they decided—the leadership, Chairman THOMAS and, I guess, Congressman DELAY and Speaker HASTERT—we could not afford it.

Let me again say for the record that there is \$137 billion in this bill. The bill started out as being a \$50 billion fix over 10 years. That was the cost of fixing the problem we originally started to correct. It grew and grew and grew. Everyone, it seems, was added in, except the men and women who are taking the bullets morning, noon, and night.

It is hard for me to go back to Louisiana and explain this. I am not sure I could explain it adequately to the 5,000 families who are currently serving on the front lines. Why should they pour a little water into the cereal bowl, as one woman wrote to me, trying to make ends meet? Why did some of them lose their houses because their notes pile up and they cannot pay the bill when they get home? What could we be thinking as to the justice of losing an automobile, losing their retirement, losing their college benefit, or having to make them stretch and sacrifice when we could help them? If we could not afford it, if we didn't have the money, that would be one thing. This is \$137 billion. Why could we not have given them \$1 billion, or \$2 billion, or half a billion? Or even if you could not give them the money, write something in the bill, for Heaven's sake, and tell them you understand they have a 41-percent pay cut and you are sorry you cannot fix it today, but when we get another bill, we will try later.

Not even a comment.

When they go off to war, they don't make a lot of comments to us either, other than I am going to my post, I am going to do my job; I will see you when I get back. Take care of my family. That is all they say to us. We could not even get a paragraph of gratitude in this bill.

Senator BYRD is going to speak. I will speak a few more times this week—end about this. I am doing as many interviews as I can, explaining this to people and handing out material. I am still waiting for Chairman THOMAS to either write me, send me a note, write a letter, make a comment in the newspaper, or meet me for a debate about why he took them out of the bill in the middle of the night, when the cameras were not on, and there is virtually no record of the discussion. I don't know. The people in my State would like to know.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

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

The PRESIDING OFFICER. The Senator has up to an hour under the cloture rules.

#### ANOTHER WHITE HOUSE EXCUSE FOR WAR

Mr. BYRD. Mr. President, I thank the distinguished Senator who is presiding over the Senate with a degree of dignity, poise, collection, and composure, as it is so rare today. I thank Senator BURNS.

Mr. President, I thank the Senator who has been speaking, the Senator from Louisiana. She tells a story that many of my Guardsmen and Reservists and their families can also relate to. I compliment her on standing on the floor. She has courage and determination. When she says she is going to stay here until she gets some satisfaction from other Senators, she means that. I know that. I thank her for her kind reference to me.

I will not speak longer than 15 minutes, after which the Senator may resume if she so desires.

On Wednesday, October 6, the Senate Armed Services Committee received testimony from the top CIA weapons inspector in Iraq. The report of Charles Duelfer explains in precise detail the facts that the American people have long ago realized: that Saddam Hussein had no weapons of mass destruction, and that Iraq never posed an imminent threat to the United States. I said that at the beginning, before we voted on that nefarious resolution on October 11, 2002, to shift the power to declare war, which is set forth in the Constitution very clearly, as being reposed here in the Congress of the United States; instead, to shift that power to the hands of a President. How shameful. How shameful that we turned our backs—the Senate and House collectively—on the Constitution of the United States.

The fact that weapons of mass destruction have not been found in Iraq is nothing new. Our military has been on the hunt for banned Iraqi weapons since March 19, 2003, when President Bush ordered the invasion of Iraq under his nefarious doctrine of preemption—preemptive war—a doctrine that squarely contradicts the constitutional powers given in the Constitution as having been reposed in this body and in

the other body across the way. The CIA conducted its own extensive search for more than a year. Did anything turn up? No. No stockpiles of dangerous germs, no warehouses of poison gases, no nuclear weapons.

They say, well, Saddam Hussein has used these on his own people. Of course, he had some years before. I can understand how many Senators were misled by the statements of the administration and, in particular, the statements of the President and the Vice President and others on the President's team.

In fact, the CIA report finds that the truth on the ground in Iraq was almost the exact opposite of what the White House had claimed in the runup to the war. Contrary to the President's statement, the CIA report says that Saddam had no active WMD programs, and he didn't have even so much as a plan to restart them. Despite the Vice President's insinuations, the CIA found no secret plans for Iraq to attack the United States. Despite the National Security Adviser's warnings of mushroom clouds, the CIA found that Iraq's nuclear weapons program was dormant and decaying.

Now, the White House is desperately trying to have their spin machine generate a new reason for the war. We have seen a litany of reasons as time has ensued following March 19, 2003—a litany of reasons. When one reason was shot down, when one reason proved to be wrong, the White House always came up with another reason, another reason, another reason we sent our men and women to war, the first war fought under the pernicious doctrine of preemption, the Bush doctrine of preemption. And regardless of how many times the President may seek to salve the conscience of his administration, the fact remains that Saddam Hussein was not an immediate, imminent threat to the security of the United States. I said so at that time. It was the wrong war at the wrong time in the wrong place, and I will say that again and again.

The President, on his way to a campaign stop in Wisconsin, has tried to gloss over the collapse of his central reasons for a preemptive war. According to the Associated Press, the President said:

The Duelfer report showed that Saddam was systematically gaming the system, using the U.N. Oil for Food Program to try to influence countries and companies in an effort to undermine sanctions.

So does the President mean to say he launched this war to stop waste, fraud, and abuse in a U.N.-run humanitarian program? Does the President mean to say that Saddam Hussein's greed was the reason that 225,000 American troops were sent overseas, away from their families, their loved ones, and their communities, to attack Iraq? Are we to believe that the President now seeks, once again, to justify his war against Iraq because Saddam was cheating the Oil for Food Program? Is that the rea-

son we sent our men and women to war? Mr. President, unbelievable, unbelievable, incredible. Too bad that the White House does not hold Halliburton to the same standard.

The truth is that the President changes his reasons for the war more often than he changes his socks. On March 19, 2003, the day he sent American troops into battle—many of them never again to return to their homes, their families, their native soil—the President said:

The people of the United States and our friends and allies will not live at the mercy of an outlaw regime that threatens the peace with weapons of mass murder. We will meet that threat now with our Army, Air Force, Navy, Coast Guard, and Marines so that we do not have to meet it later with armies of firefighters and police and doctors on the streets of our cities.

I have heard that so many times. The President did not say a peep—not a peep—about the Oil for Food Program on the day he ordered our brave men and women to march on Baghdad. Talk about flip-flops. Yet despite all that has gone wrong in Iraq—the failure to find weapons of mass destruction, the failure to stabilize postwar Iraq, the failure to share the burdens of occupation with our allies, the failure to equip our soldiers with the body armor they need, and the deaths of 1,061 American troops as of my last reading of the press the President maintains that he would do everything the same if he had to do it over again.

Well, I hope not, and I hope the Senate of the United States would not do the same thing it did before if it had to do it over again. I spoke out against that nefarious, terrible action, sending our men and women to their deaths in Iraq, in a foreign land, spilling their blood in the hot sands of the Middle East. For what? For what?

The President maintains he would do everything the same if he had to do it over again. Maybe he would. Surely he should learn from what has already happened. The American people might not stand again for that.

Mr. President, the fog of war is beginning to lift and for the first time, the American people are beginning to see the war in Iraq on clear terms. As cruel as Saddam Hussein was to the Iraqi people, he was no imminent threat to the American people. That is why we went to war. That is why this administration led this country into a war against a nation that had not provoked us, had not attacked our country. That was the Bush doctrine, and it is the Bush war.

Saddam Hussein had no links to the 9/11 attacks, and yet a majority of the American people I noticed in some polls not too long ago, believed at the time the polls were taken that many or, indeed, most of the attackers, most of the hijackers on 9/11 were from Iraq. That is not the case. Not one, not a single one of those 19 hijackers was from Iraq, and yet this administration would like to have the American people believe that it was otherwise.

I guess they lie awake at night concocting new ways in case this fails, in case it is shown to be wrong: Where is the next fallback? What do we fall back on next? Iraq was not the central front of the war on terrorism until President Bush invaded and unleashed a firestorm of anti-American sentiment.

The President's postwar strategy has been a failure. The President's hand-picked envoy to run postwar Iraq, Ambassador Bremer, said there were never enough troops to stabilize Iraq. The President himself, in a rare acknowledgment of fallibility, admitted on August 27, 2004, that he had miscalculated the danger of postwar Iraq. Yet the President still has no exit strategy for Iraq. How long will the American people have to wait to hear from this President and this administration an exit strategy? How long will we have to wait for a plan from this administration to bring our men and women home with honor?

The White House still refuses to acknowledge that Iraq has been turned into an international basket case due to an unprovoked and unjustified war. Instead, the White House has paralyzed our military, has paralyzed our diplomacy and our allies by maintaining we must continue to stay the course. Stay what course? Keep on with the same? Mr. President, 1,061 dead and counting, and we are supposed to stay the course? What our Iraq policy needs is change, not more of the same.

The original rationale for preemptive war against Iraq has collapsed. The CIA's new report on the absence of weapons of mass destruction is the final nail in the coffin of the administration's prewar claims. How long will the American people be content with a President who refuses to acknowledge the disaster caused by his doctrine of preemptive war? How many more American men and women will have to shed their blood in the hot sands of the Middle East? How long will our troops struggle against a tide, the increasing tide of violent anti-Americanism that this terrible misbegotten war has spawned? How long will the United States of America be tied down in a Middle Eastern country while other threats at home—here at home—go unaddressed? How long, Mr. President? How long?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

#### BUSINESS IS DOING ITS PART

Ms. LANDRIEU. I ask unanimous consent to speak for 10 minutes. I see other colleagues on the Senate floor. I will take the 10 or 12 minutes I have remaining, if I might.

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

Ms. LANDRIEU. Mr. President, I thank the Senator from West Virginia for the kind words he spoke before he made the very important points he has made this evening and throughout the course of actually the last few days. The challenge we face in Iraq is the

most important issue before our country. I thank him for his kind words, and I want to thank him for his continued leadership.

As we get toward these evening hours, I remind my colleagues—

Mr. BYRD. If the distinguished Senator would yield, let me thank her for her most charitable comments concerning this Senator. She graces the Senate from the great State of Louisiana. She does her work. She is deeply dedicated. She is on the Appropriations Committee, on which I have had the good fortune to serve for many years. I thank her for what she is doing for her people. I thank her for what she is saying on the Senate floor. I thank her very much. I appreciate it. I appreciate the fact that she is my colleague and shares the concerns of my people in what she is saying today.

Ms. LANDRIEU. I thank the Senator. My colleague is so right that the men and women of West Virginia have served so bravely and so willingly, as so many people from our States have served in the Active Forces and in the Reserve and the Guard and, as I said earlier in my remarks, do so without the expectation of fanfare. They do not want awards. They do not even want that special attention in their communities because they are so proud to serve and they are so willing to serve. That is what makes me want to stay on this Senate floor even more for them, knowing that about these families.

I will read a few things into the RECORD during the 10 minutes that I have to build this argument and get out these facts about this important issue. One of the three or four important pieces of legislation we are trying to make decisions about in the last 2, 3, 4 days of this Congress is whether this bill, which is called the FSC bill—it is a tax cut bill which modifies many sections of the Tax Code—should pass or if it should not. I am going to vote against it because the Guard and Reserve were left out. The people on the front lines taking the bullets, taking the cut in pay to serve us, and risking their lives were in the bill when it left the Senate, but because of the House leadership they were left out.

This bill is \$137 billion, and if we could not afford \$2 billion of this \$137 billion for them, then I do not know what we can afford because none of us would be here without them and none of the businesses benefiting from this bill would be able to actually operate, function, have a license, or have the freedom to function or enjoy the free enterprise system that has been created over 220 years without the men and women in the armed services.

Some of us were silly enough to believe that in a bill that was \$137 billion, they could get in at the top of the list, but we were mistaken because they did not even make the cut.

I ask unanimous consent that this article be printed in the RECORD.

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

[From the Officer, Dec. 2003]

#### EMPLOYER SUPPORT GROWS

"I know of no other time in our nation's history when so many employers have voluntarily offered this level of support and benefits," Secretary of Defense Donald H. Rumsfeld wrote in September to employers of Reservists and National Guard members called to active duty in the global war on terrorism.

In his open letter of thanks and praise, Mr. Rumsfeld expressed "the deepest appreciation of this department and the United States government for your unswerving support of our nation's military." His letters were sent 29 September 2003 to directors of major employer associations and government agencies who are asked to then distribute them to their members.

Many employers "did more than was required by law by voluntarily offering continued benefits, pay differentials, and additional, creative forms of family support, which made the period of separation so much easier to bear," Mr. Rumsfeld noted. He said that without the continued support, "we could not maintain a strong military or sustain the current effort to overcome the international terrorist threat directed at our country, our citizens, and all who love freedom."

In concluding, the Secretary of Defense wrote: "You have my deepest thanks. Your direct contributions and support are another illustration of America's greatness as a nation."

Since 11 September 2001, that employer support has been extended to more than 350,000 Reservists and Guard members who have been mobilized and demobilized. This commitment is documented in the charts on the pages that follow, summarizing corporate policy for 185 of the Fortune 500 companies when Reservist/Guard employees are called to emergency active duty. Replies represent 112 new responses (compared with 91 last year) and 73 repeats from previous years. On the charts, as well as in this article, asterisks indicate responses from last year or two years ago. For many companies, policies represent upgrades since 9/11 and are usually for implementation during the period of the terrorist threat.

Of the 185 companies listed, 19 provide full salary; 17 provide salary plus differential; 137 provide differential; nine provide no salary or differential; and three reply either vaguely or "do not participate in surveys."

#### COMPANIES THAT LEAD

From among the 19 where full salary is provided, companies that lead the way are #26 J.P. Morgan Chase & Co., full salary from 9-11-01 through 3-31-04; #69 American Express, #179 MBNA, #187 \*Schering-Plough, and #397 MGM Mirage, for the duration; and #242 \*First Data and #355 W.W. Grainger, for one year.

Among the 17 with a combination of salary plus differential, companies with the most generous packages include #235 General Mills, salary for one month and differential for the duration, plus a \$300 monthly Military Leave Allowance; #51 \*Dow Chemical, salary for two months and differential for the duration, not to exceed five years; #199 United Services Automobile Assn., salary for one month and differential for up to two years; #215 National City Corp., salary for six months and half-salary for six months; #419 \*\*Pacific LifeCorp., salary for six months and differential for six months; #92 Coca-Cola, salary for three months and differential for 275 days; #183 \*AFLAC, salary for three months, then one month of differential for each year employed to equal annual salary; #5 General Electric, salary for one month and differential for 11 months; #74

Georgia-Pacific, salary until last day of month when employee reaches 30 days of service and differential until 12th month is reached.

In past surveys, where "the duration" or "one year" was considered the ultimate in differential payment, that standard has changed since 11 September 2001. The following first five groups have continued to raise the bar for the 137 in this category, as they join with the duration and one-year providers:

Maximum of Five Years: #15 Boeing and #77 BellSouth.

Three Years: #10 Verizon Communications, #56 Lockheed Martin, and #141 Lucent Technologies.

Two and One-half Years: #22 AT&T, #30 Sears, Roebuck, #54 Sprint (continues to be extended since 9/11), and #105 Raytheon.

Two Years: #128 Wyeth, #315 \*Eastman Chemical (two years at 80 percent of difference), and #335 Avaya.

18 Months: #11 Altria Group (through 10 September 2004), #50 ConAgra Foods, #80 \*Electronic Data Systems, #116 \*\*Xerox, #177 \*\*Southern, #814 \*Dominion Resources, #200 Pepsi Bottling, #224 Entergy, #301 Rohm & Haas, and #408 Hormel Foods.

Duration: #3 \*\*Exxon Mobil, #6 Citigroup, #8 \*\*International Business Machines, #37 \*\*Pfizer, #49 United Technologies, #52 Marathon Oil, #72 Tyson Foods (retroactive to 9-11-01), #79 \*Bank One Corp. (salary offset by 5/7 of military pay), #85 Caterpillar, #127 Household International, #140 PG&E Corp., #156 \*\*Union Pacific, #170 Pacificare Health Systems, #211 Public Service Enterprise Group, #246 Calpine, #270 \*DTE Energy, #304 NCR, #381 \*\*CDW Computer Centers, and #486 New York Times.

One Year: #7 Chevron Texaco, #12 ConocoPhillips, #32 \*Freddie Mac, #35 Albertson's, #42 J.C. Penney, #43 United Parcel Service, #45 Walgreen, #57 \*Prudential Financial, #71 \*\*Archer Daniels Midland, #84 Massachusetts Mutual Life Ins., #99 Northrop Grumman, #100 Abbott Laboratories, #101 \*Sara Lee, #110 3M, #111 \*Nationwide, #119 AT&T, #139 \*Goodyear Tire & Rubber, #163 \*Edison International, #172 \*\*Eli Lilly, #196 Williams, #231 CSX Corp., #249 MeadWestvaco, #285 KeyCorp., #302 Thrivent Financial for Lutherans, #303 Unisys, #350 Mellon Financial Corp., #392 \*Harley-Davidson, #393 Provident Financial, #399 \*Energy East, #415 \*Ball, #418 Ameren, #422 Adolph Coors, the two companies in #426 position, \*Kerr-McGee and Wisconsin Energy, and #462 H&R Block.

Ms. LANDRIEU. This is from "Citizen-Soldiers and the Fortune 500. Employer Support Grows." The article reads:

"I know of no other time in our nation's history when so many employers have voluntarily offered this level of support and benefits," Secretary of Defense Donald H. Rumsfeld wrote in September to employers of Reservists and National Guard members called to active duty in the global war on terror.

In his open letter of thanks and praise, Mr. Rumsfeld expressed the deepest appreciation of his Department and the U.S. Government for "your unswerving support of our nation's military." His letters were sent on 29 September to directors of major employer associations and Government agencies that were asked to distribute them to their members so their members would know of the good works and good words of Secretary Rumsfeld.

His letter went on to say:

Many employers did more than was required by law by voluntarily offering contin-

ued benefits, pay differentials, and additional, creative forms of family support, which made the period of separation so much easier to bear, Mr. Rumsfeld noted. He said that without the continued support, we could not maintain a strong military or sustain the current effort to overcome the international terrorist threat directed at our country, our citizens, and all who love freedom.

Those are beautiful words. My colleagues would acknowledge these are beautiful words. The problem is, they are only words, because when the administration that Secretary Rumsfeld works for and the House Republican leadership that follows his lead and his direction put together a \$137 billion tax package, they did not think they could find the room, the time, the energy, or the concern to really thank the employers by giving them part of this tax cut. They decided to send them the brochures and the newsletters and the go-for-it congratulations kind of letters, but the real people who they wanted to help or the people they thought deserved the most help were actually in the bill.

I think this is pretty clear evidence that the words that are sometimes written by leaders do not really convey what actually happens, that really what happens is what is in the budget. When one is in the budget, they know they matter, and if they are not, they do not. It is about as simple as that.

I am going to submit a list of the employers—the National Committee for Employers supports the Guard and Reserve, outstanding employers. I have them all through my State. I am so proud of these small businesses, I do not know what to do.

I had one of my mayors whose chief operating officer was called out of the city not once but twice, one of the most talented, remarkable public servants. The whole city sort of suffers when one of these skilled folks goes off, and I have heard his story out of Lake Charles, LA. But they kept his paycheck going voluntarily. Many employers keep the paychecks going.

I thought, silly me, we have a tax bill. Could we not acknowledge the patriotism of these thousands of employers in our country, big companies, small companies, local governments, fire departments and police departments that are digging deep? There are no line items in their corporate budgets to pay people who are not at work, but they do it anyway. We do not even mandate they do it; they are doing it voluntarily. They do not put a line item in their corporate budget: Pay people that are not on the job that are on the front line. But you know what. They do it. They do it for a good reason—because 41 percent of the Guard and Reserve are taking a pay cut to serve on the front line.

I want to submit for the record some the patriotic employers.

I ask unanimous consent to have some of their names printed at the conclusion of my remarks.

(See exhibit 1.)

Ms. LANDRIEU. Unlike some of the leaders who just write these employers letters and tell them what a good job they do, I want these employers—Conoco and Chevron and Alcoa and All About Music and Allianz Life Insurance Company and American Electric Power, American Express, the American Stock Exchange, and I could go on and on, 250 Central, 3M—there are pages of them—I want to tell them all that there are a few Senators, some Republicans and some Democrats, who are going to do more than send you a letter. We would like to send you a tax credit and we think you deserve it.

You didn't really ask for it. We understand that because you are digging deep. But we are going to give tax credits out to everybody in the world, it looks like, because we have ceiling fan importers and NASCAR race investors; we have shipbuilders—many of which are in my State and they know I support them—but we can't find a tax credit to help these companies that are sending paychecks for the front line to keep our soldiers prepared to fight and defend our country when really it is the Federal Government's responsibility.

If they said we didn't have the money, I would just sit down and say we just don't have it. We are running a deficit. We can't afford it. But for me to sit here and watch \$137 billion fly through this Chamber and land in the hands of whomever, but not these companies, not our troops, not the people who are having a hard time paying their house note and keeping their household together, it makes me literally want to just get on my knees. I can hardly stand here. I really feel like just falling out.

I want to read a couple more things into the RECORD. I only have a few minutes. This is from Kristin who called in today from Portland. Her husband is in the Army Reserve and has been in Iraq for about a month. She is anticipating a 50-percent cut in pay. Her husband was a private consultant project manager.

We knew when he was activated that he was going to have to be away, but to think that some in Congress aren't even willing to do something to help employers continue to pay him is hard to believe.

Gwen from Minnesota, her husband spent a year deployed in Iraq as a reservist. He is a schoolteacher. He took a significant pay cut during deployment.

Because I talked to Gwen, let me add a few things to this. Her husband has a doctorate degree. He is teaching school, in either high school or elementary school. He is a real double patriotic American because, even though he has a doctorate degree and could teach at a college or get some high-paying job, he feels compelled to give his life to help children.

In his spare time he goes to the front line. So what does our Government do for Gwen and her husband? Send them letters in the newsletter to tell them

how proud we are. Then, when they are not looking, in the dead of night, we pass a \$137 billion tax cut and leave them out? I don't think so.

Sue, from New Orleans, her husband has been activated for a year and a half but has not been deployed. Even so, her family is experiencing a 60-percent pay cut during his deployment.

Trish from Pennsylvania, her family is experiencing a one-third pay cut. He is on his second deployment. They may have to declare bankruptcy. Her husband is in the Air Force Reserve. He was deployed to Afghanistan last year and is headed to Iraq in the fall.

We in Congress think we do a great job for these families by providing them financial counseling. Let me say one thing. Most of the people I know in the Army and Reserve do a very good job managing their money. They are happy for the help we could give them and they are happy for the counseling that they could sign up for, but I can tell you what they really want. They just want a paycheck and they want a solid paycheck. They don't want something to make them rich, not something to allow them to live in a mansion or drive around in a Lexus, but they would like a real paycheck. We could have helped them but we decided this Congress had other priorities.

The last thing I want to submit for the RECORD is a letter to the President of the United States that I am sending right now. I am going to read it and then I am going to yield the floor to the Senator from Kansas.

May I have order, please?

The PRESIDING OFFICER. The Senate will come to order.

Ms. LANDRIEU. The letter says:

DEAR MR. PRESIDENT: I am writing to bring a grave injustice to your personal attention. During Senate consideration of the FSC-ETI legislation, the members of the Senate added a modest provision to assist our troops. GAO studies have concluded that 41% of our Guardsmen and Reservists called to serve their country on the front line must take a pay cut to do so. Fortunately, some companies around the country have stepped up to the plate, and taken the patriotic step to make up the pay gap of these brave men and women.

The provision that we added in the Senate would have provided a tax credit of 50% of these costs to companies who make up that difference. In so doing, we hoped both to acknowledge the patriotism of existing companies, and at the same time encourage more employers to take this step.

Mr. President, no doubt that as you have traveled the country, you have confronted the same stories I have from spouses and military families struggling to make ends meet. We have had to ask an awful lot of our Guard and Reserves, and they ask very little from us. So trying to take this worry off the minds of our men and women on the front lines seemed to be the least we can do.

So it is with deep embarrassment for our government that I must report that this very modest relief for our troops was stripped from the conference report by Congressman Thomas and the leadership of the United States House. While I am certain that representatives of your administration participated in this conference, I presume that you did not have personal knowledge of the decision to cut support for our military families.

Regrettably, this decision has placed all of us in a difficult position. While I endorse many aspects of the FSC-ETI bill, but I simply cannot support a measure that places so many lesser priorities ahead of our military families.

Mr. President, I respectfully request that your exert your great influence to correct this injustice. Your willingness to veto this bill, or your insistence that a free standing bill be adopted, could redress this failure. Mr. President our troops need your leadership on this matter. Let us not disappoint them.

I might add, our troops need our leadership. I am sending this letter. I am sending a similar letter to Congressman THOMAS. I hope in the next 3 days that we are debating we may get an answer that tells us either why they were left out or what we could do to help them, because \$137 billion is a lot of money and they deserve to be in the bill.

I have ended my speech. I see the Senator from Kansas on the floor and I yield the floor.

#### EXHIBIT 1

#### NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE OUTSTANDING EMPLOYERS

250 Central, 3M, 99th RRC, AMSA 113 (G), A.G. Edwards & Sons, Inc., A.K. Steel/A.E.I.F., Abbott Laboratories, AC Nielsen, Accenture, Accolades Awards and Trophy, Adelpia Cable, ADT Security Services, Aerojet Ordnance Tennessee, Aetna, Affiliated Computer Services, Inc/Riverside, AFLAC, Ahold Information Services, Air Products and Chemicals, Alabama Rural Water Association, Alchua County Sheriff Office.

Alameda County Sheriffs Office, Alamo Area Council of Government, Albany, N.Y., Albertsons, Inc., ALCOA, Alion Science & Technology, Alkermes Inc., All About Music, Allianz Life Insurance Company, Allstate Insurance Company, Alpha Industries, Altair Engineering, Inc., Alticor, Inc., Amazon.com, Amber Mechanical Contractors, Inc., AMERESCO, American Electric Power Company, American Express, American Express Financial Advisors, American General Financial Group.

American Heart Association, American Ink Jet Corp., American International Group, American Medical Response, American Postal Workers Union, American Recycling Systems, Inc., American Standard, American Stock Exchange, AmeriGas, Anderson County, Blue Mountain Energy, Blue Cross Blue Shield of South Carolina, Bluefield Police Department, Bluefire Partners, Blum, Shapiro & Company, P.C., BMC Software, BMW Manufacturing Corp., Boeing Aerospace, Boeing Electron Dynamic Devices, Inc., Boeing Satellite Systems.

Boise Cascade, Boise Police Department, Booz-Allen & Hamilton, Bose Corporation, Bradley-Morris, Inc., BRAVO! Development Inc., Brighton School District 27J, Bristol-Myers Squibb, Britton Engineering & Land Surveying, Inc., Brooks Automation Inc., Broward County Sheriffs Office, Broward County, Florida, School Board, Brown & Williamson Tobacco Company, Bureau of Alcohol, Tobacco and Firearms, Burlington Northern Santa Fe Railroad, Burnet County Sheriff's Office, CACI, Inc.—Federal, Caddo Parish Schools, La., Calamos Asset Management, Inc., Canadian National Railroad.

Canon Business Solution, Cantey & Hanger, Cape May County Municipal Utilities Authority, Capitol One Financial, Capsugel/Pfizer, CAREFLITE, CASAS International,

Caterpillar, Inc., Catholic Finance Corporation, CDW Computer Centers, Cendant owns [Avis & Budget rent a car agencies], Cendant Mobility, Cendant Mortgage, Cendant Corporation, Center of Applied Technology North, Centex Rooney Construction, Central Arkansas Veterans Healthcare System, Central Connecticut State College, Cerner Corporation, Cerritos College.

Charles Schwab, Charter Consulting, Inc., Chautauqua and Erie Telephone, Cheaptickets, Chesapeake Biological Laboratories, Chesterfield County, Computer Sciences Corporation, Comsewogue School District Board of Education, Con-Way Central Express, Con-Way Western Express, ConAgra, Concurrent Technologies Corporation (CTC), Conectiv Power Delivery, Congentrix Energy, Congress Title, Connecticut Light & Power Company, Conoco, Conoco-Phillips, Consolidated Edison of New York, Cook County, Ill.

Cooley Manion Jones LLP, Coors Brewing Company, Copperfield LLC., Cornerstone Retirement Community, Corriher—Lipe Middle School, Country Insurance & Financial Services, County of Santa Clara, Environmental Resource Agency, Parks & Recreation, Covance, Inc., Coweta County Sheriffs Department, Cox Communications, Cranston Print Works Company, Crowley Middle School, CSX Corp., Cummins, Inc., Curtiss-Wright Corp., CVM, Inc., D. H. Griffin Company, D. Miller & Associates, PA, Daimler Chrysler, Daphne, AL P.D. (and City of Daphne).

Dassault Falcon Jet—Wilmington Corp., Data Base Accounting Solutions, Inc., Data Search Systems Incorporated, Davidson County, Tenn., Davie Police Department, DeKalb County School System, Delaware, Dell Computers, Delphi, Delta Faucet Company, Department of Environmental Protection, Department of Labor/Wage & Hour Division, Department of Military of Affairs, Designer Checks, Deutsche Bank, DeVry Inc., Digital Partners Inc., DirectEmployers Association Inc., Discover Card Services, Discover Financial Services, Discover Financial Services, District of Columbia (Washington, DC).

FISI Madison Financial, Fleet Bank of Hartford, FleetBoston Financial, Fleming Companies, Inc., Flik International, Florida Blood Services, Florida Power & Light Company, Florida State Gov., FMC Technologies, Food Lion, Ford Motor Company, Forensic Technology Inc., Forest Grove School District, Forrest Exterminating Service Inc., Fort Wayne Metals, FOX Broadcasting Company/News Corp., Fox Valley Tool & Die, Frankfurt Fire Department, Franklin County Sheriff's Office, Columbus, Ohio, Freddie Mac.

Freightliner Trucks, Frito Lay Corporation, Frontier Telephone of Rochester Inc., Fujitsu Network Communications, Full Association Business Service, Inc., Galileo International, Gardonville Cooperative Telephone Association, GEICO Direct, Gen-Probe Incorporated, General Dynamics, General Dynamics Land Systems, General Electric, General Motors, George's Restaurant, Georgia Power Co., Georgia Power Company, Georgia-Pacific Corporation, Giant Food Inc., Gilbane Building Company, Giles County Sheriffs Department.

Glastonbury, Conn., Glaus, Pyle, Schomer, Burns & DeHaven, Inc., Glendale, Calif., Globe Motors, Inc., Goldman Sachs, Goodrich Corporation, Goodrich Corporation—Landing Gear Division, Goodwill Industries—South Eastern Wisconsin, Goodyear Tire & Rubber, Graco Minnesota Inc., Grainger, Grand Traverse County, Grapevine, Texas, GrayRobinson, Great Salt Lake Council Boy Scouts of America, Greater Baltimore Medical Center.

Jackson Township, Jacksonville Sheriffs Office, James City County, Jamestown Public Schools, JCPenney Home Office, JE Dunn Construction Company, Jedi Computing, Jefferson Parish Sheriffs Office, JM Thomas Forest Products, John Peter Smith Hospital, Johnson & Johnson, Jones & Carter, Inc., Jones Day, JP Morgan Chase, JP Morgan Chase Custody Services, Inc., JSA Inc., Kaman Aerospace Inc., Kaufman & Canoles, P.C., Kell Container Corporation, Keller Police Department.

Kennesaw State University, Kenton County Airport Board, Kerr-McGee, Kessler sign company, Kettering City Schools, Kettering, Ohio, Key Corporation, KeyCorp, KIC Chemicals, Inc., Kocourek Chevrolet, KORYAK Consulting, KPMG LLP, KRA Corporation, Kraft Foods-Maxwell House, Kronos, Inc., Kwik Trip Inc., L G & E Energy (KY), L-3 Communications, Labor Ready, Inc., Lake County Captains Professional Baseball.

Lake County Metropolitan Enforcement Group, Landstar System, Inc., Lang Wyatt Construction, Las Vegas City, NV., Lauerma's #2 Saloon, Lawfirm of Sacks & Sacks, LD Clark Excavating, Lebanon Township Committee, Leviton Manufacturing Co. Inc. (NY), Liberty Mutual, Liberty Technology-Magnet High School, Liorente Investigations, Lisle-Woodridge Fire District, Live Oak Police Department, Lockheed Martin, Lockheed Martin Aeronautics Company.

Miami—Dade County, Fla., Michelin North America, Micro Vane (MI), Microsoft Corporation, Mid-States Ford Inc, Mideast Aluminum Division of Indalex, Midlands Orthopaedics, P.A., Military Resale Group, Inc., Miller Brewing Company (WI), Mind & Media, Inc., Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC, Mirant, Mission Critical Linux, Mississippi Board of Nursing, MK Diamond Products, Inc., Modesto City Schools, Monster Worldwide/Monster Government Solutions, Montefiore CMO, Montello School Department, Monterey Bay Aquarium.

Morgan Stanley, Morgantown (WV) Utility Board, Morrison & Foerster LLP (CA), Morton Plant Mease Primary Care, Inc., Motorola, Inc., Munhall Area Prehospital Services, Munters Corporation, Mutual of Omaha, NASDAQ, Nashville, Tenn., Nassau County Police Department, Nassau County, NY, National Association of Securities Dealers, National City Bank, National City Corp, Cleveland, OH, National Information Consortium USA, National Park Service, NationsRent, Nationwide, Natural Resources Conservation Service.

Navy Engineering Logistics Office, Navy Federal Credit Union, Navy Public Works Center, Nebraska Public Power, Neill Corporation, Nestle Frozen Food Division, NetJets, Inc., Nevada Highway Patrol, New Britain, Conn., New York City Housing Authority, New York City Police Department, New York Life Insurance, New York Stock Exchange, Nicor Gas, NiSource Corporation, Nissan North America, Inc.

Phillip Morris, Phoenix Metals Company, Phoenix Police Department, Piedmont Natural Gas, Pilkington North America, Pinellas County Government, Pittston, Plateau Valley School District #50, PNC Bank, Police and Fire Financial Services, Portion Pac, Post, Buckley, Schuh & Jernigan, Inc., Post-Newsweek Stations, Inc. / The Washington Post Company, PPG (Pittsburgh Plate Glass), Pratt & Whitney, Praxair, Inc., Precision Castings of Tennessee, Inc., Premier Yachts, PricewaterhouseCoopers, LLP, Prince Frederick Motors.

Prince George's Fire and EMS Department, Prince William County, Va., Principal Financial Group, PrivatAir Group, Producer's Cooperative Association, Progress Rail Services, Progressive Escrow and Closing, Provi-

dent Bank, Provident Financial, Prudential Financial, PS Doors, Public Service Company of New Hampshire, Public Services Group, Publishers Printing Co., Quaker Oats, Qualex, Inc., Quiet Light Securities, Quincy District Court, Qwest Communications, Rainey, Ross, Rice & Binns.

Raytheon, Raytheon Systems Engineering Project AUTEC, RCI (resource communication), Regal Ware, Inc., REMEC Broadband Wireless, Rentacom, Republic Airways, Reynolds & Reynolds, Reynoldsburg Police Department, RHDDonnelley, Rhodia, Inc., Rich Township, Richard B. Russell Lake and Dam, US Army Corps of Engineers, Richard Childress Racing, Richmond Financial Group, Riverside County Sheriffs Department.

Skowhegan Savings Bank, Slidell Memorial Hospital, Smurfit Stone Container Corporation, Sodexo, Solar Turbines Inc., South Brunswick Township Police Department, Southampton Sheriffs Dept., Southeast Missouri State University, Southern California Edison, Southern Connecticut State College, Southern Fabricators, Inc., Southern New England Telecommunication Corp., SouthTrust Bank, Southwest Airlines, Southwestern Bell Telephone, Space Gateway Support, Spartanburg Forest Products, Speedway Motorsports, Sprint, St. Charles County Ambulance District.

St. Joseph's Medical Center, St. Onge Company, St. Vincent Healthcare, Stabilus, Stanley County Sheriff's Office, Staples, Inc., Starcom Worldwide, State Attorney, 8th Judicial Circuit, Florida, State Farm Insurance, State of California, State of Maryland (Patuxent Institution), State of New Jersey, State of New Jersey OIT, Stockton Banking Center, Student Health Services, UNCG, Subaru of Indiana, Subaru of Indiana Automotive, Inc., Supervalu, Supreme Court of Guam, Survival Incorporated.

Sweetwater Police Department, Sybase, Inc., SYColeman, Synovus, Systems Research and Development, t.w.phillips Gas and Oil, Tampa Preparatory School, TAP Pharmaceuticals, Inc., Target, Target Distribution Center, Tarver Abstract Company, TASC, Inc., Technology Concepts & Design, Teledyne Brown Engineering, Tellabs Operations Inc., Tennessee Valley Authority.

UBS Wealth Management, Ulbrich Stainless Steel and Special Metals, Inc., Unilever Bestfoods, Union County, North Carolina, Union Hospital of Cecil County, Union Pacific, Union Pacific Railroad, Unique Security—Silver Star Security—Champion Security, Unisys Blue Bell, United Cerebral Palsy, United Parcel Service (UPS), United Space Alliance, LLC, United States Department of Agriculture, United States Mint, United States Postal Inspection Service, United States Postal Service, United States Probation Office, Universal Forest Products, University Hospitals of Cleveland, University of Pittsburgh Medical Center.

University of South Florida Foundation, UniversityCare, University of Maryland Medicine, UPS Revenue Recovery Englewood Hub, US Conec LTD, USAA, USDA Forest Service, Curlew Job Corps, USI Inc, USPS Columbus Ohio, VA Medical Center San Francisco, VAHR-EO, Vanasse Hangen Brustlin, Inc., Vanderbilt Medical Center, Ventera Corporation, Veridian, VERITAS, Verizon, Verizon Washington D.C., Inc., Veronica Connor Middle School, Victoria's Secret, Village of Wellington.

VISA, Visteon Corporation, Volvo Penta of the Americas, W. W. Grainger, Wachovia Bank, Wal-Mart Stores Inc., Wal-Mart Stores, Inc.—Private Fleet, Walgreen, Wallkill, NY, Washington, Washington Mutual Bank, Washington State Prison, Waste By Rail, Inc., Waste Management Inc., Wausau Imports, Inc., We Energies.

Webster Cantrell Hall, Weis Markets, Wellmark Blue Cross Blue Shield of Iowa, Wells Fargo, Wesley United Methodist Church, West Virginia, WestAM, Westar Energy Inc., Westchester County, NY, Western Financial, Western Massachusetts Electric Company, Western Oklahoma State College, Westinghouse Electric Company, Westinghouse Savannah River Company.

Westport Fire Dept., Westvaco, Weyerhaeuser, Wilkes-Barre City Police Department, Wisconsin State AFL-CIO LETC, Wizcom, World Financial Group, Wright Express, WWBT NBC 12, Wyeth, Xenobiotic Detection Systems, Inc., Xerox, Yankee Gas Services Company, Yearout Mechanical and Engineering, Inc., Yosemite Waters.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBAC. Mr. President, I ask unanimous consent to speak as in morning business and the time I use to be considered against the pending cloture motion.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Will the Senator just amend his unanimous consent request to state that at the end his statement, whenever that might be, the Senate would be put back into a quorum call?

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBAC. No objection.

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

The Senator from Kansas.

FSC/ETI

Mr. BROWNBAC. Mr. President, I wish to address a couple of topics that have come up this afternoon, and then address a couple that are pending in front of us.

No. 1, on the FSC/ETI bill, there are a lot of things in the bill that I think are very positive. There are some things I disagree with in the bill. One thing I am going to draw to the attention of some of my colleagues in this bill that is very helpful in my State is a particular provision extending the bonus depreciation allowance for civil aviation aircraft. That is something about which I know the Presiding Officer is interested. These are small manufacturers of airplanes. These are not the big airliners but general aviation manufacturers that have extended bonus depreciation.

You may ask, what am I interested in that for? That bonus depreciation has brought back an industry that was on its knees, that was crushed after 9/11. They were selling no aircraft. By having the bonus depreciation in there, they started selling aircraft. In fact, they quadrupled their sales of aircraft, particularly Cessna, Bombardier, Learjet. This hits Raytheon, the whole industry, much of which is concentrated in my State but has fingers around much of the country. It is a fabulous industry, great productivity of workers. There are really good people associated with it. It was on its knees after 9/11. The bonus depreciation was put in the first tax cut bill that really revived it and brought it back. They started hiring people again instead of



laying off workers, but then they were hitting up against the time deadline of that bonus depreciation, so their sales orders starting going back down again.

With it in this bill and by passing this bill, we are going to be able to bring sales back to that industry. You can say that is a pretty narrow provision, that it doesn't cost anything, that it actually scored at zero, but the point being the reason this FSC/ETI bill is called a jobs bill is because it creates jobs. Here is a bill that creates a number of jobs. By doing this, there are going to be people working in Wichita, throughout my State, throughout the region, building general aviation aircraft products. The chairman has done a good job in working on this particular provision.

Most of this bill contains provisions that create jobs so people can work. They can continue their work. They are not laid off from their work. There are provisions in it which I don't agree with. There are things which I wish we could have had more of in it.

The Senator from Louisiana made a speech saying there was something that should have been in it. It would have been nice to be in it, but it didn't make it in. The bill has provisions in it that will create jobs and continue jobs, such as this bonus depreciation extension on general aviation manufactured products. This is a good thing that needs to happen. It is the right thing to do. It is the sort of thing we need for this country, particularly in these areas of manufacturing jobs which have so much difficulty and so much competition overseas for these jobs. Here is an area where we can do it. We need a little bit of benefit. It is in the bill.

I applaud the Chairman, Senator GRASSLEY, particularly for putting that provision in the bill.

There is a second thing which hasn't had the notice and which happened this week. It is not in the bill, but it is another job creator. This week, the U.S. Trade Representative in the Office of the President announced that they will be withdrawing from the 1992 civil aviation agreement with the European Union. The issue here is that Airbus has stolen by Government subsidies a huge market share from Boeing and other manufacturers, primarily from Boeing and large-scale aircraft.

Since 1992 when the agreement was entered into, Airbus has gotten somewhere between 8 to 15 percent of the market share. With Government subsidies, Airbus now has a majority of the market share in the large airline manufacturing business. It has gotten that through Government subsidies in Europe.

What type of Government subsidies? It is a subsidy where the European Governments say to Airbus, you want to make this new airliner, you want to be able to sell it to United Airlines, you want to sell it to Lufthansa and other airlines around the world; we will provide you with the money. We will

loan the money to create this new aircraft to sell to these major airlines. And if you sell the product and if it works, you will have to repay the loan. But if it doesn't work, if people do not buy the aircraft, you don't have to pay back the loan.

There are a number of countries in the world that would love this deal. As such, you never have to bet the company on a new product. You can go out and say we think there is a market for a 600-seat airliner. If it makes it, great; you have to repay the loan. If it doesn't, the Government is going to pick up the tab.

That is what is taking place, billions of dollars of direct subsidies on putting these aircraft into the manufacturing system that have subsidized the take-over of Airbus over Boeing and the majority of aircraft manufacturing in the world today. If it were a fair competition between Airbus and Boeing, that would be another matter. But these sorts of subsidies are wrong. It is wrong for us to allow Europe to continue to do that.

I am delighted that the Office of the U.S. Trade Representative is withdrawing from this 1992 protocol, saying to the Europeans we are going to start consultation and take this to the World Trade Organization to have you stop the subsidization of aircraft manufacturing and stealing jobs from America.

What does that have to do with this bill? Again, it is about jobs and fighting for jobs. Boeing itself has lost nearly 60,000 jobs since 9/11. We have been losing market share. We have had difficulty in the economy. Here is something to say we have to start fighting back aggressively, pull out of this agreement, start the consultation, bring the World Trade Organization into it, and if we have to subsidize to be able to get back into market share to compete on a dollar-for-dollar basis for Europe, I think we have to look at that as well.

Here is the administration through the USTR fighting for manufacturing jobs that have been lost because of a bad agreement in 1992 on airliners being subsidized and made by Airbus. I am delighted the administration is doing this. I wholeheartedly support it. I have a resolution which I put in here asking my colleagues to support, saying this is the right way for us to reclaim manufacturing jobs that are being stolen by Europe providing these subsidies to Airbus.

Another issue which is coming up in some of the debate on the floor is the discussion about the war in Iraq. For all of us, this is a very sensitive issue. We have lost American lives. We have lost a number of American lives. We have lost a number of Kansans in this war in Iraq. They are fighting for freedom. They are fighting to spread democracy in a part of the world that has not known it. They are fighting against terrorists. They are fighting against a government that has har-

bored terrorists. They are fighting against a government that was identified by us for a number of years as being a state sponsor of terrorism—one of only seven countries in the world. Abu Nidal operated out of Iraq. There has been and continues to be, and was continued under Saddam Hussein, a connection between terrorism and his regime.

It becomes quite fashionable, it seems to me, to criticize this war in Iraq. Certainly there are things there to criticize. But I want to caution my colleagues. When I visit with soldiers coming back from Fort Riley, or leaving from Fort Riley to go over, officers who have been over and back, and Fort Leavenworth, or I see them here, they want to know that America continues to support them. It gets to be a real dissidence for a lot of people. OK, I support the troops but I don't support this effort in conflict.

I think a number of people look at this, saying what you mean is you don't support this conflict and does that mean we are going to be pulling out and are we not going to complete the job? Are we not going to make the turn to democracy in Iraq? This is a very difficult attempt we are making. Once it is done, it will spread throughout the region. But getting there is going to be very difficult.

I want to caution my colleagues, when you are being critical of this war—and everybody has their right to put their opinion forward—how that is heard by our troops. I say that from the practical experience in talking with a number of troops who have come back to my State. They want to know and want to make sure that the country still supports them. People will have different opinions on the war, but they want to know they are supported. Once we are in, they want people to stand behind them and with them.

I hope we let our troops know that, yes, we have not found weapons of mass destruction. It doesn't mean their efforts have been in vain, or what they have done has been wrong.

We have spread a message of democracy and hope. We have pushed Libya to the point now where they have given up WMDs, and are opening up their society. We have pushed them to the point they opened up the Dr. Kahn nuclear network. That has made the world safer on nuclear weapons. We are not completely safe, but it has made us safer in the process. Their effort has not been in vain. They are opening their society, bringing schools and opportunity to people who have not known it.

We have gotten rid of a mass murderer in Saddam Hussein. There are thousands of people buried in mass graves. That is not a vain effort. Yes, they are having difficulty. We are losing blood on a regular basis, but we have to continue and we need to speak strongly that we support the war and we support the troops.

In our efforts to have vigorous political debate here, I don't want to take the wind out of the sails of our troops who fight so hard and who put their lives and their families on the line for our safety.

Finally, I want to address an issue that we thought we were going to be able to get with the Department of Defense authorization bill; that is, raising of the fines for indecent material in public over-the-air broadcasts over the radio and television. We have had broad bipartisan support for this effort. There is the Janet Jackson bill, for lack of better terminology, at the Super Bowl last year in the event with her and Justin Timberlake. It spawned a lot of complaints going to the FCC about indecent material on public over-the-air broadcasts. I remind those watching, the issue is that the airwaves used by radio and television broadcast are public airwaves. They are licensed from the public to radio stations and must be used for the common good.

There is a level of material that has been deemed as indecent if you have this license. It is not so much about the first amendment, although the first amendment is protected. It is about abiding by your license agreement to use public property. It is like going to a national park. A national park is owned by the public. Visitors have to abide by the rules in the national park when they go in. They cannot start a fire just anywhere in that national park. Everyone has to abide by the rules.

If you are going to go into this, the property is owned by the public, and there are rules to follow. If you are going to use a license, the property is owned by the public, the airwaves, and you have to abide by the requirements. One of those requirements is you cannot put on indecent material. That has been defined.

We have had several broadcast violations. As a matter of fact, the company that broadcast the Super Bowl was fined heavily for that Janet Jackson and Justin Timberlake episode. But their fine amounted to one-fourth of the value of a 30-second ad on the Super Bowl. So the total fine CBS received was the equivalent of a quarter of the price paid for a 30-second ad at the Super Bowl. It was not even commensurate. It is the cost-of-doing-business type of fine.

Within the bill that passed, the amendment that passed 99 to 1, was to increase these fines. We increased fines substantially so there would be a penalty to the companies broadcasting the indecent material. The FCC would be given the authority to fine up to \$500,000 per violation with a \$3 million cap per 24-hour period per station group. However, the FCC has to consider a number of factors in deciding whether to put that level of fine forward. Broadcasters do not make \$2 million per 30-second ad on every show, and many broadcasters in small mar-

kets, particularly in my State or in other States, do not make near that kind of money. So we give the FCC a top figure they can use in big instances, but we give them a series of factors to consider such as ability of the company to pay in assessing the fine.

We also have included fines for performers. If it is the performers who choose to do this and the companies broadcasting did not have clearance ahead of time, then the performers themselves need to be held responsible. That was included.

We also required an annual report that the FCC would have to give to the Congress on what they are doing on indecency complaints and violations. This had broad bipartisan support. It was pulled out of the Department of Defense authorization bill because there were other issues associated with it, such as media ownership and a provision for family-hour viewing of violent television programming that had some controversy so it did not make it through.

We brought this issue back and we have put it today in a House bill that is at the desk numbered 3717, the Broadcast Decency Enforcement Act of 2004, which we are attempting to move through the Senate in the final hours of this session so we can get what has been agreed to, what has been passed by this Senate 99 to 1, what has passed through the House by an overwhelming majority as well, and have it as a stand-alone bill. It is being held by some Members on the other side of the aisle.

I am pleased my colleague, Senator DORGAN, in particular, is a cosponsor on this individual bill. We are trying to have it cleared. It has cleared the Republican side and has not cleared the Democratic side. It has bipartisan support. I am hopeful we can get any holds lifted from this particular bill. It is an important provision.

The public is fed up with the amount of the indecent material on television, particularly during prime time when families are watching. They want the FCC to have tools that are real, that can be used against the broadcast companies willing to put forward this sort of material that families do not want in their living room.

I applaud the FCC for fining CBS for the Super Bowl incident. But, my goodness, that fine wasn't much because that was the maximum amount they can be fined under the old fine structure. We need to get this new fine structure in place.

We have this House-passed bill. It is at the desk. It is amended with a House-Senate agreement that was part of the Department of Defense authorization bill. We are hopeful to get through that, and we are working to get this through the Senate. The House stands ready to pass that if we can get it cleared through the Senate.

The broadcast decency bill, the bill that is at our desk, sends the message

that indecent and obscene material will not be tolerated on the public airwaves during the hours in which children might be in the audience. Along with licensed use of the public airwaves for a period of time comes a set of responsibilities that need to be taken seriously.

I am hopeful, as we are here for a couple of days on these votes, that we can get this matter cleared to send it to the House, we can get it passed to the President and take care of something that has broad bipartisan support. I urge my colleagues if they are holding this bill to consider this is something that they have probably already supported. It would be important as a step forward in trying to present airwaves to the public the way the public wants them to be presented, as the public does own these airwaves.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. 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. HARKIN. Parliamentary inquiry, Mr. President. Under the procedure we are under now, the Senator from Iowa has how much time to speak?

The PRESIDING OFFICER. The Senator from Iowa is advised he has up to 58 minutes.

Mr. HARKIN. Under the bill?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. Then, I ask, as others have before me, unanimous consent to speak as in morning business but that the time keep running on the bill.

The PRESIDING OFFICER. The time would continue to run on the clock?

Mr. HARKIN. Yes.

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

Mr. HARKIN. I thank the Presiding Officer.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Iowa.

#### OVERTIME PAY

Mr. HARKIN. Mr. President, tonight, in just a couple hours, there will be another Presidential debate between our colleague, Senator JOHN KERRY, and President George Bush. The debate tonight will be with questions from audience members. I assume these are rank-and-file citizens of Missouri or maybe Illinois and Iowa. I do not know where they are coming from. It will be interesting to see. The moderator is going to pick and choose the questions that are asked of both President Bush and Senator KERRY. I understand they will cover a broad range of topics, but the basic topic tonight will be on domestic issues.

Well, I hope there will be a number of questions asked of President Bush for him to explain why it is that he is so intent on taking away the overtime pay rights of over 6 million American workers.

A year and a half ago, his Department of Labor issued proposed regulations to drastically—drastically—change who is eligible for overtime pay in America. After analysis by independent groups, I decided we had to do everything we could to stop these rules from going into effect and hurting the workers of America.

So we have had debate on this issue over the last year and a half. The Congress has voted six times—four times in the Senate, twice in the House—each time voting to overturn and to stop these onerous new regulations from going into effect. Six times, the President has not listened to the elected representatives of the American people. Six times he basically said: I don't care what you want; this is what we are going to do.

Now, keep in mind, when these proposed regulations came out in February of 2003, they were sort of put out in the middle of the night, so to speak a stealth attack. Not one public hearing was held on these proposed rules—not one. Congress was not involved in shaping or fashioning them. This simply came out of the heads—I wouldn't say the hearts because these are heartless kinds of regulations—but it came out of the heads of some people in the Department of Labor, I guess, and maybe in the White House.

We have said time and time again they should not go into effect, but on August 23 of this year those rules went into effect. The new rules took effect on that date because House Republicans have been able to strip my amendment and its House companions in conferences. It goes to conference, they strip it out.

Now, I want to be clear. And I want to clear up one misstatement that comes out of the administration's press releases all the time; and that is that somehow I am denying workers the right to get overtime pay because the base pay on which people are exempt from overtime—I should say not exempt from any overtime regulations—starts at about \$8,000 and goes up to \$23,000 under these new rules. Every time I have offered my amendment, we keep that in there. The base ought to go up. But we say that no person who was eligible for overtime prior to August 23 ought to lose overtime afterwards. They ought to still be eligible for it. That is what the White House has said time and time again. They say: Well, if people got overtime before, they are going to get it afterwards. I say: OK, why not pass my bill? That is all I say. Anybody who got it before ought to get it afterwards. But the White House has resisted that.

As a result, employers will no longer have to pay more money for overtime work for millions of American workers. And most of these workers will be women, make no mistake about it. This is going hit women hardest. Why do I say that? Because women are in that class of employees out there who many times are salaried. They work at

what might be termed white-collar-type jobs. They work with perhaps information systems. They are inputting data in computers, many times working for small businesses.

A lot of times they are working in jobs that are maybe their second job, for example, or they have entered the workforce later in life after their children have grown, and they are working at a job that does not pay a lot, but they are salaried.

Well, right now, they might be eligible if they worked over 40 hours a week to get time and a half. But under these new rules, they will be reclassified. They will then be asked to work over 40 hours a week and will not get one dime of overtime pay.

As one woman wrote me, who lives in Seattle, WA, she said: When I get home from work, my second job starts. I have to take care of my kids. I get dinner ready. I make sure they get to their afterschool events. Then we have homework. I put them to bed. And I have my laundry to do. But she said: That time with my family and that time at home is my premium time. If I am asked to give up my premium time to work longer, I ought to get at least premium pay for it.

I have never heard it said better. Yet that woman will be asked to give up her time with her family, her time with her children, working longer hours, and not get one dime of overtime pay.

If overtime pay is free to the employer, it is going to be overused. If employers no longer have to pay more money for overtime work, they will have no incentive to demand longer hours, no incentive to hire more workers. Workers will have less time to spend with their families.

A study done by the Center for Women and Work at Rutgers University showed that only 20 percent of the workers eligible for overtime worked more than 40 hours a week. In other words, of 20 percent of workers eligible for overtime, only 20 percent worked more than 40 hours a week, but 44 percent of workers who are exempt from overtime pay work overtime, so twice as many. In other words, if the employer doesn't have to pay you overtime, you are twice as likely to work over 40 hours a week than if they have to pay overtime. That is common sense. It stands to reason.

When Congress enacted the overtime provisions in the Fair Labor Standards Act in 1938, Congress did so with the intent that a hard-working America would not leave behind the concept of valuable family time. We believe that workers should be paid extra for the extra hours they work. Time-and-a-half pay accounts for some 25 percent of total income of those who work overtime, and the economic health of too many families is at stake. Congress has voted on this six times on a bipartisan basis to protect these American workers' overtime. Now they want to strip it out again, out of conference. In these

tough economic times, why are we taking away families' rights to be fairly compensated in their overtime?

During the first 3 years of the Bush administration, the typical household saw their real income fall by more than \$1,500. Real wages have fallen while gas prices have gone up. Milk prices have gone up. Health care costs have gone up. More than 4 million people have been thrown into poverty since the beginning of the Bush administration. More than 5 million have joined the ranks of the uninsured. In this kind of economy, why would the President of the United States want to take money out of families' pockets?

I hope this will be something that will be talked about tonight in the Presidential debate. I am sure the President will say they are expanding overtime pay because they are raising the base. They are raising the base with one hand, taking it away with the other. It is the old shell game. Yes, a worker who is making \$15,000 or \$18,000 a year will now be automatically covered by overtime. But guess what the administration did in the rules. They have suggestions to employers on how to get around it, how to get around paying the lowest income workers in America overtime.

We have had examples of that. We had an example in The Detroit News: "Workers Agonize About Overtime Loss." Two managers out of 150 at metro Detroit Burger King franchises became eligible for overtime. Rather than make them hourly workers, the company gave them \$20 a week raises to maintain their salaried status. They gave them a \$20 a week raise so they would just be over that threshold, and they are not eligible for overtime. That means they have a \$20 raise, and they to have work 3 or 4 hours' overtime. They are getting minimum wage or below even for working overtime. Two managers out of 150 eligible for overtime. So that is what is happening.

The President might say tonight: Well, they raised the base. But they are already telling employers how to beat it. I hope the President will tonight respond and answer to the American people why he is so intent on taking away the right to overtime pay, to time and a half over 40 hours of work.

Please, Mr. President, tell the women of America why you are sticking it to them, the working mothers of America, why you are taking away their premium time from their families but not allowing them to make premium time by working overtime.

Another issue I hope comes up tonight is the issue of job growth. The job report came out today. The economy created 96,000 jobs last month, less than two-thirds of the amount needed just to keep up with population growth. Only 59,000 were in the private sector, so just slightly over half in the private sector, and the rest were in the public sector. We have lost 1.6 million private sector jobs since President Bush took office.

They may say: That is not quite right. There was an 813,000 job increase. Well, that is because of Government employment. The gap between total jobs and private sector jobs accounted for 813,000 jobs in Government employment. That is called socialism. I wonder what this is called now. President Bush is for socialism? We can't get jobs in the private sector. We will put them on the Government payroll. Shades of the Soviet Union. But the private sector jobs are not there.

Total manufacturing jobs fell by 18,000 in September, the largest drop since last December. A total of 2.7 million manufacturing jobs have been lost since President Bush took office—the first President since Herbert Hoover to not have created one net new job in 4 years in office. What a record. I hope the President talks about how great that is for our country, that the only increase we are getting is in Government jobs.

The unemployment rate is unchanged, 5.4 percent. It was 4.2 percent when the President took office in January of 2001. Eight million Americans were unemployed in September; 2 million more Americans unemployed today than when President Bush took office in January of 2001—a 33-percent increase. That is a terrible way to say it, a 33-percent increase in the number of unemployed in this country since President Bush took office.

Let's talk about long-term unemployment. That is longer than 26 weeks. That means you are out of work longer than 6½ months. Long-term unemployment rose by 83,000 last month. It is now at 1.7 million people. It has increased by 1 million under President Bush. That is long-term unemployment. The long-term unemployed are now 21.8 percent of the unemployed. That share has nearly doubled. This is the economic record. Long-term unemployment more than doubled.

In January of 2001, there were 680,000 long-term unemployed. September 2004, there are 1.75 million, a 160-percent increase in long-term unemployed.

That is it. I hope that the President will please talk about that tonight and how good this is for America and why things are getting better for America and for American families.

As I said, he is the worst President since Herbert Hoover to face the voters, having lost jobs during his tenure. He will finish his term with the worst record since the Great Depression and finish his term having lost private sector jobs. While the economy has created jobs over the last year, the recovery has been modest, with a total of 1.7 million jobs created, which is about 143,000 a month. This is below what is needed to keep up with population growth. A healthy labor market would be creating jobs at a more rapid pace.

During the last economic expansion, the economy created 200,000 jobs per month, for a full decade, every year, and 236,000 jobs per month during President Clinton's two terms. I will

repeat that. During President Clinton's two terms, the economy created 236,000 jobs per month. During President Bush's tenure, we have had 143,000 jobs created per month. In January 2001, we had 111,560,000 private sector jobs. In September 2004, we had 109,930,000, with 1.6 million lost during that period of time.

So when the President says they are creating jobs, yes, they are creating jobs—mostly in the public sector, Government employment, but far fewer than is even needed to keep up with the population growth.

The administration has billed its tax cuts as a solution. But its predictions of the impact of the tax cuts have been consistently wrong. In 2001, Congress passed the President's economic plan. Three years later, we still have fewer jobs than existed when the plan became law. In 2003, the administration predicted that passage of that year's tax cut would create 5.5 million jobs by the end of this year, 306,000 jobs per month. That target has only been reached in 2 months, and the total 15-month shortfall is 2.9 million jobs behind the pace predicted by the administration. Job growth is roughly 7 million behind the administration's 2002 prediction of the impact of their economic plan.

I know these are big numbers when you talk about 306,000 and 5.5 million. Well, the fact is that has resulted in hitting our families hard. Here is what happened to families. Median household income: In 2000, the median household income was \$44,853. Today, it is \$43,318. So it is down \$1,500.

I hope the President tonight talks about how this is good for America, how things are getting better, when family income is coming down. I hope the President will address himself to the huge increase in the cost of natural gas in the Midwest, and what that is going to mean to our farmers, our families, to the elderly who have to heat homes with natural gas, to our manufacturing concerns who use natural gas, and power companies that use natural gas to produce electricity.

Yet, household family income is down. The price of natural gas is up, gasoline is up, and oil hit a new high yesterday at \$53 a barrel. Great for Halliburton and the oil companies; not too good for our families who have to drive a car to work—maybe drive two cars to work if they have two people working at different times. That is the median household income right there.

I hope tonight's debate will be about domestic issues. I hope they talk about the lack of job growth, the cut in median family income, the number of long-term unemployed; and, yes, I hope they talk about overtime pay and what is happening to people who work hard and are now going to see their rights to overtime pay taken away. Those are mostly women. So that is the economy.

I want to talk about all of those who are going to be hurt by the rules on overtime. Employees earning between \$23,660 and \$100,000 a year are going to

find themselves with their right to overtime restricted or taken away, including veterans, police, nurses, team leaders, journalists, cooks, financial services, computer workers, and many others—a lot of people. So someone earning as low as \$23,661 a year will find that their rights to overtime will be taken away. They will be reclassified.

As I pointed out, in Detroit, 2 out of 150 managers at a certain place of business were eligible for overtime—2 out of 150. What happened is the employer realized how to fix it. By raising their salary so it was \$23,661, or \$23,662—just over the \$23,660—guess what. They don't have to pay them overtime anymore. I hope they will talk about that tonight. I hope we will also recognize that there are no excuses for this overtime being taken away.

Three career employees of the Department of Labor who worked in this area under Presidents Reagan, the first Bush, Clinton, and this Bush—so they have worked for various Presidents—all three of them basically said that in every instance where the Department of Labor has made substantive changes to the existing rules, it has weakened the criteria for overtime exemptions, thereby expanding the reach and scope of the exemptions. That means that in every instance where they have made substantive changes to these rules, it has made it easier for employers to deny you the right to overtime pay.

So I hope the President again tonight will respond and tell us why he is intent on taking away the right to overtime pay. I also hope they will talk about health care and what happened to health care coverage in this country. We are now up to about 4.5 million more people who have lost health insurance under this President. Somewhere around 45 million to 50 million people in America have no health insurance coverage—none. No health insurance coverage.

As we have said, the rate of poverty has gone up in this country. We know that especially the elderly are cutting pills in half and going without medicine to pay their heating bills or their lighting bills or their rent. Well, I happened to listen to the Senator from Utah, my friend Senator HATCH, this morning go on and on. As I said, I like him, but he happens to be wrong on this issue, that's all. I don't know how anyone can stand here with a straight face and say that Medicare doesn't have the right to bargain down prices of drugs. In the Medicare prescription drug bill that we passed, which the President signed into law, there is an express prohibition against Medicare bargaining with the pharmaceutical companies to get a cheaper price. They are prohibited from doing this.

The Veterans' Administration is allowed to bargain, and they get great prices. In fact, our veterans get the cheapest drugs anywhere in America through the Veterans' Administration. That is great for our veterans. Why

shouldn't Medicare be able to do the same thing?

JOHN KERRY has a plan. He has a plan for better health care in America, and the first part of his health care plan is to take away that restriction on Medicare and to allow Medicare—not even to allow Medicare, to insist that Medicare bargain with the pharmaceutical companies to get a cheaper price for drugs for the elderly in this country. Now that would be meaningful prescription drug reform.

The second part of the Kerry plan for having better health care for our people is to allow us to have free trade with Canada. One might say we have a free-trade agreement with Canada. Of course, we do. We have NAFTA. It allows free trade with Canada. We can have free trade in cars, clothes, shoes, glasses, paper, and I suppose anything you want to mention, except one item. We do not have free trade with Canada on prescription drugs.

Go along the northern border of the United States and people are driving across the border every day to buy cheaper drugs. Sometimes they take a bus from Iowa, go up through Minnesota, buy prescription drugs, and come back.

Why don't we have a free-trade agreement with Canada on drugs? Why not allow us to reimport drugs from Canada for our people in this country to get a cheaper price? It is time to do so. The Bush administration will not allow that to happen.

For a lot of people in this country who do not have health insurance, they look at us. I have a really good plan. I have a health care plan that allows me to choose doctors and hospitals and covers me wherever I go. Every year I can change my plan. When our kids were little, we had one plan. Now that our kids are grown up and married, we have a different plan. I get to choose from about—I don't know, I didn't check last year—15, 20 different plans. It is a good plan. I have that plan. President Bush is under that plan. Vice President CHENEY is under that plan.

If it is so good, why don't we let the American people buy into this? Why don't we let them buy into the Federal Employees Health Benefits Plan? Senator KERRY says we ought to do that. President Bush says no. It is OK for us, but it is too good for the American people. I think it ought to be good enough for the American people. JOHN KERRY says, yes, he wants to open up the Federal Employees Health Benefits Plan to allow the American people to buy in. That would be very meaningful, especially for small businesses and people who work for small business.

The fourth part of JOHN KERRY's comprehensive plan to have better health care for America is to allow better tax breaks for small businesses to cover their employees with health care. It is very meaningful to those of us who live in rural States. Most of our people who live in small towns and communities work for small busi-

nesses. Small businesses simply cannot afford any longer to cover their employees.

JOHN KERRY says we should provide up to a 50-percent tax credit to small businesses and to family farmers to allow them to purchase health care coverage for their employees. President Bush says no. But this is where we need to focus—on our small businesses. That is where most of the people work, and that is where most jobs are created. Yet small businesses simply cannot afford it any longer. JOHN KERRY says, let's provide tax cuts to small businesses to get health care coverage for their employees.

The fourth part of JOHN KERRY's comprehensive health care program is to extend and make more comprehensive the SCHIP program; that is the Children's Health Insurance Program. One might say, the President says he is for that. At his convention in New York, President Bush announced a new \$1 billion initiative to enroll millions of poor children in two popular Government health programs, but next week the Bush administration plans to return \$1.1 billion in children's unspent health funds to the Treasury. A projected shortfall in Federal SCHIP funds reduced health care to more than 200,000 children.

There you have it. A President Kerry would expand the SCHIP program and get every kid covered. Let poor families get into the SCHIP program and provide them the wherewithal to do so. Under this administration, fewer and fewer children are being covered under the SCHIP program.

Lastly, in his comprehensive plan for health care reform, Senator KERRY has said that we need a real prescription drug benefit for the elderly, not a phony card. And that is what it is, a phony card. That is what the elderly get today, a card. I cannot tell you how many senior citizens have come up to me in Iowa and told me how worthless that card is. They say: I have two or three cards in my billfold or in my purse and some of those are better than the Government card. The card I got with this drug company, or an AARP card—whatever card they have; there are a bunch out there—are better than the Government card. So why should they buy yet another card?

Senators were on the floor the other day saying we should not be denigrating; we should not be talking badly about this card for the elderly. We ought to be promoting it. Promoting it? Don't talk to me; talk to the senior citizens. Find out why they are not buying it. They are not buying it just because I got up here and said it is worthless. They know it is worthless. They are telling me it is worthless. But we are supposed to, I guess, be a cheerleader and get them to buy something that is not in their best interest, that is worthless. Senator KERRY says we need a real prescription drug plan for the elderly and not just a phony card.

Lastly, I want to talk about education. I hope education also is a part

of the debate tonight. The President can probably tout the fact that he got a bipartisan bill through called No Child Left Behind. I supported that bill. I am on the Education Committee. We had a lot of negotiations. I was sitting there, since I am a senior member of that committee, in the final negotiations, and the big holdup was how much money would we put into it. We agreed on a number, and President Bush agreed that in exchange for the States doing these things and the mandates we put on No Child Left Behind, in exchange for that, we would provide the funding necessary to meet these requirements, and we specified how much money that would be.

What happened? The first budget year comes up, they get shortchanged. The second budget year comes up, shortchanged again, and once again this year.

I believe we are now in the neighborhood of about \$27 billion short in education from what we had guaranteed. If I am wrong, I will come back and correct that, but it is something like that. I know it is over 20. The figure 27 sticks in my head. Even if it was \$10 billion or \$5 billion, the fact is, we put a mandate on our schools. We said we were going to pay for it, and we have reneged.

Now, do not take my word for it. I tell people, talk to your teachers. If you do not like that, talk to your principal or your superintendent. Talk to your school board members and see what they say about No Child Left Behind. Most of them will say, look, it is test after test. We can handle that, but we are not getting the supporting mechanisms we need because we do not have the funds to do it.

I cannot tell my colleagues how many times it has happened to me in my State of Iowa that I have seen schools where, guess what, they have cut out art classes, they have cut out music classes, they have cut out PE. Why? Because they are pinched. They are strapped. They have to put the money in for No Child Left Behind. Why? Because we did not fund it, one of the largest unfunded mandates ever.

President Bush has not asked for the money in his budget. He did not put it in there to fund No Child Left Behind. I think the President should be held accountable for that on education.

The second largest unfunded mandate our schools have is special education. We promised 25 years ago that we would pay up to 40 percent of the additional costs of funding special education in America. I think we are now at about 18 percent of funding additional costs for special education. We promised 40 percent, and yet time and again we do not get the funds and we do not get the budget allocation to fund special education.

So I hope these will be some of the issues that the President will talk about tonight, that I hope will be involved in the debate because these are the issues that affect families in their daily lives.

Lastly, I will take a little bit of time to talk about why I have been involved in slowing down the process in the Senate today. There are a lot of press people who talked to me about that so I thought I might at least take this time to explain why I am doing it.

The Senator from Arizona yielded me a couple of minutes to explain why I was doing it, and I have only one simple declarative sentence: I am doing it to protect our farmers. I am doing it to protect the jurisdiction of the Agriculture Committee. The occupant of the Chair is our distinguished chairman.

When we pass bills that are multiyear bills, sometimes it takes a lot of debate and discussion and working things out. In the 2002 farm bill, that was true. It took many weeks. I can remember sitting in these conversations on Saturday, Saturday night, and Sunday working it out. These are tough negotiations. Agriculture is very diverse, but I have always believed the Agriculture Committee ought to represent all of agriculture; that we are all in this together.

So we hammered out a farm bill and we passed it. There was give-and-take. Now, I did not get everything I wanted. The Senator from Indiana, who was ranking at the time, did not get what he wanted. The House Democrats did not get all they wanted. The House Republicans did not get all they wanted. That is the art of compromise. But I thought we had a pretty good bill. We had one which was a true compromise, and everyone signed off on it. We passed it with big majorities in the Senate and the House, and the President signed it. I was there for the signing.

I remember the President talking about how this bill was so strong on conservation. That was one of the reasons he was signing it. Yes, I am proud of the fact that the bill had an 80-percent increase in conservation, everything from the WHIP program, the Wildlife Habitat Incentives Program, to the Waters Resources Program, Wetlands Reserve Program, CRP, Conservation Reserve Program, and a whole host of others, and a new program that we started called the Conservation Security Program, Farmland Protection Program, a lot of conservation programs.

So we had a provision dealing with the Conservation Security Program, which was designed to be an uncapped program that entitled every farmer who met certain requirements to be eligible to get payments for protecting soil, water, and air, and being a good farmer. I have long believed that it was not right that we just pay farmers to take land out of production. What about all of those farmers who do produce our food supply and work hard every day, who are good stewards of the land? Should they not have some incentive to take care of the soil, to protect our water, to protect our wild-

life? So that is what we hammered out in the Conservation Security Program, an incentive program for farmers, yes, to take better care of the land. It does not require one iota of land taken out of production.

It is voluntary. It is not a mandatory program. No farmer has to participate, but if they will do certain things—there is a minimum level, a moderate level, and a higher level, and if they do these things they will get a payment. But they have to agree to do it for between 5 and 10 years by contract, and then they have to meet certain requirements from the Natural Resources Conservation Service. They sign an agreement that they will do certain things to indeed keep soil from running off, make their soil better, better tilled, protect the water, a whole host of things, all kinds of things, because what is considered good conservation practices in my State of Iowa may not be good conservation practices in the States of Mississippi, Colorado, Washington, or Pennsylvania. Different soil, different land, different crops, different ways. So we wanted to make it so it was adaptable to every part of the country; it was not some cookie-cutter approach.

Well, everyone touted this as a new approach. It was signed off on by the Agriculture Committee, passed and signed by President Bush. Then what happened was the Department of Agriculture began to drag their feet. In the bill, we gave them 18 months to come up with rules and regulations to get this program implemented. We passed the law and it was signed by the President in May of 2002. So that is almost 2½ years ago, and the final rules still have not been promulgated by the Department of Agriculture.

They put out the proposed rules finally after 2 years. So they have been dragging their feet. I guess they just did that for some reason.

We finally got it going and then a couple of years ago for the first time in the history of this Congress we responded to a disaster, a drought, by providing for disaster assistance to hard-hit farmers, but for the first time ever we took it out of agriculture. We made agriculture pay for it. In the 50 years that we have been providing disaster assistance to farmers—or others—it has always been paid for as an emergency spending. Two years ago, for the first time, they took it out of agriculture.

I warned at the time that they were reopening the farm bill, changing a program that was agreed upon and passed by an authorizing committee; that they were fundamentally changing the appropriations process—and I am on the Appropriations Committee, as is the occupant of the Chair. I said that they are fundamentally changing it; this is not right to do this.

Well, it was an on an Omnibus appropriations bill. The House passed it, went home, the funding of the Government was in it, so we had to pass it. I

entered into a colloquy with the chairman of the Appropriations Committee, the chairman of the Agriculture Committee, the Presiding Officer, the Senate majority leader, and Senate minority leader. In that colloquy we stated that we agreed, the chairman of the Appropriations Committee agreed that at the first possible time—I will get the exact language—we would put the program back so that we could assure that it would run as intended by the farm bill for the life of the farm bill, which would take us to 2007. Fine. That is OK. So it was put back.

Because there was a lapse of time there, a gap in time, the Department of Agriculture issued some rules on how to implement this program, but they issued rules based upon the fact that it was a capped program and not eligible to every farmer. But the farm bill said it is eligible for every farmer in every State of this country if they meet certain requirements. They said they had to do that because it was capped.

I said, Now it is not capped. We changed it back.

The Department said, OK, we will have to change the rules to make it go back, and they said that. They said they were going to change it.

I know this is a long story, but now it takes us up to today. Once again, we had a disaster. We had two hurricanes, three hurricanes that hit Florida and Georgia and the Carolinas so they are going to provide disaster assistance. I think we should. We always have. How are they going to pay for it? They are going to pay for it as emergency spending.

But there is another disaster that has taken place in other States of the country. We have had tornadoes, mud slides, high winds, hail in other agricultural parts of the country. We want those disasters taken care of, too. The administration said: Yes, we will take care of those disasters, but agriculture has to pay for it, and guess what, it is going to come out of conservation.

Strange. If you are a citrus farmer in Florida and you have an orange grove and there were tornadoes in this hurricane, if a tornado came through and ripped out your trees—and it did, by the way, in a lot of places—you will now get disaster assistance, crop-loss disaster assistance paid for under the hurricane bill, not taken out of agriculture. But if you are a farmer in Mississippi or Iowa and you had a tornado come through and take out your cotton crop or take out my corn crop, you might get compensated, but, guess what, they are taking it out of your other pocket. They are taking it out of agriculture.

Why should our farmers be treated differently than the farmers in Florida, I ask. That is why I have slowed this up today. That is why I wanted to get the attention of the Senate. I have always believed farmers had to be treated the same no matter where they are. That is why this is so bad, what is happening. They are opening up the farm bill



again. They are taking it out of conservation again. They say they are going to do it. It may be conservation today. Next year, it might be commodity payments, maybe payment limitations. I have fought on this floor to protect those things. Maybe that is what it is going to be next year.

Look out. Once we in agriculture divide ourselves up and we say, No, that's all right, we will take it out of there; we will treat farmers someplace different than in another place. Now we opened the farm bill. Our baseline is going to be down. It is going to take it right out of the baseline of agriculture. I know that is sort of the inside game around here. That means agriculture is taking a hit.

What makes this so terrible is that in the last 3 years we, agriculture—I should not say “we”—the farmers of America saved the taxpayers of this country \$15 billion that was allotted for them under the farm bill that they did not have to take. That was \$15 billion that went back to the Treasury. You would think we would say: OK, if we saved \$15 billion, that is where the disaster assistance ought to come from. We are talking about \$3 billion or \$2.8 billion. We have already saved \$15 billion.

But no, they are not going to count that. They are not going to count that. I am sorry to have to say this. We in the Senate passed an amendment to provide for disaster assistance that would be emergency. We did it here, but the House didn't. And the White House, OMB, is insisting, insisting that this \$2.8 billion of disaster assistance for our farmers be taken out of agriculture but not the disaster assistance for farmers in Alabama or Georgia or the Carolinas or Florida. Please, someone tell me, what is the difference? Maybe we are just not lucky enough to have the President's brother as our Governor, or your Governor.

That is why I am so upset about this. It is just not right. It is not right what they are doing. They are fundamentally changing a program we agreed upon. They are taking it out of agriculture, even after we saved all this money. It is not right. I am going to stand here and I am going to fight.

I told them I probably can't win. They have the votes and they have the White House. But I am going to fight for my farmers. I am going to stand here or sit here to the bitter end. If I do not win this time, I will be back.

I told the majority leader. Majority leader, I said, I like you, I respect you. He is a fine guy and he has a tough job. But, I said, I have to fight for my farmers. I have to fight for my rural people. I have to fight to make sure they are not discriminated against. I said, Leader, if I get rolled here, I will be back. If we come back in October, I will be back then. I will be back in November, too. I will be back. I will be back.

Mr. President, I yield the floor.

#### JURISDICTION

Mr. GRASSLEY. I would like to engage in a colloquy with the ranking

member on the Finance Committee, Senator BAUCUS, regarding provisions in Senate Resolution 445 pertaining to the jurisdiction of the Committee on Homeland Security and Governmental Affairs. In particular, I wish to address the provisions that exclude from the jurisdiction of that committee oversight of matters relating to the customs revenue functions, and the commercial functions and commercial operations, of the Bureau of Customs and Border Protection—CBP—and the Bureau of Immigration and Customs Enforcement—ICE.

Mr. BAUCUS. This is a very important topic. As the Chairman of the Finance Committee will recall, the issue of customs authority was a major one in the debate leading up to passage of the Homeland Security Act of 2002. The Finance Committee held a hearing in July 2002, followed by a letter to the Chairman and Ranking Member of the Governmental Affairs Committee. We stressed the importance of preserving the revenue collection and trade facilitation functions of the U.S. Customs Service, even as that agency moved into the Department of Homeland Security with an added national security focus. I would be pleased to engage in a colloquy on this topic with my good friend from Iowa.

Mr. GRASSLEY. I appreciate the Senator's recollection of our efforts on this issue. I would add that following the hearing and our letter, we worked closely with the Committee on Governmental Affairs and with the Administration to develop text that would keep intact the commercial functions of the Customs Service. Under the final legislation, authorities vested in the Secretary of the Treasury relating to customs revenue functions remained with the Secretary of the Treasury unless delegated to the Secretary of Homeland Security. By order of the Secretary dated May 15, 2003 Treasury Order 100-16), the Secretary of the Treasury delegated to the Secretary of Homeland Security general authority over Customs revenue functions, subject to certain exceptions that preserved Treasury's oversight of the Customs Service with respect to policy matters and the authority to issue regulations and determinations.

Mr. BAUCUS. Yes, and I believe we can both agree that our efforts were successful in preserving the revenue functions, commercial functions, and commercial operations of the Customs Service, including oversight of those functions and operations within the Committee on Finance.

Mr. GRASSLEY. I concur entirely. And the Senator's last point—the importance of preserving oversight of the revenue functions, commercial functions, and commercial operations that are now delegated to CBP and ICE—leads directly to the main point of this colloquy; namely, the necessity of preserving the role of the Finance Committee as primary overseer of the customs revenue functions, the commer-

cial functions, and the commercial operations associated with the customs duties now being performed by employees of the Department of Homeland Security. I want to thank my colleagues, Senator MCCONNELL and Senator REID, for working so constructively with me and Senator BAUCUS to address this priority. Together, we have clarified the scope of jurisdiction for the Committee on Homeland Security and Governmental Affairs as it relates to the commercial aspects of customs operations.

Mr. BAUCUS. I concur in thanking our colleagues for their cooperation in addressing this important issue. For the benefit of the record, would the Chairman of the Finance Committee outline the clarifications that have been added to the resolution?

Mr. GRASSLEY. I would be pleased to do so. To begin, I think it's important to appreciate the context in which the clarifications have been made. Commercial customs functions are one element of the comprehensive international trade agenda of the United States. The various elements of international trade and trade policy are woven together so thoroughly that effective oversight of the whole necessitates oversight of the individual elements of trade. Now, of utmost importance to our broader purpose here today, we agree that preservation of Finance Committee jurisdiction in this manner will not in any way diminish the effective oversight of Department of Homeland Security functions by the Committee on Homeland Security and al affairs. Consequently, the clarifications we've added serve only to enhance effective oversight by the United States Senate of both the homeland security interests and the international trade interests of the United States.

Now, the provisions we've added specify that the Committee on Homeland Security and Governmental Affairs will have jurisdiction over matters relating to the Department of Homeland Security, except matters relating to the following: first, any customs revenue function, including but not limited to the customs revenue functions enumerated in section 415 of the Homeland Security Act of 2002. For example, that would cover the assessment and collection of customs duties, antidumping and countervailing duties, duties imposed under the various safeguard provisions in our trade laws, excise taxes, fees and penalties due on imported merchandise. But these are only some of the many revenue functions associated with customs operations. I encourage my colleagues to refer to section 415 of the Act, and again I note that section 415 is illustrative and does not provide an exhaustive list of the customs revenue functions that will remain within Finance Committee jurisdiction.

Second, matters relating to any commercial function or commercial operation of the Bureau of Customs and Border Patrol and the Bureau of Immigration and Customs Enforcement

would be excluded from the jurisdiction of the Committee on Homeland Security and Governmental Affairs. That would cover, for example, matters relating to trade facilitation and trade regulation. But let's take a closer look at what that would mean. Last year I introduced the Clean Diamond Trade Act. That important legislation prohibits trade in conflict diamonds. Once introduced, it was referred to the Committee on Finance where we held a hearing and reported it to the full Senate with the benefit of committee's expertise. In the future, similar legislation to regulate imports or exports would also be referred to the Finance Committee.

Mr. BAUCUS. That specific example is very helpful. Does the Chairman of the Finance Committee have any other examples in mind?

Mr. GRASSLEY. Well, another example would be the Convention on Cultural Property Implementation Act, over which the Finance Committee would retain jurisdiction. That legislation authorizes the United States to enter into bilateral agreements to protect the cultural antiquities of a trading partner. Another example would include matters relating to the Automated Commercial Environment—or ACE—computerized entry system for imports. Again, the driving factor here is whether a matter is commercial or trade regulatory in nature; if so, the Finance Committee would retain jurisdiction over the matter notwithstanding that the matter may fall among the duties assigned to an employee of the Department of Homeland Security.

Mr. BAUCUS. I thank the Chairman. Are there any other matters that fall within the exception to transfer of jurisdiction to the Committee on Homeland Security and Governmental Affairs?

Mr. GRASSLEY. Yes, in fact there is a third clarification that's been added. The Committee on Homeland Security and Governmental Affairs will have jurisdiction over matters relating to the Department of Homeland Security, except with respect to any other function related to the customs revenue functions or to the commercial functions or commercial operations that were exercised by the United States Customs Service on the day before the effective date of the Homeland Security Act of 2002. Now, the Homeland Security Act directed the Secretary of the Treasury to identify, within 60 days after the date of enactment of the Act, those authorities vested in the Secretary of the Treasury that were exercised by the Commissioner of Customs on or before the effective date of the act. By letter dated January 24, 2003, the General Counsel at the Department of the Treasury transmitted that report to the Finance Committee. I ask unanimous consent that the General Counsel's letter and attached report be printed in the RECORD, in order to provide further guidance as to what is cov-

ered by this third clarifying provision. As comprehensive as this report is, I note that it serves to provide illustrative guidance and is not an exhaustive list of the functions or operations encompassed by the third clarification we've added.

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

DEPARTMENT OF THE TREASURY,

Washington, DC, January 24, 2003.

HON. CHARLES GRASSLEY,  
Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC

HON. MAX BAUCUS,  
Committee on Finance, Dirksen Senate Office Building, Washington, DC.

GENTLEMEN: Under Section 418(b) of the Homeland Security Act of 2002 (the "Act"), Title IV, Subtitle B, Public L. No. 107-296, 116 Stat. 2135 (November 24, 2002), the Secretary of the Treasury is directed to report to your Committees any proposed conforming amendments to determine the appropriate allocation of legal authorities described under section 412(a)(2) of the Act. The Secretary of the Treasury is also directed to identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section. This report is due not later than 60 days after the date of enactment of the Act and is provided by this letter.

Treasury has identified no conforming amendments needed to determine the appropriate allocation of legal authorities described under section 412(a)(2) of the Act. Under section 412(a)(1), authority related to Customs revenue functions that was vested in the Secretary of the Treasury by law before the effective date of this Act under those provisions of law set forth in section 412(a)(2), shall not be transferred to the Secretary of Homeland Security by reason of this Act. Rather, on and after the effective date of this Act, the law provides that the Secretary of the Treasury may, at his discretion, delegate any such authority to the Secretary of Homeland Security and that the Secretary of the Treasury shall consult with the Secretary of Homeland Security regarding the exercise of any authority not so delegated. Based on our review, we have identified no barriers to the appropriate allocation of legal authorities described under section 412(a)(2). As we work with the Department of Homeland Security and others to implement the act, we will notify you promptly if we determine that currently unforeseen legal barriers pose a problem that require a legislative solution.

To complete this report, a chart is attached identifying those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this Act. We are pleased to be of assistance in this matter.

Sincerely,

DAVID D. AUFHAUSER,  
General Counsel.

Mr. GRASSLEY. Mr. President, the chart attached to the January 24, 2003, letter of the General Counsel to the Chairman and Ranking Member of the Senate Finance Committee regarding the authorities vested in the Secretary of the Treasury that were exercised by the Commissioner of Customs prior to the effective date of the Homeland Security Act of 2002 may be accessed at the Finance Committee Web site under "Legislation—January 2003".

Mr. BAUCUS. I thank the Finance Committee Chairman. There is one last point, I think, we should address. First, I would like to add that it's my understanding that the Finance Committee has had jurisdiction over customs for 188 years, and so I am glad to see today that the Committee's expertise will continue to be brought to bear on the customs revenue functions and the commercial functions and operations of our customs officials. As part of that longstanding oversight, I note that referral of nominees for the position of Commissioner of Customs has been to the Finance Committee. I ask the Chairman, does he anticipate that such referral will continue in the future?

Mr. GRASSLEY. I thank the Senator. Under section 411 of the Homeland Security Act of 2002, there is established a Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of Customs reports to the Under Secretary for Border and Transportation Security. The Commissioner of Customs shall oversee certain functions, including functions performed by the following personnel and associated support staff of the United States Customs Service on the day before the effective date of the Homeland Security Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialists, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, and Financial Systems Specialists. Clearly, the responsibilities of the Commissioner of Customs encompass customs revenue functions, and commercial functions and operations, that are now assigned to employees of the Department of Homeland Security. So, in response to the Senator, I say yes, it is clear that referral of future nominees for the position of Commissioner of Customs, or any position or positions charged with responsibilities similar to those of the Commissioner of Customs, will continue to be made to the Finance Committee.

Mr. BAUCUS. I thank the Chairman of the Finance Committee for his elaboration of the provisions that have been added to clarify the parameters of the jurisdiction of the Committee on Homeland Security and Governmental Affairs, and for his description of illustrative and non-exhaustive examples of the types of jurisdiction that will remain within the Committee on Finance.

• Mr. CHAMBLISS. Mr. President, I rise today to speak on H.R. 4520, the American Jobs Creation Act of 2004.

This important legislation attempts to comply with the World Trade Organization, WTO, rulings on the Foreign Sales Corporation, FSC, Extraterritorial Income, ETI, benefit in order to prompt the European Union to rescind trade tariffs currently placed on United States exporters. It would repeal an export provision in the

United States tax code that has been ruled an unfair subsidy and therefore does not comply with the WTO. In addition this bill seeks to preserve jobs and production activities in the United States via the simplification of international tax laws and a mix of investment incentives. A \$10 million tobacco buyout, minus the Food and Drug Administration's regulation, is also incorporated within this bill.

This bill would replace the current export subsidy that has been ruled unfair by the WTO with a new \$77 billion tax break on manufacturing income. Companies will also be able to exclude 9 percent of their manufacturing profits from taxation and multinational companies will receive \$43 billion in a variety of tax cuts on their overseas income. These tax breaks and incentives are instrumental in our attempt to comply with the WTO while ensuring American jobs stay at home.

Also included in this package is a landmark change. This bill contains provisions to terminate the Federal tobacco quota program. This tobacco quota program was created during the 1930s and has provided controls on the production of tobacco for decades. And it has worked well. However, since 1998 tobacco quotas have been cut by over 50 percent leaving tobacco farmers with no where to turn. This package provides compensation for those farmers and quota holders who have lost over half of their assets through no fault of their own.

Compensation of \$7 to quota owners and \$3 to producers based on the 2002 effective quota level is provided in this package while at the same time it keeps producers free of potential burdensome regulations advocated by some in the industry. I am pleased that the funding for this buyout comes at no cost to the taxpayer without granting authority to the FDA to regulate tobacco and tobacco products.

In terms of the economy, this legislation will have a significant impact on rural Georgia. Mr. President, \$607 million will be provided over a ten year period. Additionally growers can continue to produce tobacco without government constraints and be competitive in the world tobacco market.

I support the passage of this significant legislation because it will benefit the manufacturing industry in Georgia while ensuring American jobs are not lost overseas due to burdensome and unfair tax regulations. I also support the passage of this bill because of the unregulated FDA tobacco buyout provisions that compensate tobacco farmers for assets that have been plundered by the Federal Government.

It is because of my son's wedding this weekend in Georgia that I regret that I will not be able to actually vote on this legislation. However, if I was in attendance and able to cast my vote on H.R. 4520, it would be in support of this bill.●

Mr. BINGAMAN. Mr. President, I come to the floor to thank the chair-

man and ranking member of the Finance Committee for their assistance in getting my amendment on the Civil Rights Tax Review in the conference report to accompany H.R. 4520, the American Jobs Creation Act of 2004.

The law with respect to the tax treatment of attorneys' fees paid by those that receive settlements or judgments in connection with a claim of unlawful discrimination, a Qui Tam proceeding or actions containing damages for non-physical injuries was unclear and that its application was questionable as interpreted by the IRS. It was never the intent of Congress that the attorneys' fees portions of such recoveries should be included in taxable income whether for regular income or alternative minimum tax purposes. The language contained in section 703 of H.R. 4520, the American Jobs Creation Act of 2004 is intended to clarify the proper interpretation of the prior law, and any settlements prior to the date of enactment should be treated in a manner consistent with such intent.

The conferees are acting to make it clear that attorneys' fees and costs in these cases are not taxable income, especially where the plaintiff, or in the case of a Qui Tam proceeding, the relator, never actually receives the portion of the award paid to the attorneys. Despite differing opinions by certain jurisdictions and the IRS, this is the correct interpretation of the law prior to enactment of section 703 as it will be going forward. In adopting this provision, the Congress in no way intends to prejudice the tax treatment of settlements or awards made prior to that time and the courts and IRS should not treat attorneys' fees and other costs as taxable income.

#### UNANIMOUS CONSENT AGREEMENT

Mr. FRIST. Mr. President, I ask unanimous consent that at 11:15 a.m. on Saturday, October 9, the Senate proceed to votes in relation to any pending amendments to the McConnell-Reid amendment to S. Res. 445; provided further that it be in order prior to the votes for Senators to offer a qualified amendment from the unanimous consent list of last night; provided further that following the disposition of those amendments the Senate proceed to a vote on the adoption of the pending McConnell-Reid substitute, to be followed by the immediate vote on cloture on the underlying resolution; further, that if cloture is invoked, the Senate immediately proceed to a vote on adoption of the resolution, as amended, with no intervening action or debate.

I now ask unanimous consent it then be in order during Saturday's session for the Senate to consider a resolution submitted by Senator HARKIN regarding the sense of the Senate on agricultural emergencies which is currently at the desk; further, that when the Senate finishes S. Res. 445, the Senate imme-

diately proceed to a vote on the adoption of the Harkin resolution, with no intervening action or debate and the preamble then be agreed to.

I further ask unanimous consent that the vote with respect to cloture on the conference report to accompany H.R. 4520 occur at 1 p.m. Sunday, October 10.

Finally, I ask unanimous consent that during Sunday's session it be in order for the Senate to consider a bill regarding overtime compensation and a bill regarding FDA and tobacco products which are currently at the desk; I ask unanimous consent that on Sunday those bills be read a third time and passed, en bloc, with the motions to reconsider laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not, this does not preclude other matters that might be worked out either by consent or otherwise during that time; is that correct?

Mr. FRIST. That is correct.

Mr. LEAHY. I will not object.

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

The Senator from Vermont.

#### THE DNA ACT

Mr. LEAHY. Mr. President, I have been in a lot of discussions today by phone, with my staff, and elsewhere, on H.R. 5107, something referred to as the innocent protection act and by others as the DNA act.

I think we are close. In some ways, it is like the perils of Pauline, you are up the hill, down the hill, if we can excuse, at 10 minutes of 8 in the evening, mixed metaphors.

But this is a bill that passed with overwhelming bipartisan support in the other body, from the most conservative to the most liberal Members of the other body. Then there is just a little difference, or at the last moment the Department of Justice comes up with some little thing they just thought of.

After a while, one wonders if even with the proven, overwhelming support—polls show overwhelming support for it; the other body has passed it overwhelmingly. I would guess if we actually had a vote in this body, 80 to 90 Members would vote for it. There are always a couple of Members who have some reason for holding it up. I hope we get rid of that. I hope we are coming closer.

I only wanted to say this for my colleagues both in the House and in the Senate who have been working with me and my staff today and working with people everywhere, from church groups to prosecutors' groups throughout yesterday and late last night and throughout today, I am hoping we can settle. That is why I asked the question of the distinguished Senator from Tennessee, to make sure we reach such an agreement at some point and we can move forward.