

a long time. We have flown together. She has appeared at our hearings. She is leading the fight throughout America, along with a number of other very courageous women. This has to be a very important day for her.

When this bill is finally signed into law by our President, who will sign it into law, it is going to be a big day for the Debbie Smiths of this world and, I might add, every woman in this world who is the potential target of these vicious rapists.

Also contained in this bill are provisions that will give us assurance that those whom we arrest and convict are indeed those who have committed the crime. Kirk Bloodsworth, a former marine with no criminal background whatsoever, was arrested in 1984 for the brutal rape and murder of 9-year-old Dawn Hamilton on Maryland's Eastern Shore. Kirk Bloodsworth maintained his innocence but was convicted and sentenced to death. After 9 years in prison, two of them on death row, Kirk Bloodsworth, an innocent man, was exonerated by post-conviction DNA testing. Last year, prosecutors matched the DNA evidence in the case to another man, who subsequently pleaded guilty to the crime, for which he was sentenced to death.

This is the power of DNA when it is used and analyzed properly. I want to stand here and thank Kirk Bloodsworth from the bottom of my heart for his efforts to improve and pass this bill. The bill will help to protect unintentional victims of the criminal justice system.

I think we all owe a debt of gratitude to Kirk Bloodsworth. One reason I have stayed around here all day, although there are no more votes, is to be able to stand on this floor and personally pay tribute to Debbie Smith and Kirk Bloodsworth. They deserve it. They have been with us throughout this process, and I have nothing but respect for both of them.

Moreover, this bill includes Senator KYL's and Senator FEINSTEIN's critical Crime Victims Act that ensures victims rights are protected in criminal prosecutions. This bill is truly justice for all.

It is an important bill, and they fought for this for years and years, and we helped them to get it out of committee. I am so grateful it was matched with the DNA bill, and we now have these two bills brought together in one bill that will do a great deal of good for our society.

Finally, let me say I am grateful for the hard work and determination of so many people to get such a vital bill passed.

I thank my cosponsors of this bill. First, let me thank my good friend from Vermont, Senator LEAHY, for his commitment and willingness to set aside politics in a very political year and work with me to get such a critical bill passed.

I also want to recognize and specifically thank Senator BIDEN, Senator

SPECTER, Senator FEINSTEIN, and Senator DEWINE for their calming voices of wisdom throughout the negotiations, our difficult committee markup, and in the final preparations to achieve a properly balanced bill. Without their unwavering support and counsel, this bill would not have occurred.

I also thank the chairman of the House Judiciary Committee, JIM SENBRENNER, and Representative DELAHUNT for their dogged determination on the House side in leading the House in passing this bill through the House on two occasions by overwhelming majorities.

I have worked side by side with Chairman SENBRENNER on many occasions. He is a true friend and he is a man of his word. I am pleased to have had the opportunity to work closely with Congressman DELAHUNT on this measure, and I can tell you, he is a man of honor and wisdom. I have enjoyed working with him. I will look forward to working with both of them again in the future.

I also want to make special mention that without the thorough consideration of this bill by Senators KYL, SESSIONS, and CORNYN, we would not be here today. Nearly two dozen changes were addressed and implemented at the insisting of these fine Senators, and this bill is a better bill because of it. And I have to admit, they have helped to improve the bill.

At times the process through the committee was a bit tension filled, but I commend Senators KYL, SESSIONS, and CORNYN for working to improve and refine this legislation. Some have unfairly criticized their efforts, but that is only because these critics apparently do not understand the committee process. I commend these colleagues and all of my colleagues for giving this bill the scrutiny it deserves.

Now, let me say that many have worked to make this bill a successful effort. We could not get much done around here if we did not have such an intelligent and dedicated staff. I want to thank those on my staff, including Reed O'Connor and Ted Lehman, for their commitment and dedication in getting this bill done. I especially want to single out Brett Tolman, a bright, young assistant U.S. attorney from Salt Lake City who is on assignment to the Judiciary Committee. We are fortunate to have him, and he has made a tremendous difference on this bill. Brett took the initiative for undertaking a lot of the analysis and negotiations that led to the final compromise language.

I am proud of him, and I think everybody else ought to be, too.

I want to thank Senator LEAHY's chief counsel Bruce Cohen and his lead counsel on this issue, Julie Katzman. Their efforts helped guide and drive this effort throughout and are greatly appreciated. We are also indebted to chief counsel Neil MacBride, Jon Meyer, and Louisa Terrell from Senator BIDEN's office. They continuously helped move the ball forward.

I give special thanks to Rob Steinbuch, a senior counsel in Senator DEWINE's Judiciary Committee office. Rob and Brett Tolman were key players on our side of the aisle in educating Members and staff about this bill and proposing creative solutions to problems that surfaced.

I also thank Joe Matal, William Smith, and Chip Roy, who ably represented the views of, respectively, Senators KYL, SESSIONS, and CORNYN.

On the House side, Phil Kiko, chief counsel for Chairman SENBRENNER, Jay Apperson, Katy Crooks, and Christine Leonard were instrumental in building the overwhelming support for this bill.

As well, I give special thanks to Matt McGhie and Bill Jensen from legislative counsel. On this type of bill it is critical to get the language exactly right, and they did so time and time again.

The list of contributors could go on and on because so many private and governmental organizations have also provided critical assistance.

Let me also say, while I had to get a little rough with the Justice Department—and I am still not over it—I am, nonetheless, grateful for their help in coming to compromises and getting this bill in acceptable form. I call upon Attorney General Ashcroft to urge the President to sign this good bill, and to do it quickly.

I thank the leadership, Majority Leader FRIST and Senator MCCONNELL, as well as Minority Leader DASCHLE and Senator REID for giving us floor time to get this done today.

Most of all, I am pleased to send to the President a bill that will make such a difference in the lives of victims of crime, including those wrongly accused or convicted of crimes across this country.

This bill passed 393 to 14 over in the House. We amended it in many ways to make it a far better bill because of the work of all of these people I have been chatting about. I have to say that it passed unanimously by the Senate today. This body sent that version back over to the House, and I am pleased to report that they took it up and passed it so that it may be sent to the President for his signature.

FSC/ETI

Madam President, I rise in strong support of the conference report for the American Jobs Creation Act. Before we leave, we have to pass this bill to protect domestic manufacturers, strengthen our economy, better help our U.S.-based multinational firms compete globally, and honor our trade obligations.

I congratulate the chairman and co-chairman of the conference, Congressman BILL THOMAS and Senator CHUCK GRASSLEY, for completing the bill this week.

Many thought the task would be difficult or impossible given the large differences in the two versions and the

time constraints we in the conference faced. This could have taken many weeks—or even failed—yet they got it done.

The innovative conference process developed by the chairman and co-chairman made success possible. Conferencing a large and diverse pair of tax bills in the usual fashion could have taken many weeks and led to a likely failure to finish this bill before sine die adjournment of the 108th Congress. Again, I want to recognize the extraordinary achievement of this conference committee and thank its leaders and my fellow conferees for their hard and dedicated work.

Mr. President, this conference report represents what we hope will be the culmination of a very lengthy and fascinating issue that had its genesis decades ago but has festered into a growing problem over the past several years.

I will leave to others to go into detail about the long history of the export subsidies in our tax law that gave rise to this conference report, but the unusual nature of this bill and its difficulty in passing the Congress are reflections of the complexity of this issue.

The crux of the difficulty of the bill is that the rulings of the World Trade Organization on the trade-legality of our export tax subsidies put the Congress in a very tough position. In essence, we found ourselves needing to repeal these export subsidies, known as the Foreign Sales Corporation (FSC) provision and its replacement regime known as the Extraterritorial Income (ETI) exclusion.

By repealing these provisions, which we must do in order to honor our trade obligations, we effectively raise taxes by almost \$6 billion per year on thousands of U.S. businesses that manufacture goods for export.

Leaving it at this, Mr. President, is simply unacceptable. Why should we have to convert a provision designed to help U.S. manufacturers compete in an ever-increasingly difficult global marketplace to a situation where they suffer a competitive disadvantage?

Yet, this is exactly the problem the Congress faces now that it is forced to repeal the export tax benefits.

When confronted with a similar problem in 2000 after the WTO ruled the FSC provision to be in violation of international trade rules, Congress passed the ETI in its place. With the ETI, we were able largely to replicate the benefits of the FSC regime, so that exporting taxpayers paid few if any extra taxes with the repeal of FSC. Unfortunately, the WTO subsequently ruled that the ETI provision also was an illegal trade subsidy that also must be repealed.

So, the conundrum facing the Congress with this situation was to find a way to enact other tax cut benefits for exporting manufacturers, to offset the increase from repealing ETI, without violating the WTO rules.

Unfortunately, Mr. President, this has proven impossible, so both the Senate and House bills attempted to find rough justice for business taxpayers by finding other ways to deliver tax benefits besides basing them on exports. Such attempts gave rise to the political and practical difficulties of this bill, including the fact that it took many months of hard effort to reach the point we are today.

For example, my own bill to address the FSC/ETI problem was S. 1475, the Promote Growth and Jobs in the USA Act, which I introduced in July 2003. This bill would have delivered rough justice tax relief in two ways.

First, it would simplify and rationalize the international tax rules that currently harm the ability of U.S. firms to compete globally, and second, it would provide incentives for companies to increase their ability to produce goods by acquiring new equipment and engaging in more research and development.

Other FSC/ETI solution bills were also introduced. On the same day I introduced S. 1475, Chairman THOMAS introduced H.R. 2896, the American Jobs Creation Act. The two bills were similar in many ways, and both included international tax reforms. The Thomas bill, however, included a number of other provisions designed to help U.S. businesses create jobs and better compete.

Another bill, introduced last year by Congressmen CRANE, RANGEL, and MANZULLO, offered a different direction still. This bill provided a deduction equal to 10 percent of a company's production activities.

In the Senate, Senators GRASSLEY and BAUCUS introduced a bill that included some of the best elements of all the other bills. Even though I preferred the solution set forth in my bill, I co-sponsored the Grassley-Baucus bill because it represents a solid and reasonable solution to the problem. This bill, as modified, became the legislation reported by the Finance Committee and passed by the Senate.

After a great deal of travail and adjustments, the House also passed a FSC/ETI bill, and it was quite similar in many respects to the first Thomas American Jobs Creation Act. These are the bills the conference committee had to combine into one.

Madam President, I know that you and your colleague, Congressman BURR, and others from North Carolina and South Carolina and all over the South have worked long and hard. Also, Senator MCCONNELL, Senator BUNNING and others from Kentucky have long worked to try to resolve these problems. I want to pay tribute to you folks for bringing this about. You deserve a lot of credit. Let's hope we can pass this bill.

I admit it is not everything that some wanted it to be, but it is certainly a step in the right direction, and it wouldn't have occurred except for the distinguished Senator from North

Carolina, Mrs. DOLE, Congressman BURR, and others who have carried this ball very effectively up through this point.

I hope that we do not filibuster this bill. I hope nobody will filibuster this bill because it is a bill that just has to pass. If it does, much of the credit should go to the people I have just mentioned. There are others as well who should be mentioned. I don't mean to leave them out. But those in particular I know have been working assiduously on this for many years.

The result, as we know, is a bill that is far from perfect. Its enactment will result in a net tax increase for some exporting companies that now use the ETI provision, and in a net tax cut for many other U.S. manufacturing firms that may have not taken advantage of the ETI exclusion.

And while the bill includes many important other provisions, it leaves out some very important provisions that I advocated. For example, I am personally very disappointed that the House conferees voted against including my bill, the CLEAR ACT, in this conference report. This bill, which has passed the Senate at least three times and also has passed the House, would transform the auto industry by granting strong tax incentives for consumers who buy alternative fueled and advance technology vehicles, such as hybrid electric cars and, ultimately hydrogen cars.

From a broader point of view, most of my fellow Senate conferees and I would have liked to see the entire set of energy tax provisions from the Senate-passed bill included in the conference report. I believe it was a mistake to omit these important provisions.

I also very much regret that the House conferees refused to adopt my amendment to bolster our research tax credit. While it is true that the research credit was extended for a short time in the most recently passed tax bill dealing with individual tax cuts, that legislation left out an important element contained in the Senate FSC/ETI bill designed to improve the incentives this provisions gives for companies to engage in R&D activities.

Nevertheless, the conference report before us is worthy of our support, as we must honor our obligations under the World Trade Organization.

Of more immediate importance is the fact that the Europeans are levying an increasing level of trade sanctions against certain of our products exported to the EU. This is currently 12 percent and is growing by one percentage point per month. It is definitely having a very serious negative effect on certain U.S. industries and could amount to more than \$4 billion in total cost, unnecessary cost to our country if this bill is not passed.

Moreover, the trade sanctions are authorized to continue to increase until next March, when they will have reached 17 percent. After this, the EU

may authorize even more serious sanctions against us that would surely harm our economic growth.

If we do not succeed in passing this conference report before sine die adjournment of the 108th Congress, we must start the process all over again next year.

Would this result in a better bill? Perhaps. But that is far from certain. What is more likely is that the resolution to this issue would be delayed for many more months, giving the trade sanctions more time to damage our economy and harm U.S. businesses.

Let me take a few minutes to discuss some of the specific provisions that are in the conference report and why I we should enthusiastically support them and why I support them.

Overall, this conference report has a good balance to it.

In addition to the vital repeal of the ETI provision and the quite reasonable transition relief it provides for current ETI users, the bill offers significant provisions for both small businesses and large multinational firms.

Mixed in is a generous portion of important tax relief for business interests of all kinds.

Also included in the conference report is significant relief specifically for small businesses.

Foremost in this category are the five sections that would simplify and reform the taxation of S corporations.

These are changes I have long fought for and sought with several of my colleagues and I am gratified to see them included by the conference.

Other provisions important to the balance of this bill are those designed to simplify and improve the rules by which this Nation taxes international business transactions.

Quite simply, our outdated, international tax rules are appalling.

Whether large, medium or small, U.S. businesses that decide to expand their markets beyond the borders of the United States confront a set of tax rules that are mind-numbingly complex. Far worse, these rules often result in double taxation and leave our companies on the downside of a tilted playing board when compared with competitors based in most other industrialized nations.

The bill before us includes about two dozen provisions that will improve the tax law for U.S. companies that have expanded their markets overseas.

As a senator who has long been interested in seeing this type of reform enacted—in fact I have introduced bills to do this since the mid-1990s—this is a particularly gratifying day.

Some of my colleagues have incorrectly concluded that improving our rules on international taxation will give an incentive to U.S. companies to move their jobs overseas. This is unfortunate, Mr. President. Cross-border investing is not only a necessity of our modern world, it is usually beneficial to both nations. Most U.S. companies that invest in expansion into markets

in other nations do so to compete effectively with other suppliers in those markets and here at home.

A fact of life of our modern economy is that our U.S.-based business enterprises face competition from all parts of the globe. It is unrealistic to think that an American business can simply focus on markets here at home and thrive. Instead, most of today's businesses must be mindful of both markets and material and labor supplies around the world if they are to stay in business very long.

While no one likes to see U.S. jobs move overseas, we should be more concerned about creating and maintaining in the U.S. the kind of environment that attracts businesses. Part of that environment is ensuring that our tax system does not drive businesses offshore to other nations that tax them in a more favorable fashion. This bill moves our tax system a big step in that direction, and I am pleased to see these changes finally reach the point where they are about to become law.

Let me turn to the tobacco issues associated with this conference report.

At the center of the tobacco buyout is the tobacco farmer. The tobacco price support and tobacco quota programs have helped to secure a reasonable living for many family farmers.

At the same time, breaking the nicotine dependency of U.S. citizens and especially children requires us to address the dependency of tobacco growers on the tobacco industry and on the government programs.

It will not be an easy transition for many tobacco growers, and Congress is strongly on record as supporting measures to help these families survive it.

This proposal does a good job of getting the Government out the farming business while making temporary assistance available to farmers as they adjust to the free market. And, there is no cost to the Government.

As far as the provision requiring the Food and Drug Administration to regulate tobacco, let me say that I fully support measures to end tobacco use in the United States.

I can think of few public health dangers worse than tobacco, and this is especially true for young people.

I have heard from many concerned parents and health advocates in Utah who point out the need to take action against the devastating health consequences of tobacco use.

In many aspects, the DeWine-Kennedy language was written to achieve that goal, and in that spirit I supported it in conference.

In fact, much of the bill is taken from a measure that I authored several years ago with Senator DIANNE FEINSTEIN.

That being said, I am concerned about some aspects of the way the bill was written, and especially the impact of this language on the resources of the FDA.

First, the Committee of jurisdiction, the HELP Committee, should have the

opportunity to consider this legislation—allowing the FDA to regulate tobacco—before we vote. Having been the Chairman of that Committee for several years, I know full well the complexities of the Federal Food, Drug and Cosmetic Act. Three hours of debate on the Senate floor was not enough time to consider legislation that made such dramatic changes to current law.

We also must be clear about the impact that such legislation would have on the FDA. Does it have adequate resources to regulate tobacco and still keep up with its other, extremely important responsibilities? I question whether it does. If we are not willing to give them the resources, then it is easy to see why that part of the request by Senators DeWine, Kennedy, myself, and others should be delayed until this matter is addressed.

While I recognize that user fees were included in the legislation, I am not convinced that those fees would have provided the FDA with sufficient resources to regulate tobacco. These concerns bear further examination.

They need committee hearings. They need to be examined thoroughly.

Finally, I want to touch on some of the revenue offsets included in the conference report.

I support the principle of keeping this revenue neutral, and I congratulate the conferees for doing so.

This was a particular sticky problem with the House Members, so I especially recognize their hard work in bowing to the Senate's demand that this bill be fully offset. I am very pleased to see that several revenue offset provisions that were in the Senate bill are not part of the conference report.

One of these is the codification of the economic substance doctrine. I believe enactment of this provision would have led to a great deal of unnecessary conflicts between taxpayers and the Internal Revenue Service and would have unfairly penalized companies for engaging in legitimate tax planning techniques.

One provision that did not make it into the conference report raises revenue in connection with the donation of used vehicles. This may appear to be a reasonable proviso, particularly in light of some of the alleged abuse surrounding the charitable donation of used vehicles. I am concerned about the impact of this change on charitable giving. A chilling effect on the donation of these used cars could leave many worthy charities short of vital funds needed to perform their valuable services to needy citizens in Utah and elsewhere. I would keep a watchful eye on the implementation of this change in the law to make sure it doesn't harm the charities. It may well be that we need to revisit this area of the law in the future.

I had one of my finest constituents call me last night—it may have been

the night before, things have been moving so fast here—she said it would really hurt their kidney foundation partners, which have raised hundreds of thousands of dollars in donations of used vehicles. She recognizes we have to do it right so that the Government is protected and our tax system is not abused, but I would hate to see her not have these moneys coming in for that important foundation, and others as well.

In conclusion, the conference report before us represents a good bill that deserves our support. As I have indicated, the bill is far from perfect, but given the difficult political circumstances surrounding this bill, it is remarkable that we were able to bring to the Senate floor a product as good as it really is. I urge colleagues to support the conference agreement.

MEDICARE PRESCRIPTION DRUG COVERAGE

Mr. HATCH. Madam President, finally, I have to respond to the outrageous charges made by colleagues on the other side of the aisle regarding the Medicare statement I delivered on the Senate floor yesterday. I was disturbed by several remarks—especially that seniors have flatly rejected the Medicare prescription drug benefit. That may be the hope of some people on the other side, but that is not reality.

How is that even possible when the drug benefit doesn't even go into effect until January 1, 2006? That is pure, unmitigated bunk. I am offended that this argument is even being made on the floor of the Senate by my colleagues because it is absolutely not true. It is being made to scare our seniors. And that is wrong. How is that possible when many Medicare beneficiaries are participating in the Medicare drug discount card and have seen savings in their drug costs up to 20 percent per drug? What is being said is just not true. I don't see that as an outright rejection. My colleagues need to be careful about their charges, especially when they don't have facts to back them up.

I take issue with the assertion that our prescription drug law is only a drug law in name. What do they mean by that? Let me remind the Senator from Illinois that because of this new Medicare prescription drug law, 40 million Medicare beneficiaries will have drug coverage if they want it. They will have the choice. The bill provides generous subsidies to low-income Medicare beneficiaries, who today cannot afford to purchase drugs; today they don't have the help. They are talking like this bill does nothing—the bill which spends \$400 billion-plus to improve Medicare for our seniors and the disabled.

Prior to enactment of the Medicare Modernization Act, these beneficiaries had to make tough choices between buying prescription drugs and putting gas in their cars or buying prescription drugs and putting food on the table or buying prescription drugs and paying their rent. Once a Medicare drug plan

goes into effect on January 1, 2006, those Medicare beneficiaries will no longer have to worry about this matter that they have to worry about now. To scare our seniors into thinking these benefits are not going to be great for them—it is incomprehensible to me that anybody has the gall to make those kinds of claims.

Here is another point that needs to be raised regarding this matter: If there were any proposals that deserve to be recognized as offering a drug benefit in name only, it is the two Democratic plans of 2 years ago, which were supported by 50 and 45 Democrats respectively, including the Democrat leader and Senator KERRY, their candidate for President. My colleague, Senator GRASSLEY, described these plans a few days ago. Let me take a few minutes to recap.

The first Democratic plan had a drug benefit that lasted just 6 years; that was the end of it. Talk about offering a drug benefit in name only. The second plan didn't even offer a benefit to the vast majority of beneficiaries. Seventy percent of beneficiaries would not have received any basic coverage, and they are coming on the floor and saying this \$400 billion-plus plan does nothing? Give me a break. A plan that shuts out the vast majority, 70 percent, of beneficiaries—how can you call that a drug benefit? Those were their plans.

Guess what those 70 percent got. You are not going to believe this. They got a 5-percent discount on their drugs in their plan. Once they spent \$3,300 out of pocket, they could qualify for catastrophic coverage. That was their plan. And they are criticizing this plan, which was bipartisan, overwhelmingly passed?

Some have taken issue with the Medicare reform bill, saying that the “benefit” stops after an initial coverage amount. I remind my colleagues on the other side of the aisle that their basic benefit would have never even started for 70 percent of beneficiaries—for 70 percent. They would have been left out by their plan, and they are criticizing this plan? Talk about a donut hole. These beneficiaries didn't even get a donut.

The Congressional Budget Office estimated that 66 percent of beneficiaries would not even meet the \$3,300 threshold. Again, for these folks, the only help they would get was a 5-percent discount. And they are criticizing our drug discount card where they are getting an average of 20 percent and in some cases even more?

I was also extremely disappointed by the arguments by the Senator from Illinois and the Senator from California against what some have termed the “non-interference” provision. As I outlined, this provision has been included in the most prominent Democrat initiatives, starting with the Clinton Health Security Act a decade ago. Despite that fact—and it was in their bills—here we are listening to arguments against this bill. Apparently,

what was good in a Democratic administration is very bad in a Republican one. They ought to be shouting for joy that we are putting some of their provisions into this bill. The problem is, these were not their provisions; they were all of our provisions, those of us who worked in a bipartisan way.

What was good in a Democrat Senate is bad in a Republican Senate—during an election year especially. It is almost as if my colleagues were not listening to what I said the other day. The argument that there is no authority for the Federal Government to bargain with pharmaceutical companies is getting to be a tired, wornout, old argument. Again, I will repeat myself from yesterday. First, the Democrat-sponsored bill from 2000, introduced by the Senator from South Dakota and cosponsored by 33 Democrats, had a specific provision which stated the following:

In administering the prescription drug benefit program established under this part, the secretary may not [this is the Democrat language in their bill, which had almost every Democrat on it] (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.

Again, this provision is from the bill introduced by Senator DASCHLE, which was cosponsored by 33 Democrats, including not only Senator KERRY, their candidate for President, but also Senators DURBIN and BOXER, who spoke against it on the floor yesterday. It takes time to do it correctly. CMS, the agency in charge of the Medicare program, needs time to implement the MMA regulations, accept bids from plans that wish to participate in the Medicare advantage programs, and, most important, it takes time to educate Medicare beneficiaries about the options that will be offered to them.

Let me remind all of my colleagues that even the Democrat proposals that have been considered in the past did not have the Medicare prescription drug programs go into effect immediately. So that is just a ludicrous charge.

In addition, I remind my colleagues that both the Democratic plans in consideration in December of 2002 didn't go into effect until 2005. I suspect that the authors of these plans recognized the same thing that we did, that it takes time to get a new, comprehensive drug program up and running. That is why the drug plan will not be available until January 1, 2006.

So, there is no subterfuge behind the 2006 date in the MMA. Moreover, at least the MMA offers immediate assistance through the drug card program. Their plans offered nothing until 2005, and then very little after that. And cost us a bundle more. They were not even well thought out, in my opinion.

I would also like to respond to the comments of my colleague from California comments about the Veterans

Administration system and the deficiencies which I described yesterday morning. If my colleague from California is surprised at the Republicans not using the VA model then my only guess is she is even more surprised that her own party did not. No, they wanted to have private plans negotiate with drug companies, the same approach taken in the MMA, the Medicare reform bill.

The VA system was not a model for any Medicare prescription drug plans considered on the Senate floor, advanced by either Democrats or Republicans.

Finally, let me address the idea of importing cheap drugs from Canada. First, nobody has a greater desire than I do to make prescription drugs more affordable, particularly for our seniors and the disabled who depend so heavily upon pharmaceuticals for their quality of life. I co-authored the 1984 bill, the Hatch-Waxman Act, which in essence created the modern generic drug industry, brought generic drugs to the marketplace to become the force for competition and affordability that they are today. It has been called the most important consumer legislation in the last century by some. It has saved at least \$10 billion every year since 1984. That law was written by a conservative Republican in the Senate, myself, and a liberal Democrat in the House, Congressman HENRY WAXMAN, because we were willing to put differences aside, get together and do what was right.

With regard to drug importation, my colleagues seem to forget that the MMA does include a provision to permit the importation of prescription drugs from Canada, once a program is in place that is approved and certified for, guess what, safety and cost by the Secretary of the Department of Health and Human Services.

That sounds logical to me. We want those drugs to be safe and we want to know that we can afford to implement this program.

The bill also calls for the Secretary to establish a 13-member task force that will study proposals to make reimportation safe and cost effective. HHS Secretary Tommy Thompson has indicated that the panel's recommendations will be completed by the end of this year.

Up to 80 percent of imported drugs coming through our ports today, are knockoffs, out-of-date drugs or placebos.

Can you imagine what could happen if drugs tainted by terrorists come into this country? Drugs filled with gradual poison, or even instant poison? Our nation must be concerned about these things because they impact the safety of our citizens.

We should not overlook the fact that the FDA has documented many cases of what appeared to be FDA approved imported drugs that were in fact contaminated or counterfeit, contained the wrong product or incorrect dose, or were accompanied by incorrect direc-

tions or had outlived their expiration date. These drugs would be at minimum ineffective and could actually be harmful or even fatal.

The FDA is also concerned with the safety of allowing companies which are not licensed by States to practice pharmacy to sell prescription drugs without any limitation on the amount or frequency of drug imports permitted for individuals. In addition, reimportation legislation as it is written would allow risky drugs that are currently available in the U.S. only under strict safety rules or controls, to be reimported in any amount or frequency to anyone, even those who are at high risk to be seriously injured by the medication.

The FDA underscored these concerns in the Judiciary Committee's hearings on reimportation last July. The Agency stressed that opening our tightly regulated closed system of prescription drug distribution will open the door counterfeit and otherwise adulterated and misbranded drugs being widely distributed to unwitting American public. Mr. William K. Hubbard, Associate Commissioner for Policy and Planning for the FDA testified at this hearing and I would like to take this opportunity to read some of his testimony to my colleagues.

FDA remains concerns about the public health implications of unapproved prescription drugs from entities seeking to profit by getting around U.S. legal standards for drug safety and effectiveness. Many drugs obtained from foreign sources that either purport to be or appear to be the same as U.S. approved prescription drugs are in fact of unknown quality. Consumers are exposed to a number of potential risks when they purchase drugs from foreign sources or from sources that are not operated by pharmacies properly licensed under State pharmacy laws.

Patients are also at greater risk because there is no certainty what they are getting when they purchase some of these drugs. Although some purchasers of drugs from foreign sources may receive genuine product, others may unknowingly buy counterfeit copies that contain only inert ingredients, legitimate drugs that have been outdated and have been diverted to unscrupulous or dangerous sellers, subpotent or superpotent products that were improperly manufactured. Furthermore in the case of foreign based sources, if the consumer has an adverse drug reaction or any other problem, the consumer may have little or no recourse either because the operator of the pharmacy often is not known, or the physical location of the seller is unknown, or beyond the consumer's reach.

FDA has only limited ability to take action against these foreign operators.

These safety concerns are real. I strongly believe if we truly care about seniors and other patients who depend upon prescription drugs, we should not expose them to what currently

amounts to pharmaceutical Russian roulette.

The FDA is working with some of my colleague on legislation that would give the FDA greater resources, limit the scope of imports, and provide greater power to the FDA to police imports. In recent comments, former Commissioner Mark McClellan, now head of CMS, has said these measures would give the agency the ability to assure the safety of prescription drugs imported from Canada.

In addition to these safety concerns, however, I am also concerned that reimported drugs pose a threat to the innovation that Americans and the rest of the world have come to expect from our pharmaceutical industry, the greatest industry in the world. Canada and other countries with lower drug prices generally import superior American products, but impose price controls to keep those costs down.

It may cost as much as \$1 billion to produce a new drug, test it, win FDA approval, educate doctors, and make the drug available to patients. No pharmaceutical company can or would go through this immensely expensive process without a chance to recover some of those costs, which will not be possible if we impose, in America, however incorrectly, Canada's style of price controls.

But, wait, it not only costs \$1 billion to create one of these drugs—6,000 experimentations that failed to finally arrive at a drug that is efficacious. And, in most cases, about three-quarters of the patent life is also consumed by that process. So the companies, to recoup that \$1 billion and make a profit, they have maybe 5 years, in some cases, maybe less, to recoup their profits. That is the reason why drug prices are so high. These safety concerns are real and I strongly believe if we truly care about seniors and other patients who depend upon prescription drugs, we should not expose them to what currently amounts to pharmaceutical Russian roulette.

I do not believe that sacrificing the safety and future supply of our drugs by reimportation is the right answer to the high cost of prescription drugs.

I hope I have cleared up some of the misunderstandings that Medicare beneficiaries have about the MMA law. Again, we gain nothing by spreading untruths about the Medicare bill. I have been discouraged with some of the comments made by some of our colleagues who know better, or should know better. They need to review the bills that they cosponsored and wanted to pass on the Senate floor. In my opinion, those bills did not do nearly as much for seniors as the MMA. Frankly, those bills were more costly, and provided seniors with less benefits. The MMA law passed with bipartisan support in both Houses. The only thing that results from charges which have been made on this floor, is confusion of Medicare beneficiaries, the very people all of us are trying to help. I think that is regrettable.

It is astounding to me that some of our colleagues are scaring our seniors to death when we are spending \$400-plus billion to provide them with better Medicare coverage. The MMA helps the truly poor so they don't have to worry about donut holes. In my opinion, the MMA is something all of us should support.

What gets me upset are some of the arguments being made on the floor that are not only erroneous but, I think, are misleading. I believe many are just being made for political purposes.

I think one Senator called my argument flimflam—yesterday. I defy anybody to refute the principles I have discussed here today and the remarks I have made here today. You can differ with them, you can disagree with them, but I don't think you can disagree with the facts.

It is time for all of us to start helping seniors by helping them to understand this bill so they can benefit from it. Deep down, I think one reason some oppose this bill so much is because it represents liberty and freedom in the case of the health savings accounts. HSAs was one of the most hard-fought provisions in the entire bill by the other side. I believe the opponents of the bill do not think the American people can save for their own health care. They don't trust the American people to save for their own health care. They believe the Government is the last answer to everything. They believe without the Federal Government telling them how to live, what to do, and what they can consume that they can't help themselves.

Can you imagine a young person who took advantage of that health savings account? That young person would have to assume the burden of paying for all of these Federal programs in health care. If that young person saved \$1,000 a year tax free for his or her entire working life up to 56 or perhaps 70, because we are all living longer these days, that young person would have hundreds of thousands of dollars, if not a million, to take care of his or her own health care.

That is the way it ought to be. Isn't that the American way? Shouldn't we try to take care of ourselves first and then help others?

I believe the Federal Government should help those who cannot help themselves. Where I draw the line is I don't believe that the Federal Government should help those who could help themselves but won't. I think there is a difference between the two. But there is nobody more compassionate than I in helping those who truly need the help.

I wanted to set the record straight. I am disappointed in some of the remarks which have been made on the floor against the MMA. Some of those remarks have been overly excessive and I hope that type of rhetoric will be discontinued.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana has 90 minutes.

Ms. LANDRIEU. Madam President, I see my colleague from Alabama who has been waiting patiently, as I have, throughout the day to speak. He only wants to speak for 5 minutes. I yield 5 minutes of my time, and then I will reserve my right to speak for the 85 minutes remaining.

Thank you.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Senator from Louisiana for her courtesy. I will contain my time to 5 minutes and ask that I be notified at 4 minutes.

I wish to say while the distinguished chairman of the Judiciary Committee is here that he deserves great credit for the Justice For All Act. I had serious objections to some of the provisions in that bill in committee and objected to it, and thought we would never see the bill pass. I declared it at one point a bad bill. But Senator HATCH believed there was a problem with DNA analysis in America, and so did I. He believed there was a problem that could be improved with death penalty representation, and so did I. He worked with Senator LEAHY and Chairman SENSENBRENNER and Congressman DELAHUNT in the House, and others, and was able to deal with the problem in the legislation.

I am pleased we were able to see that bill cleared today. I think it is a bill that will be effective in dealing with the problems that we know exist in two of those areas.

Mr. HATCH. Madam President, if the Senator will yield, I thank the Senator for his comments. I thank him for his energetic good work on this bill. He and Senator CORNYN in particular helped to improve this bill, and we should all be proud of it.

I thank the Senator.

Mr. SESSIONS. I thank the Senator. One of the problems we had was that the legislation restricted States from putting the DNA of those arrested into the system. We offered an amendment in committee to fix that. That has been fixed now. States can put into the system DNA of people who have been arrested but not convicted. In reality, history teaches us that many people kill more than once. We watch those "Cold Case File" shows, and you see people are arrested and not convicted. Later on they are arrested when they commit the second, third, or fourth murder. That is too often a pattern, unfortunately.

The bill allows forensic science spending now for other analyses if there is no DNA backlog. DNA represents 5 percent of the forensic scientific analysis done in these criminal cases. It is a critical and wonderful tool, but it is not the only tool to be used. We have a little more flexibility in the bill than we did before.

I was concerned—and I think others were—that the money that would be

spent for training people to try death penalty cases would be spent by a governmental entity that is responsible to the people, not being given directly to an unaccountable special interest group. They did this in States around the country that have an ideological opposition to the death penalty. For some of them, that is their No. 1 goal. We have had problems in the past when those organizations received money. The Congress ended that in 1996. I think that was a good decision. We fixed that in this bill.

There are some marvelous lawyers who dedicate themselves to representation of convicts or people charged with capital murder. I respect them. I respect people who do not agree with the death penalty. I have concluded it is an appropriate penalty, but regardless, it is the law of the majority of the States of this country, and good representation is required. We ought to do it in the right way.

We made progress. Historically, judges appoint lawyers in criminal cases. That would have put the original language, put the training and payment and selection of attorneys, in an outside entity's hands. The commission would be set up in the States that include judges, former prosecutors, not current prosecutors, and certainly defense lawyers to help select and train trial attorneys. It also says 75 percent of the money should be spent on training for the trial, which is the heart of the process.

The appeal follows afterward, and we need fair, good trials, so we will focus most of the money on getting a fair trial so the appeals are less important. They are less important when the trial is done right to begin with than if it is messed up. It provides training for prosecutors because prosecutors sometimes also fail to handle the cases correctly, and good training can help them conduct a fairer trial with fewer problems.

This is a bill I can support. I was pleased to be able to do so. I thank Senator DEWINE and others who helped make this bill possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I appreciate the opportunity to speak for the next hour and a half, and, depending on whether other Senators want to speak later in the night and what the agreements are, I may want to speak even longer because the subject I want to speak about is extremely important to my constituents and to many constituents around the country.

I spent a couple of hours in the Senate yesterday speaking about the tax bill, the \$137 billion tax relief bill the Senate and House have been negotiating now for 2 years. Not just the last few months, not just this Congress, but for 2 years the Congress has been putting together a tax relief bill because we basically were forced to put a bill together because of a decision made by

the World Trade Organization, of which we belong and encourage, that said part of our Tax Code was not in order.

I am not on the Finance Committee. The Presiding Officer and I serve together on the Appropriations Committee. I am not a member of the Finance Committee. The Finance Committee, 2 years ago, began to put a bill together to address that situation. It was about a \$50 billion problem. That is a lot of money.

What happens around here is every time we open the Tax Code, it is very tempting for everyone else to try to get in the bill because if you can get in the bill, you can get money out of the Treasury. You could ask for additional tax relief. You could correct something that you think was an injustice to your business, whether you are a big business or a small business, an international business or a domestic business. You could ask for all sorts of help.

What happened was this bill started out as a very specific \$50 billion fix for something that most everyone—not everyone but most everyone, including myself—thought we should fix. It has turned into a \$137 billion tax relief bill. That is the truth. That is very troublesome.

That is not even why I am speaking. There are things in this bill that are good and bad, and Senators have had all sorts of ideas and expressions of their opinion, including an eloquent speech about an important provision by the Presiding Officer for leaving out the regulations on tobacco, putting in the buyout provisions from the farmers but leaving out the companion regulation that was in the bill when it left the Senate.

Other Senators have come to the Senate today to speak about different issues. I come to the Senate not saying those are not important. But there is one issue in my mind and in the minds of many of my constituents in Louisiana and around the country that transcends all of these issues and which is in a total category by itself. It is an issue that doesn't have anything to do with corporations or business; it just has to do with fairness, justice, truth, loyalty, and honesty.

The truth is that in 2 years, putting this bill together that went from \$50 billion to \$75 billion to \$100 billion to now \$137 billion, we forgot one group of people. Just one group I think was forgotten. This is the bill, \$137 billion—pages and pages of the bill. It is like two big phone books. Two years we put a bill together. Almost every kind of business one can think of is in this bill, from energy companies to chemical companies to farmers to hospitals, health insurance; good companies that deserve help—I am not saying they don't—and good tax provisions. But the one group that is left out—if you read the bill from the beginning to the end, read it upside down, backward, in any language, you will not find one group of people in the bill. I hate to say who

that group is because the people in America do not believe we could do this. We left out our troops. We left out the men and women on the front line.

This is my problem. They are so far away in Iraq on the front line that we cannot see them or we will not see them or we do not want to hear them, maybe, because they are on the front line and they do not have time to be at the Capitol lobbying for themselves, and so we just left them out.

When the House Members or Senate Members come to the Senate and say they cannot understand why we are not rushing through on this bill and why some Senators are holding it up, I will tell them why. This Senator thinks it is a shame, unconscionable, to work for 2 years and put a \$137 billion bill together that helps everyone—and you could argue for good, for bad—yet leave our troops out.

Some of us, including the Presiding Officer, Republicans and Democrats—had put in the bill when it was in the Senate a very small but important provision that only cost \$2 billion of the \$137 billion—just \$2 billion for our troops. Our troops are taking 100 percent of the risk. Our troops are bearing 100 percent of the sacrifice. We only asked for less than 2 percent, and we got nothing.

So this Senator is going to stay on this floor for as many hours as I can to tell the truth about this, and perhaps these words will reach to somewhere or people will be inspired or encouraged to take the political actions necessary to make sure these troops do not get left out next time or before we finish.

Let me read you some of the e-mails I am getting because we put this up on our Web page, and I have been doing interviews since I found out about this Wednesday night, as many as I can. I am going to continue to speak and debate and talk to anybody who wants to interview me about it.

I know some of these e-mails get a little political, but I think it is OK for me to read them here. But these are e-mails. I am happy to have them in the RECORD. I am not going to read all the political ones. I am trying to pick a mix of them. But I would like to start with this one to show the potential of this issue:

As a Texas Republican voter, you inspired me, and now I will take a harder look at Democrats running for any office because I'm a retired military service member. I have pretty much believed the services were better represented by Republicans, and I voted that way. You showed me that my basic ideas may have been flawed, and I will now look wholeheartedly into that. Thank you for such a beautiful speech demanding that the military be represented in that bill. You really moved me and may have switched my party affiliation with that direct and memorable speech.

Mr. President, my office is being flooded with e-mails like this, but let me read you another one from a Democrat:

Dear Mary, I'm writing to tell you about how proud I am of work you did on the floor

today. As I write, you continue to articulate a logical and, for most of us, a compelling argument as to why the National Guard and Reserve should be treated as first class citizens rather than second class citizens in the tax bill pending before the Senate. Well done. Can I convince you to move to North Carolina?

This is not about me. I am reading these not because I want people to know or because I want to brag about this issue. I want the Members of this body, and particularly the House leadership, the House Republican leadership, that took this out of the bill, I want them to know, Chairman THOMAS, Speaker HASTERT, and Congressman DELAY, how strongly Americans of all parties feel about what was done to our men and women in the armed services.

Let me be just very clear. The Republican leadership in this body supported this effort. I want to be very out front about that. The Republican leadership in this body, along with the Democratic leadership, supported this provision. And it went over to the House. Only in conference, at the direction of the Republican chairman, Chairman THOMAS, was it taken out.

Now let me say this: I am so tired of seeing our troops in the pictures, in the photographs, riding with us in parades, waving the flag, taking the pictures, but when it comes time to put them in the budget, to give them relief, to put them in the tax credits, they are nowhere to be found—only in political propaganda and pictures. And this Senator and my constituents have had enough.

I want to talk about why this is important. This picture is up here because I want to demonstrate that one thing in the bill—and I am not trying to pick on the ceiling fan importers. I am sure it is a very legitimate request. But we have a tax provision to give help to those companies that import fans from China. Meanwhile, our troops do not get in the bill.

Now, if anybody needed a fan, our troops need one because it is hot in Iraq. It is about 105 degrees. If there were any way for me to get some of these fans to them, I would put an amendment on the bill. But the fans are in. The troops are out.

Now, another reason this is important is because the Members who are on the Armed Services Committee and many Senators who have served in the military understand this. I served on the Armed Services Committee for a while. I was very proud to do it. And I plan, hopefully, one day to be on the Defense Subcommittee on Appropriations so I can continue to fight for them and to articulate some of these views.

But I am not sure the country understands how much we are relying on our Reserve forces. We have a total of about 1.6 million Active troops and we have 1.2 million Reserve troops. So it is about 60/40.

Now, in 1953, not that long ago, during the Berlin crisis, we only called up 148,000 Reserve troops. In the Cuban

missile crisis, we called up approximately 14,000 Reserve troops. To fight in the Vietnam war, we only called up 37,000 Reserve troops. This comes to a total of 200,000. So for almost 35 years, we only called up 200,000 Reserve troops. So our Reserve was operating in a place where the men and women could sign up, go do their weekend work, get a pretty decent paycheck for that, get training, and serve their country.

These Guard and Reserve, some of them are retired Active military, but many of them are policemen and firemen and women who want to serve and are happy to be that citizen soldier, that part-time soldier. Their goals have not changed, but our country's needs have changed. We made the decision in the 1990s to say, to save taxpayer money, to make our forces better and stronger, we are going to rely more on our Reserve and less on our Active Duty, and we cut our Active strength, therefore relying more on our Guard and Reserve.

The only problem with that is we keep forgetting them. We send them to the front line, we deploy them year after year, and then we forget about them. We are not sending them the pay they need, the benefits they need, the equipment they need. I am wondering, what is going on?

In the Persian Gulf war we had to call up 238,000 Reserve troops. In Haiti, we called up 3,000 Reserve troops; in Bosnia, 29,000; Operation Southern Watch, 2,000; Kosovo, 6,000; and the war in Iraq, 410,000 Guard and Reserve—currently about 5,000 of them are from my State of Louisiana.

Just 2 weeks ago, I went to Leesville, LA, the proud home of Fort Polk, where many of our troops train. It is a joint training base. I was with my mayors and my Governor, and we saluted our troops. We prayed with our troops. We were with them. We sent them off. The 256th Infantry Brigade is getting deployed. This is affecting thousands of families around Louisiana. This is not just happening in Louisiana. This is happening in the State of the Senator from Ohio, in Chairman GRASSLEY's State of Iowa, in Texas and California. Thousands of families are being separated, husbands from wives, wives from husbands, fathers from children, to go fight on the front line.

So you can see the increase and the frequently that we have called them up, so you would think that if we are calling them up more, we would help them more. But we help them less. You would think that if we have a tax bill going through, this is the group of people who should be on the front page. But they are not on any page. They are not on the front page. They are not in the middle. They are not on the last page. They did not even write a note to say: Sorry we couldn't help you this time. Maybe we can help you next time. Not even a PS.

I have been proud to support tax relief since I have been here for 8 years.

I haven't supported all the tax relief packages, but I believe people deserve tax relief. I wish we could live in a world with no taxes. As soon as we figure out how to do that, that would make everybody happy. I am not sure how to do it, but I am sure somebody will think of an idea someday because we sure eliminate taxes right and left for everybody.

We have been spending the last 4 years providing tax relief, \$2.1 trillion. This is direct tax relief, either special benefits, including military families and the earned-income tax credit, ideas like their combat pay or their severance pay would not be taxed. Tax benefits to our military basically amounted to \$1.37 billion. Everybody else gets \$2.1 trillion. But the guys and gals on the front line get \$1.37 billion.

Someone will say: Surely, Senator, some of the \$2.1 trillion will go to the military families. And, yes, that will happen. Middle-class families generally are in here, and our troops are also middle-class families. The Republican side will disagree with this, but what the Democratic side says is, since so much of this tax relief is targeted to families earning over \$100- or \$200,000, I would argue that very little of this money is going to get to military families. Why? Because most of these families only make \$50,000. The average is \$30,000 in the active lower ranks. Very few people in the military make over \$150,000. So who are we helping? Not the guys fighting the war. Not the guys taking the bullets.

The reason I am particularly offended on behalf of the soldiers is that we can afford to help them. If we didn't have the money, if we just couldn't afford it, then I would go to them and say: Look, you all know more about sacrifice than anybody. It is in the code of the military. Sacrifice, it is what they do; it is what they are. So everybody has to sacrifice. But the fact is, not everybody is sacrificing because everybody else is not sacrificing anything. They are getting extra. And only the military is being asked to sacrifice, not just their life but their paychecks.

I guess what really is upsetting, as I learn more about this and as I read the materials that are sent out by our own Government, this is the "family readiness paradigm." It is www.defenselink.military, I think from the Pentagon. Secretary Rumsfeld is quoted and President George Bush on this chart. I want to quote what the President said:

The National Guard and Reserve are a vital part of America's national defense. [They] display values that are central to our nation: character, courage, and sacrifice, [and demonstrate] the highest form of citizenship. And while you may not be full-time soldiers, you are full-time patriots.

That is lovely. It is wonderful. Except these words are not backed up with actions because actions would have put the patriots in the bill and said: You deserve a portion of this tax cut because the Guard and Reserve

that go to the front lines are taking a 41 percent pay cut, according to the Government Accountability Office study.

And why is that? Because the Guard and Reserve are citizen soldiers. They work in regular life as truck drivers and architects and doctors and nurses. They might make \$60-, \$70-, \$100-, \$150,000. But when they are activated and they go to the front line, they leave their civilian paycheck at home and they pick up their Army, Navy, or Marine paycheck. And it is only \$30,000 or \$35,000 or \$40,000. Some of these families are taking a 50-percent pay cut.

So while they are on the front lines taking the bullets, their families are back home. I have a letter from one of the families in Louisiana that said: Thank you, Senator, for fighting for us. We live on a very modest and meager income. I have been pouring water in my children's cereal to make ends meet because the grocery bill is getting pretty high.

I have to go home and tell that lady in Hammond that we couldn't find \$1 in the bill to help her with her grocery bill. This is particularly upsetting to me.

The chart says "Self-reliant families," I like that word "self-reliant." I think it is important for us to be self-reliant, to be strong, to not be overly dependent. I believe in self-sufficiency and economic independence and pulling yourself up by your bootstraps. But why is it that we have to put a chart up for our Guard and Reserve asking them to be self-reliant, when this bill doesn't represent self-reliance? This bill represents companies and individuals who came to the Government to ask for help and aid, not self-reliance.

But in the charts that we send out to these families as they wave their loved ones goodbye, we tell them: Forget about being in the bill. Here is your brochure that talks about self-reliance. And if you need help, call the outreach family readiness coordinator. Maybe we can help you organize your finances because we know your situation is tough.

That is wonderful, except what they really would need from us is a whole paycheck. I am not asking for a bonus for them. I am not asking for any special tax break. Just make their paycheck whole. Just keep their paycheck whole. The way we did that in the Senate FSC-ETI bill was by giving the employers in this country, the patriotic employers who are basically subsidizing their salaries by saying: Harry is leaving us tomorrow. We can't let his family have to live on \$30,000 less.

So here is a small business. I can just see them now getting together in the coffee room: Harry has to go. Can we make it? Can we help him? Can we keep his pay going because he is going to be gone for a year?

That small business digs deep. Harry goes to the front line. They keep sending him a check—even though he is not at work for them, he is at work for us—

and keeping that paycheck whole for that family.

And all of us in the Senate thought that was the right thing to do. These are patriotic businesses. Let's give them a tax credit, at least half, so those small businesses that are doing this could be rewarded. They could be recognized, voluntarily. They don't have to pay their active duty Guard and Reserve employees. But if they are doing it, they should get a 50-percent tax credit.

So, in essence, our amendment was creating a partnership between all the small businesses in America, patriotic businesses and large corporations that are keeping the front line going.

But Chairman THOMAS decided in his committee that this bill and the things in it represented a higher priority than keeping the paychecks whole for the men and women taking the bullets for us on the front line. I am still waiting to hear from Chairman THOMAS about why he thought that or what it is that I have missed. I haven't heard a thing.

I would like to read the letter I sent to the President. I put it in the RECORD yesterday. I will read the letter I sent to the President because I want to say again, as I said yesterday, I don't think the President of the United States knows about this. I think if he did, he wouldn't have let it happen. I want to read my letter again. I hope to get a response. I just sent it to him yesterday about 24 hours ago.

Mr. President:

I am writing to bring a grave injustice to your personal attention. During the 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 percent 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 paygap of these brave men and women. The provisions that we added in the Senate would have provided a tax credit of up to 50 percent to cover the cost of these companies who make up the difference. In doing so, we hoped both to acknowledge the patriotism of the existing companies and at the same time encourage more employers to take this step.

Mr. President, no doubt that you have traveled the country and you have confronted the same stories I have from some of the military families struggling to make ends meet. We have had to ask an awful lot of our Guard and Reserve. They ask so little from us. So trying to take this worry off the minds of our men and women on the front lines seems to me to be the least that we could do. So it is with deep embarrassment for our Government that I must report that this very modest release for our troops was stripped from the conference report by Congressman Thomas and the leadership of the U.S. House.

While I am certain that representatives of your administration participated in this conference, I presume that you did not have personal knowledge of this decision to cut support for our military families. Regrettably, this decision has placed all of us in a very difficult position. While I endorse many aspects of this bill, I simply cannot support a measure that places so many lesser priorities ahead of our most important priority.

It goes on to say that I respectfully request that the President exert his significant influence to correct this at the earliest possible time. It could be by vetoing this bill and sending it back and telling us in a veto order to fix it, which has been done before and could be done. That is unlikely. It is very difficult to do, but I think these are difficult times. Or the President and the House leadership could admit they made a mistake and promise, in writing or in other ways, to include it in the next bill through here. This letter was signed by myself and Senator JAMES JEFFORDS from Vermont.

Many other Senators signed a letter to the conference. For the record, I want to make sure that people understand that Senators MURRAY, JOHNSON, CANTWELL, CORZINE, BOXER, KERRY, DURBIN, DODD, PRYOR, REID, LINCOLN, BOND, GRAHAM, DAYTON, and many others signed onto a letter to the conference committee when this bill was being decided. It is addressed to Senators GRASSLEY and BAUCUS, who are very supportive of this measure. It was also sent to Representative BILL THOMAS and Representative CHARLES RANGEL. I do know that CHARLES RANGEL, the Democratic ranking member of the Ways and Means Committee, supported this. It was a decision made by the House Republican leadership, and it was a bad decision. It is a decision that needs to be changed at the earliest possible time.

Mr. President, one other thing that is very disturbing to me and particularly hard or difficult to articulate is that I have met so many men and women in uniform. I have met so many men and women in uniform, and they trust us to represent them and to do our best by them. When they are on the front lines, they don't have time to have lobbyists here.

They have many Members of this Senate who have put in additional benefits—I see the chairman of the Appropriations Committee here, who has worked very hard for our men and women in uniform—and we have put in time and time again help for them. So we have tried to respond in the Senate. But they trust us to look out for them.

In this bill, when it left the Senate, this provision was in the bill. When it went to conference, it was taken out. Again, there are many other items that were not included. I understand that. I am not arguing that anything in this bill is not worth our attention, because some Member felt strongly about it or it would not have been in the bill. I am not arguing about what is in the bill. I am arguing about the one provision that I know about that was left out of the bill. It is not Senator LANDRIEU's provision; it is a provision for our Guard and Reserve, to keep their paychecks whole so they can save for their future, so they can send their children to college, so they can fight and keep their minds on the front line and not have to worry about the homefront. I am wondering why they were taken out.

Again, I feel obligated and very motivated to try to spend some time in the last days, as we wind down the session, to speak about a grave injustice. That injustice is that we have 1.2 million Guard and Reserve in our country, representing about 40 percent of our total force. They are fighting on the front line in Iraq, in Afghanistan, in places all over the globe. You can see on this chart that these are percentages of our Guard and Reserve that have been activated. Thirty-six percent of my Guard and Reserve—I think I have close to 12,000 Guard and Reserve units in Louisiana—are on the front lines. If you look at Washington State on the chart, it is 46 percent. Over here in Florida, it is 47 percent. You can see the States and the percentages of the Guard and Reserve.

Every one of these percentages represents thousands and thousands of families who are being called up to go to the front line. What could be more central to our security than the troops going to the front line? Why would this Congress, led by the House Republican leadership, spend 2 years putting together a tax relief bill and leave them out so that they have to take a pay cut while everybody else gets a bonus or they take a pay cut and everybody else gets extra financial help or everybody else gets their tax bill lowered, but they have to pay the same taxes, and they get not even a whole paycheck?

The Senator from Iowa came down earlier to the floor of the Senate and made a couple of comments about this conference. I just have to respond, and I know he is not here, but it will be in the RECORD. He will be here tomorrow, and we can talk face to face about this. I have the utmost respect for the Senator from Iowa, the chairman of the Finance Committee. It has been very difficult for him to put this bill together, I know. The ranking member from Montana has been very helpful in putting this bill together.

I do want to take issue with something the Senator from Iowa said. He said it has been a long road to what I hope will be a final passage of this legislation. American workers, especially those in the manufacturing sector, put in the work necessary to make the U.S. the most productive economy in the world. We Senators should employ the same work ethic. We have to match our constituents' work productivity. We cannot delay this matter any longer. We cannot leave the jobsite without finishing our work.

I understand we want to get this bill finished, but I think spending some time talking about the soldiers on the front line, who were left out, is something that is important to do so we can either get this fixed before the end of the time for this bill to have to be considered or we can cause the focus to be such that it can be fixed in the next tax bill that passes this body.

He goes on to say that in his opinion it was a very open conference. Now, that may be his opinion, but from what

we understand from Members who were there, basically the House Republican leadership laid down their mark, and out of a \$137 billion bill there was only \$182 million worth of amendments that were changed from the Republican leadership written bill. So of \$137 billion, only \$182 million—only seven items of this entire bill, which could be on one page—were added or changed from the House mark. So the House leadership wrote the bill and they left the troops out.

In the conference, the seven items, it could have been any seven, but it was rural carriers, letter carriers, were added at a cost of \$33 million. The SUV loophole was closed. The National Health Service Corps loan repayment was put in that added \$72 million to the cost; small issue bonds; electric cooperatives; marginal stripper wells; and whatever the blue ribbon task force on tax reform was, it is no longer existing because it was taken out.

So out of \$137 billion, there were seven items, for a total of \$182 million, that were changed.

When the argument is made that it was a very open process and the Senate put in some things and the House put in some things and it was all open and everybody talked and everybody negotiated, it is not true. What is true is for 2 years in many meetings, in many hearings, in many speeches, over many hours, a bill was put together and time and time again in those meetings and on this floor and in the committee, letters were sent to the Republican House leadership, please do not forget the troops. But when the final print was done, when the bill was printed for distribution, they were left out.

I have stated until this issue is addressed, I am going to vote against this bill. I have not had one person in Louisiana call me and say: Senator, how could you possibly vote against my tax relief that is in this bill? Because the people in Louisiana are very patriotic and they do not think anyone should stand in the front of the line, except the troops. Time and time again, the people of Louisiana show their respect in real and significant ways to our troops. So while there are tax credits in here for the oil and gas industry and for shipbuilders and for fishermen, and many things that are important to my State—and I want them to know I support those industries—I also know and can say with confidence there is not an industry or a business or a person in my State that thinks they should be ahead of the Guard and the National Reserve, not one.

I promise that if anyone from Louisiana calls me to tell me they do think they should be ahead, I will be happy to admit I was wrong.

Our troops depend on us in many ways, and in the middle of a war when we are fighting one, as we are, with a lot of rancor and different views and different opinions, it is important when we can send our words of support that our actions match those words and

that in every way we can tell our troops, because it has been a difficult time, we are in an election year, there are different opinions about the way this war is being prosecuted, but I would think at this time in particular we would want to send, by our action, not our words, real support for our troops.

What could we send more than a paycheck? When we do not take the opportunity to put the paycheck in this tax bill—and maybe people will come and say, Senator, we put all of the help for the Army and the Navy and the Reserve in the Defense bill,—let me say what will happen when we leave them out of this tax bill: We end up having to argue in the Defense appropriations bill whether we want to spend money for their helmets, their rifles, their covered Humvees or do we want to spend the money for their paychecks. Why are we making them choose between a helmet and a paycheck?

That is what happens when we just focus on the Defense appropriations bill and divvy up the money. It is not fair to them. It is not right. It is not what we should do. When we have a tax bill moving through that could provide obviously \$2 billion of the \$137 billion we are giving, we could have given them tax relief. If there was a health care bill coming through, which there has been, we could provide health care provisions out of the general health care bill for our troops. Then in the Defense bill, we do our best to allocate those moneys as fairly as we can.

So that is why I am particularly upset, because I have been in those discussions on the Appropriations Committee and I know how tough it is. Do we give a 10-percent pay increase or do we invest in operations and maintenance on the bases? There is never enough money to go around. For what our troops are doing for us and the times our country is in and the challenges we face, we should not make them have to make those choices when we obviously have other options.

Let me read a couple of other e-mails I have received from people who feel strongly about this, because I think it is important.

I am a retired Army Reservist who was activated and deployed to the Gulf during Desert Shield/Storm. Because the company where I had worked for 16 years at the time was going through financial difficulties the best they could do was to continue with my family health plan, and I really appreciated that especially in their predicament.

Now, think about this. This is a guy going to the front line and he is especially appreciative that his company has decided, out of their patriotism and generosity, to keep his family receiving health care. They are not making his paycheck whole and he is not even angry about it. That is how men and women in uniform are. They do not even want to ask for help because they believe in self-reliance. They believe in sacrifice. But they also believe in fair-

ness and honesty. It is not fair to leave them out of the bill. They deserve more. They deserve our truthfulness, our honesty, our hard work and our fairness, and we let them down.

He goes on to write:

Other reservists serving with me but who came from stronger financial private or public work settings enjoyed all prior pay and perks; most soldiers found themselves somewhere in between those two positions.

So he is saying he went over there with very little. Some went over there with the ability of their employers to keep their pay whole, but most people fell in the middle, he says.

Your proposal about the Administration and Congress backing up the rhetoric with real money would benefit employers, employees and in the long run the services in their retention efforts.

I want to talk about retention.

I don't know how many times the generals have to come before us to speak about retention. I don't know how many times some of us on the Armed Services Committee have to come to this Chamber to say we are having a tough time recruiting for our armed services, not because we don't have brave men and women, not because they don't want to serve, but when the compensation and the pay packages get so out of line with what people can make in the civilian world, it puts a lot of pressure on them. Believe me, I have talked with these soldiers. With tears in their eyes, sometimes, they tell me: Senator if it were up to me I would go and you wouldn't have to pay me a thing. This isn't about me. But I can't bear having to watch my wife take a second job or not be able to be home with our two children because I'm away. Please tell them I am not asking for myself, I am asking for my spouse. I am asking for my children.

I want to speak for them. Could we not just keep their paycheck whole? A report last month let us know—I will supply it for the RECORD—that the Guard and Reserve, for maybe the first time in a long time, I don't know exactly the number of years, but for the first time in many years, fell short of its goal. It fell short by 5,000 in its recruitment.

You might understand why. It is not because Americans are not patriotic. It is because of this issue. It is about pay. It is about benefits. It is about whether our Government cares enough for the soldier to take care of their family when they are away. The soldiers would fight for nothing. They don't eat very well over there, and they don't care about it. But they do care about their families and their children back home. We should care as much as they do. We can help by keeping that paycheck whole, sending it home for our soldiers on the front line. But we did not do that when we put this bill together.

As I said, I am sorry to have to report to the President that is the case because I don't think he has any personal knowledge. Maybe he will have

gotten the letter in the last 24 hours. He has been very busy. I know it is a very busy time. But I know somewhere in the White House they are reading that letter, and I am looking forward to them letting me know what they think about it. Do they think it was a good idea? Do they think we could fix it shortly in a different bill? Do they think we could find \$2 billion to keep those paychecks whole?

Here's another e-mail—

Let me start by saying that I do not reside in your State but I still listened to you on C-SPAN and I loved it. Yes, the very people who we depend on for our national security cannot make ends meet. This is something many people do not understand, because they have never been affiliated with the military. Painful to note, billions of our tax dollars go to help overseas, but not for our troops' loved ones. I, along with the other girls, we get together for our weekly quilting group. And we opened up other people's eyes about this subject matter many months ago. I don't know that we can get them to vote any differently, but it sure felt good to hear you tell the truth.

I am not reading this for my own benefit. I am saying that there are many people around the country—one of the girls, probably an older woman, I would imagine—who quilts with a group of friends. They, evidently, talk about this. They know about military families. They are probably part of a group somewhere in this community that collects cans of food and other helps for the families at home. There is a great support network in this country.

Why can't the Government be part of the support group? I don't understand it. The Government has more money than everybody put together, and we can't find a half a billion? \$250 million? We can't find a few thousand dollars in the tax bill? And we have Americans sitting around their kitchen tables collecting food for our troops on the front line?

In one way it is a wonderful thought. In another way it is awful to think about. I am happy Americans are supporting the troops. Our Government should do the same, and not just in the photographs, and not just in the pictures but in the budget.

I am going to have a lot more to say about this subject. Again, for people watching, as I wrap up and put us into a quorum call for the next little bit, I want to say again, the underlying bill is an important bill, and it needs to be passed. This Congress has worked on it for 2 years. There are many important provisions in this bill. But for the life of me I cannot understand how we have 150,000 troops in Iraq, why we left them out. About 40 percent of them are Reserve.

When they go to that front line they don't take a whole paycheck with them. We could have helped make it whole, but we chose other priorities. I don't know a higher priority than supporting our troops. Again, not just in the pictures, not just in the photographs, not just in the parades but in

the budget, in our actions not just our words.

Mr. STEVENS. Mr. President, I have received this letter from Tom Ridge, who is the Secretary of the Department of Homeland Security.

I ask unanimous consent that it be printed in the RECORD.

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

U.S. DEPARTMENT OF
HOMELAND SECURITY,
Washington, DC, October 9, 2004.

Hon. TED STEVENS,
Chairman, Committee on Appropriations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Earlier today the House of Representatives overwhelmingly passed the FY 2005 Homeland Security Appropriations Conference Report. I urge the Senate to pass the final legislation expeditiously, so that DHS can continue the important mission of securing the homeland.

While the Continuing Resolution currently enacted allows DHS to continue its operations in support of the existing security of our Homeland, we urgently need the additional spending authority and new initiatives contained in the Conference Report on the Department's FY 2005 Appropriation. During this increased period of risk, DHS must continue to improve capabilities in several critical areas including enhancing law enforcement, strengthening our borders, and improving transportation security. I remain concerned about operating under a lengthy Continuing Resolution. For example, under the Continuing Resolution, DHS would not have the funding to maintain the current on-board strength of the Federal Air Marshals; development and deployment work on the legislatively required 2005 deadlines for US Visit will be slowed; the Border Patrol will be unable to continue the critical work to upgrade and update the surveillance technology used on our land borders; and additional Detention and Removal programs and bed space will not be provided. Additionally, necessary program enhancements such as the Container Security Initiative, Radiation Portal Monitors, targeting systems, and critically needed aviation security technology are also on hold. Finally, FEMA's Disaster Relief Fund is in need of supplemental funding as soon as possible.

I appreciate the Senate's continued commitment and diligence in passing these critical pieces of legislation. If there is anything I or my staff can do to assist in expediting this process, please contact me or Under Secretary Janet Hale.

Sincerely,

TOM RIDGE,
Secretary.

UNANIMOUS-CONSENT AGREEMENT—S. 2845

Mr. STEVENS. Mr. President, I brought this to the Senate floor because, as I stated previously, I was informed that tonight the moneys for distribution in the hurricane area that FEMA supports will expire. We have to pass the MilCon bill and we have to pass the Homeland Security bill as rapidly as possible.

We do not have copies of the intelligence bill that was passed. All of us have had requests for it.

I ask unanimous consent that the intelligence reform bill, S. 2845, be printed as passed so we may distribute cop-

ies of that and so that the conference committee can have copies of that bill.

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

Ms. LANDRIEU. I don't see anyone wanting to speak. 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Ohio, Senator DEWINE, be recognized for up to 12 minutes.

Ms. LANDRIEU. Reserving the right to object, only for the purposes of his statement, and then I would like to be recognized. Otherwise, I will object.

Mr. REID. Otherwise what?

Ms. LANDRIEU. I am going to object. Only to be recognized for the purposes of reading a statement, after which the Senator from Louisiana be recognized; otherwise, I will object.

Mr. REID. I will not agree to that.

The PRESIDING OFFICER. Is there objection?

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise this evening to thank—

Ms. LANDRIEU. We are in a quorum call.

Mr. REID. There was an objection.

The PRESIDING OFFICER. We were out of a quorum call.

Ms. LANDRIEU. I note the absence of a quorum.

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

Ms. LANDRIEU. We were in a quorum call.

Mr. REID. There was a request for the Senator from Ohio to be recognized. The Senator from Louisiana asked that it be modified so she would be recognized afterwards. I said I wouldn't agree to that.

The PRESIDING OFFICER. The Senator is correct. But the Senator then yielded the floor. The Senator from Ohio sought recognition and had been recognized.

The Senator from Ohio.

(The remarks of Mr. DEWINE are printed in today's RECORD under "Morning Business.")

Mr. DEWINE. Mr. President, I thank the Chair and yield the floor.

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. DEWINE. 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. DEWINE. Mr. President, I ask unanimous consent that I be allowed to