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 copies 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

speak for 12 minutes and that immediately after I speak Senator LANDRIEU be recognized.

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

JUSTICE FOR ALL ACT

Mr. DEWINE. Mr. President, several hours ago, Senator HATCH came to the floor to discuss the DNA bill that we have been able to pass. I congratulate him for the fine work on that bill. A number of people have worked on that bill.

I became interested in this issue a number of years ago. I have been interested in the whole area of crime technology, frankly, going back to my work as county prosecuting attorney in Greene County, OH, many years ago.

In those days, we did not have DNA. We did not have a lot of the technology we have today. I have been able to watch over the years, as I know the current occupant of the chair has, the great development of technology which has revolutionized what we can do today in law enforcement to solve crime. It has been one of the things I have worked on since I have been in public office—first, my time in the State legislature, then in the House of Representatives, and when I was Lieutenant Governor of the State of Ohio, and now, in the last decade, in the Senate.

I specifically became interested in what turned out to be this bill we have been talking about today, the DNA bill, several years ago when I met with the BCI back in Ohio, which is our State lab and State bureau, and went out there to find out some of the things that needed to be done. I had a long discussion with them in London, OH, about the real problem we have in Ohio and the problem we have across this country.

It is a problem of what we call rape kits; where there is a rape victim, the police go in, they take evidence from that victim, and then many times, tragically, I have learned—I know my colleague who is in the chair understands this—these rape kits are stored, they are never processed, and that information never gets into any central database. There is a tremendous backlog of this across this country.

Because of this, to try to help clear up this backlog, I introduced S. 149, the Rape Kits and DNA Evidence Backlog Elimination Act of 2003. About the same time, roughly the same time, Senator BIDEN introduced a bill which had the same intent to deal with this problem. Chairman HATCH asked me later on to combine my bill with his and those of other Members to create the bill we have today. When he asked me to do that, I gladly agreed.

Today, we all proudly stand as cosponsors of this bipartisan legislation. I know my colleague in the chair has worked on this legislation. I think it is a piece of legislation that all Americans can be proud of and that will help Americans be safer. The provisions of my original bill that are included in the legislation we passed today will protect innocent victims and will, in fact, put criminals behind bars. It will do both.

This bill includes my language to authorize over $1 billion to eliminate the backlog of over half a million rape kits that are sitting on the shelves of evidence lockers in police stations across this Nation.

Let me emphasize again that there are over half a million rape kits that have not been tested and therefore have not been put into a central database. How many of these rape kits contain evidence that would take a rapist off the streets? Well, we can't be sure, but we do know statistically that approximately one in eight of all kits currently tested in Ohio do, in fact, result in a match in our DNA database to a rapist. That is an unbelievable figure, one in eight will result in this statistical match.

In fact, approximately the same number will link the rape to another crime scene, giving our law enforcement officers one more piece of critical evidence that may, in fact, lead to the arrest of a criminal and the prevention of future crimes.

If you add these two figures together, you can see that nearly one in four of all rape kits tested will result in key evidence for law enforcement. That is a staggering statistic and demonstrates the power of modern technology when, in fact, it is used to fight crime.

This bill also includes my language that will expand the number of criminals that we put in our Federal DNA database. Very simply, this language will expand the current reporting requirement to include all Federal felons, not just a few specific felons as required under current law. Of course, the more information that goes into the DNA database, the more likely it becomes that we will match evidence from the crime scene to the DNA profile of the criminal in the database.

Additionally, this language will permit States to cross-reference DNA information from people under State indictment with the current Federal database. For example, if a criminal is arrested and indicted in New York, and the New York law enforcement officers enter the DNA information in their State database, this law permits New York to share this information with the Federal database so all participating States can access the information.

This means that a police officer could link DNA evidence from a crime in Ohio to an arrestee in New York. Again, by realizing the full potential of available technology, we will identify more criminals, prevent more crimes, and protect more innocent victims.

Finally, this bill includes my language that will extend the period of time in which law enforcement officers can utilize DNA evidence to solve crimes. Under current law, the statute of limitations for all Federal offenses starts when the crime is committed.

Under my language, if DNA evidence is found at the crime scene, the statute of limitations for most crimes does not start to run until the DNA evidence is matched to a criminal in the database. This means that criminals will not be able to escape justice merely because they were able to avoid capture for a specific period of time.

This bill also contains the Crime Victims Act for which I am an original cosponsor. This act provides victims with the right to be heard and considered during Federal criminal prosecutions.

As I know everyone here agrees, we owe it to rape victims, crime victims in our society as a whole, to do all we can to apprehend violent criminals. This bill takes a significant step in that direction.

I thank Senator HATCH for his excellent leadership, being so steadfast in doggedly pursuing the agreement necessary in the Senate to pass this bill. Passage of this bill is a testament to his leadership as chairman of our committee. I also thank Senators LEAHY, BIDEN, and FEINSTEIN for working tirelessly to achieve this momentous outcome.

I thank Chairman SENSENBRENNER, as well as Representative DELAHUNT in the House for their outstanding leadership that resulted in a nearly unanimous vote of support by that body.

Our great Nation will be safer and our confidence in our standing judicial system will be reinforced as a result of this timely and much needed legislation.

I would also like to thank the many staff who worked on this bill. Specifically, I would like to recognize the Chief Counsels of the Senate and House Judiciary Committees for their commitment to get this bill done: Bruce Artim and Phil Kiko. I also thank Brett Tolman, who crafted a key compromise in the bill that allowed the parties to come together; Katy Crooks, who worked tirelessly to better this bill; Jay Apperson and Mark Agrast, who brought their outstanding wisdom to the process, Julie Katzman, Neil McBride, Jon Meyer, Christine Leonard, Louisa Terrell, Bruce Cohen, Tara Magner, David Brog, Ted Lehman and David Hantman for their strong knowledge of critical issues; and my exceptional legislative team that worked so very hard on this for me and the people of Ohio: Paul Palagyi, Peter Levitas, Robin Blackwell, Ann O'Donnell and my Crime Counsel Robert Steinbuch. And my former Crime Counsel Evelyn Fortier.

The PRESIDING OFFICER (Mr. HATCH). Under the previous order, the Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, under the previous order, I asked to be recognized after the remarks of Senator DEWINE. I really appreciate the leadership trying to work out our schedule. It has been a long couple of days. It is getting late into the night. I really appreciate everybody trying to work forward to getting some of these bills

passed. But as I said, one of the most important bills that we have remaining to pass is a $137 billion tax relief bill.

There are many good provisions in this bill. There are many industries, large and small, in Louisiana that are going to be helped by it. I would have liked to have voted for the bill. There are energy tax breaks. There are shipping interests that are bolstered and supported in here, which means a lot of jobs to Louisiana. I would have wanted to vote for this bill.

I am not going to be able to vote for the bill, and won't vote for the bill unless we have some specific action on one provision—not the Landrieu provision, as some of the others have said, not an individual, personal Landrieu provision, but the provision for the Guard and Reserve, the men and women on the front line fighting for us whom every Republican and every Democrat in this body voted to support. Everyone, all of the Senators, from both parties, by unanimous vote, voted to send that provision over to the House to give modest tax relief to businesses, the small businesses and medium- and large-size businesses that are keeping those paychecks going to the front line.

We thought it was a good idea to take $2 billion of the $137 billion to provide some tax relief for those employers so that the Guard and Reserve that make up 40 percent of our armed services that are picking up more of the burden and are taking all the bullets on the front line, whether it is in Iraq or Afghanistan or somewhere else, so their paychecks could be made whole.

I want people to understand. The Senate of the United States felt strongly about that. But we sent the provision over. And when it got over to the House, it was summarily, unjustly, unconscionably cut out by the House Republican leadership. And it is a shame.

So over the course of the last few days, as we have tried to have debates about this bill in the morning and the afternoon and into the evening, I have spoken about this issue. The reason this poster is up is because it is a visual of what is in the bill and what is out of the bill. Ceiling fans are in the bill. Ceiling fans are really important in Louisiana. I know they are to the Senator from Nevada because we are from States that are very hot. We like air-conditioning, and we like ceiling fans. I am not picking on the ceiling fan industry. It is an important industry, and I am sure there is a good reason. I can't articulate what it is because it wasn't my provision. But someone could probably give a good explanation as to why the ceiling fan industry is getting a tax break.

But the Guard and Reserve, going to Iraq, taking the bullets, fighting on the front line, were left out of the bill, and ceiling fans are in the bill.

That is the truth. It is a shame. Many of us believe strongly that this injustice needs to be corrected.

I see the Senator from Iowa, Mr. HARKIN, has raised other issues that he feels very strongly about that were either not addressed appropriately or properly in either this bill or several others. I want my constituents to know, and I would like my colleagues to know, I do not want to make these schedules difficult. I do not. I understand the pressures that are on the Members of this body.

But I also understand the pressures that are on the families who have their father or mother or brother or sister or husband or wife on the front line. I understand the pressures of these families. So do many other colleagues in this Chamber. If we can do something to help them, then we should. Maybe we cannot get them in this bill. But I have had conversations with the good leadership on the Republican and Democratic side, who are working as we speak to find a way to help the Guard and Reserve so they are not left out of this $137 billion tax bill with over 509 items. But they are not an item, they are not a line, they are not a paragraph or diddly-squat in the bill. So we are talking about how we could possibly get them included in some other bill that might pass before we go home for the election.

I can promise you, in the elections that we are getting ready to have, Members of Congress, Members of the Senate, the President, and the challenger for the Presidency, our nominee, Senator KERRY—everybody is going to be taking pictures with the troops. I guess that is appropriate. But this Senator thinks that is enough of the pictures. Could we please put them in the budget?

I am not up for reelection this year, so this is not a campaign speech. The people in Louisiana have been supporting our troops. Our Guard and Reserve are the best in the Nation. Maybe a Senator would argue, but we have awards to prove it. We win awards. We are about the best—in the top 5 in the Nation. I know these men and women. They don't ask for much. They don't ask to be on the front of every tax break and giveaway. They are willing to sacrifice. But for Heaven's sake, we are going to pass a tax bill and give everybody in America $137 billion and leave them out? I don't think that is right. I don't think my colleagues think it is right or just.

I hope that sometime over the next 3 or 4 days that we are here—I know it is Saturday night. I have two small children. I had to make arrangements so I could be on the floor. I have a husband at home. I know everybody is going to go to church tomorrow, and people were at synagogue today and yesterday. I understand that. But I think we need to spend a little time talking about this issue. Why were they left out? How could we afford $137 billion and not afford a tax cut for them? Was it too complicated to figure out?

There are a lot of complicated things in here. It would make people's eyes twist if I explained how we were giving tax credits to foreign corporations so they could close down here and go to the Bahamas and open a post office box and get a tax check. There are more complicated things in here than saying to businesses in America: Thank you for being patriotic and for voluntarily sending that paycheck to the front line, closing the gap between what the reservists make as part of the Reserve and what they made for your company. We would like to honor that and give you a tax credit. You can pick up 50 percent of the burden, and the Government can pick up the other half.

Evidently, this is too much for us to pick up. It is not too much for me to stand here. I know the hour is getting late. The Senator from Iowa wants to speak. I just say again that I am going to get to the floor over the course of the next few days and I will speak about this issue. I thank the leadership for working in a cooperative manner to allow that to happen because I am still hopeful that we can fix this bill. Maybe the President will veto the bill when he finds out it is not in there. Maybe it could be fixed in a different way. Maybe another bill could be attached. I know if there is a way the leadership in this body wants to fix this, they could. I think the men and women on the front line deserve our best effort in that regard.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TOBACCO REGULATION

Mr. HARKIN. Mr. President, first of all, I want to thank a number of people. I thank Senator DEWINE for his dynamic and great leadership on the issue of FDA regulation of tobacco products. He has been in the forefront of this fight for a long time. I thank him for his leadership, working again with Senator KENNEDY on this issue and so many others on both sides of the aisle to get that position established by the Senate, which we did, and that was that we would have a tobacco buyout but also FDA regulation of tobacco, finally. We spoke on that, but, of course, the House didn't go along, and we find ourselves now with this great big tax bill of around 630 pages we have on our desk. Guess what. No FDA regulation of tobacco.

I thank Senator DEWINE and I thank Senator LANDRIEU for her strong and dynamic leadership in being here on a Saturday night to continue to make the point about what happened to our guardsmen and reservists in the United States. It is unconscionable what the House and the President did on this issue. We ought to put the blame where it really lies; it is at the White House. That is where it lies. I might say the House, but they are just doing what the White House wants them to do. They

are just a rubberstamp for the White House. It is the White House that called the shots on that one.

I thank Senator LANDRIEU for sticking up for our people in uniform, for those all over the country who have been shortchanged by this so-called tax bill.

Mr. President, I want to take some time here to speak about tobacco and how unconscionable it is that this bill does not have FDA regulation of tobacco included. Over the last several days, we have heard a great deal about the dangers of smoking and the devastation caused to millions of families every year. With the results of the conference report on Wednesday, I fear colleagues have not been listening to the details of the public health crisis our Nation faces regarding tobacco and smoking.

Let me repeat them loudly and clearly so Members understand what they are opposing and why we so urgently need FDA regulation of tobacco.

One, smoking kills more than 450,000 Americans every year.

Over the last 10 years, smoking has claimed more than 4.4 million lives.

Smoking is the leading cause of preventable death in this country.

Smoking causes heart disease, cancer, emphysema, and a host of other related illnesses.

Two-thousand kids start smoking every day, and, ultimately, one in three will die of smoking-related causes.

Smoking-related medical expenditures have indirect costs resulting from lost work activity.

There are 250 chemicals in tobacco smoke that are toxic or cause cancer in humans.

Tobacco use accounts for at least 30 percent of all cancer deaths.

Smoking causes nearly 87 percent of all lung cancers, which is the leading cause of cancer deaths.

Last year, nearly 70,000 women died from lung cancer in the United States. That is more deaths than from breast cancer and all gynecological cancers combined—70,000 women.

If these facts don't paint a stark picture of the urgency for FDA regulation of tobacco, I don't know what will. You know, when there is an outbreak of food poisoning in a local school, we move Heaven and Earth to find the source and take appropriate action to make sure our kids don't get sick again. But somehow, when it comes to protecting our kids from a known toxin—tobacco—we find our hands tied. Why? Well, it is because of big tobacco. There is too much at stake in terms of profit loss for tobacco companies to allow this regulation to go through. They have been fighting it for years.

I introduced the first-ever comprehensive bipartisan FDA regulation with, I might say, Senator BOB GRAHAM and former Senator John Chafee of Rhode Island.

That bill was introduced almost 6 years ago. I heard the same reasons then that I do now on how unnecessary FDA regulation is. Quite frankly, our bill went much further and was much tougher than this one. Creating a more sensible policy for tobacco has been a goal of mine for many years. It was in 1977, in my second term in the House of Representatives, over 21 years ago, that I first introduced legislation calling for repeal of the tax deductibility of tobacco advertising and marketing.

Unfortunately, victories in the tobacco wars for consumers and for our kids have come few and far between. Tobacco wins every time.

With the mounting evidence we have today about the absolute dangers of smoking, it is paramount we pass a comprehensive plan that would once and for all change how this Nation deals with tobacco and dramatically cut the number of our kids addicted to this deadly product.

That said, I am afraid the power of big tobacco has once again superseded the need to protect public health. The fact is we know now that 90 percent of current smokers became hooked on tobacco as kids. That should sound alarms that something needs to be done to stop this from happening, and to prevent senseless disease and death that is linked with this addiction. This is a drug addiction. Tobacco is a drug. It is addictive, just like methamphetamine, cocaine, and heroin. It is addictive and it kills you.

For too long, kids have been getting an unfiltered message from the tobacco industry: Smoking is cool. Smoking is harmless. Smoking is glamorous. Smoking is for active young people and will make you look more attractive.

Today, big tobacco companies spend more than $11.5 billion a year in advertising and marketing their products. Children are exposed to messages that are deliberately designed to attract a new generation to the smoking habit. The motivations are clear: Anything to make more money for big tobacco.

Now we hear from tobacco companies all the time that, oh, no, their advertising is to get people to shift brands, go from one brand to the other. Well, I will illustrate here very shortly that is not what they are up to.

Many think regulation is unwarranted after some of the restrictions that were agreed to as part of the master settlement agreement a few years ago. The good old MSA, the master settlement agreement. Yes, there are billboard restrictions and a few things such as that, but now we have much more sophisticated mechanisms.

Let me refresh some memories. Here is Joe Camel, a smooth character, Joe, flying his jet airplane with the afterburners going. He has a beautiful young woman looking over her shoulder, looking at Joe Camel with his Camel cigarette.

Who is this appealing to? Kids.

Now, there is another Joe Camel here. Here is Joe Camel, with Camel Lights, cool Joe. He has his red convertible and black T-shirt and Levi's, and Joe is cool. Joe Camel is a neat guy.

Well, we forced big tobacco to get rid of Joe. They did. We do not see Joe Camel any longer so we can take old Joe down. Joe Camel is gone. I want to refresh memories. I want to refresh memories, because there was a time—and I will repeat this, there was a time—a study was done that kids in America recognized Joe Camel more than they recognized Mickey Mouse. It is true. But we got rid of Joe Camel.

One might ask, what now do you need? I will show my colleagues why we need to have FDA regulation, because tobacco has gotten smart. They are now spending more than ever on predatory marketing since the MSA was agreed to. Big tobacco is spending 60 percent more on marketing than they were before the master settlement agreement.

Again, are they trying to get people to switch? Let us take a look. Here is Liquid Zoo. Now, I had a pack of those with me when we were in conference. I was one of the conferees arguing to keep the FDA regulation that we had in the Senate, and I had strawberry flavor. This was Liquid Zoo, strawberry flavor. When you smell it, why, you would swear you were in a strawberry patch. It smelled wonderful. It smelled like strawberries.

This is the tobacco. Liquid Zoo-flavored cigarettes are an exotic blend of strawberry-flavored tobaccos for a sweet, fresh taste and aroma.

Do they really think they are trying to get someone to switch from Marlboros or Winstons or Camels to that? That is going right to our kids. That is what this is about.

Then we have Kool Rapper here. We have another one. Here is the Kool Rapper. Here is a rapper. He is cool. He has his mike and he is spinning the disk or CD or whatever it is there, and everyone is dancing and that is called Kool Rapper.

Now, do my colleagues think they are trying to go after adults with that? Do my colleagues think they are trying to go after 40 and 50-year-old people to get them to switch from Marlboro or Winston or Camel to that? No. This is for kids. They are getting to young people. They are spending 60 percent more on marketing now than they did before the master settlement agreement, and we took away Joe Camel on billboards, but now they are spending 60 percent more and this is where it is going.

Because what do they know? They know 90 percent of all tobacco smokers today started when they were young. They get them hooked early.

I have another Kool Rapper here. This is just, again, special edition packs. Now, they do not any longer have the little coupons where you can get gear and all that kind of stuff. That is gone, but now they have special edition packs: Celebrate the sound track to the streets. It does not take a genius to figure out who they are targeting with that.

So big tobacco has found tricks and dodges to circumvent the law, and they have been very effective. From the birth of Joe Camel to the birth of Liquid Zoo and Kool Rapper, we have seen broken promises and bad faith again and again from big tobacco.

Giving the FDA the power it needs to end these false messages is exactly what is needed to stop big tobacco's exploitation of our kids. The only message our young kids should hear about tobacco is the truth: Smoking is a killer. It is a drug. It is addictive. It causes cancer. It causes emphysema. It causes a lot of other illnesses. That message needs to come through loudly and clearly. Since industry will not convey that message, we need strong FDA regulation to make it happen.

Instead, what do we do here now with this big tax bill we have? We allow big tobacco to further confuse kids when it comes to the actual safety of cigarettes.

This morning I got up and I had my Cheerios. I actually had a bowl of Cheerios this morning. Now, the bowl of Cheerios I ate this morning had to go through a multistep process set up by the Food and Drug Administration to earn its health claims that it is heart healthy and lowers cholesterol. It had to go through certain steps.

Somehow tobacco, a known health risk, does not have to go through any of those steps whatsoever. In fact, tobacco companies are free to add anything they want to their product without having to inform consumers or without any regard to the health effects of those additives.

For example, tobacco companies have added ammonia to their products. I do not know if my colleagues have ever smelled ammonia, but they get an idea of what it is like. They add ammonia to tobacco products on the ground that it improves ''tobacco satisfaction.'' They add the ammonia in order to create a ''free base'' form of nicotine that creates the highly addictive quick delivery form of nicotine to the brain. It goes from your lungs to your brain in 8 to 10 seconds when they add ammonia. We know this. So tobacco companies add ammonia so that you get a bigger kick right away, in 8 to 10 seconds. Adding ammonia to cigarettes is analogous to what crack cocaine was to cocaine—it just gives you a faster high, it goes to your brain quicker. But guess what. The tobacco companies do not have to tell you that. They just tell you have a Kool Wrapper there. They don't have to tell you anything else.

The industry claims that many of its ingredients are benign flavoring agents like strawberry that are on the FDA GRAS list. That stands for Generally Recognized As Safe. The tobacco companies say we put these ingredients in and they are benign; however, those ingredients such as chocolate, licorice, and other flavors are not safe when they are combusted, and they often create toxic chemicals when they are inhaled by the smoker. So, yes, maybe licorice is safe to eat, but when you combust it, then it creates toxics that you inhale. The industry will not tell you that either.

No other industry in America is allowed to add ingredients to their products without first having them tested and approved by the Federal Drug Administration for safety. For example, Kraft Foods, a subsidiary of Altria Group along with Philip Morris, could not add ammonia to Kraft macaroni and cheese on the grounds that it improves cheese satisfaction for its customers. Why can't they add ammonia to macaroni and cheese? They can't add ammonia to macaroni and cheese because it is not on the FDA list of products that are generally recognized as safe. They can add ammonia to cigarettes; they can't add it to Kraft macaroni and cheese. The FDA has more authority to regulate macaroni and cheese than it does cigarettes. Imagine that.

I have this to show what I mean by that. Here is something called Omni cigarettes. Here is what it reads:

> Omni is the first premium cigarette created to significantly reduce carcinogenic PAHs and nitrous amines, which are the major causes of lung cancer in smoking.''

That is what they say.

Says who? The tobacco company says that. But we have no way of verifying that. They can make all the claims they want, like low tar, light, less carcinogenic, but we the public have no way to verify that because the Federal Food and Drug Administration has no authority to regulate tobacco or to go in and tell us what is in there or to make the tobacco companies verify what they say.

I have an Eclipse one here, too. Here is an Eclipse. This is interesting:

> The best choice for smokers who worry about their health is to quit. Here is the next best choice. Are you ready for Eclipse? Get the facts.
>
> I have the support of my wife..if I'm going to smoke, she'd prefer I smoke Eclipse.
>
> A better way to smoke.

Talk about a warped message:

> Omni, there is no better way to smoke.

A better way to smoke? There is a better way to get cancer. There is a better way to get emphysema. This cigarette will give it to you faster. They don't tell you that, but that is what is happening.

During debate in the conference committee, one of my colleagues on the House side mentioned that the Founding Fathers would be shocked if they knew that Congress was trying to regulate an industry that was in part responsible for the early prosperity of our country. It is more likely that they are rolling over in their graves at the fact that we have known for more than 30 years that tobacco kills and that we have not done one thing about it. They didn't know it in the 1700s. They didn't know, but we know now.

The Congress is now considering, one more time, giving immunity to big tobacco and turning a blind eye to their responsibility to protect our kids and the public health. That is what is not in this tax bill. There are tax breaks for all kinds of things. There are tax breaks in here for gamblers who come from foreign countries to gamble here. Imagine that, they need a tax break. There is a tax break in here for people who import ceiling fans from China.

Lord only knows what else is in this tax bill. No one has really read it. No one knows what all these numbers and staff mean. There is a tax break here and a tax gimmick there; a tax break here and a tax gimmick there.

When this bill was before the Senate, this Senate added a provision that did two things. It allowed for a buyout of tobacco farmers' quotas—which I have been in favor of for years, by the way. Coupled with that is FDA regulation of tobacco.

Again, as someone who sits on the Agriculture Committee and also on the HELP Committee, I have been involved in both sides. I have espoused for a long time that we have a tobacco buyout, that we buy out these quotas. Why should we do that? These quotas were put on 60 or 70 years ago. They have been built into the price of the land. I can't go back and undo that. It is a fact of life. Many farmers in tobacco growing States—some of them are small farmers. All they have is that quota. They don't have anything else. The land is really not worth that much. So it is like taking away their income base. So I have always said we need to buy these quotas out and get rid of this tobacco program for once and for all. On the HELP Committee side, I have also said, if we are going to do that, then we ought to have FDA jurisdiction over tobacco.

This debate went on and on for years, and final we agreed. I might say that Philip Morris was one of those who agreed with us. I commend them for that. So we got it through the Senate.

It goes to the House. Guess what the House did. The tobacco buyout that we passed in the Senate, the money that is going to go to those tobacco farmers did not come from the taxpayers. It came from the tobacco companies. Of course, the tobacco companies will pass that on to tobacco smokers, so the smokers were going to pay for the buyout of the quotas. That is as it should be. Why should the taxpayers pay for it? We agreed on that. Philip Morris agreed on that. We agreed that we would have FDA jurisdiction.

Here is what the House did. They broke that agreement. First of all, the House of Representatives, and I am sure with the approval of the Bush White House because they wouldn't have done it unless the White House agreed, they made the buyout of the quotas paid for by the taxpayers of the country. All of you who do not smoke, you are now going to pay to buy out those tobacco farmers. That is what was in the House bill, plus they took away the FDA jurisdiction over tobacco.

In the final analysis, they put back in the companies paying for the buyout, but they left out the FDA regulation of tobacco. So here we are. No FDA regulation. That is what is not in this FSC bill.

It was my understanding the purpose of this bill was to repeal an illegal export subsidy. Now it has morphed into a big special interest giveaway that will help everyone from restaurant owners to makers of bows and arrows, tackle boxes, sonar fishfinders, NASCAR track owners, Alaskan whalers, foreign gamblers, as I mentioned, who win at U.S. horse and dog tracks.

I want to repeat that.

In this bill, there are provisions to give tax breaks to foreign gamblers who win at U.S. horse and dog tracks. Those interests trump the 2,000 kids hooked on smoking every day by the big tobacco companies. Imagine that.

What are our priorities around here? What is the priority of the White House? I am telling you it could never have happened unless the President signed off on it.

You go out there, Mr. President. You have some more days before the election. Go out there and tell the American people how you pulled the rug from underneath FDA regulations of tobacco, how you sided with the big tobacco companies to get our kids hooked on tobacco every day—2,000 every day. Go out and look those mothers and fathers in the eye and tell them your priority is the big tobacco companies and not their kids.

Yes. This would never have been done if the White House had not OK'd taking FDA jurisdiction away. Shame on the White House.

We had the opportunity here to pass this legislation once and for all, and to stamp out youth smoking in this country and protect kids from joining the ranks of the 450,000 who die from smoking each year. The tobacco industry has been engaged in a systematic campaign of distortion and deceit to hook kids and hide the facts from the American people for far too long.

I met a fifth grader, Ted Stanton, from Des Moines, IA, a few months ago who reminded me how important regulation is. Ted won a statewide poster contest sponsored by the American Academy of Family Physicians for his efforts to raise awareness about smoking. He is a fifth grader. What happened was Ted has had to watch his dad struggle with the habit of smoking for years. He drew a poster. His poster is an attempt to warn kids about smoking.

Here is his poster and here is why he won the prize. ''Invest in your future.'' He has the date 2054. ''Pay to the order of big tobacco companies $73,000.'' That is $4 a pack every day times 50 years. In other words, you smoke a pack a day for 53 years and you will pay big tobacco companies $73,000.

I thought Ted Stanton, a fifth grader, really pointed it out. That is what you are doing when you start smoking. You are going to smoke for 50 years, if you are a teenager, a pack a day, $73,000.

We do have some kids like Ted and others who realize they are being targeted by big tobacco, but they are defenseless. What are we doing to help them? What we are doing is protecting big tobacco—the same guys who conspired years ago to hide the truth about tobacco and instead pushed their deadly products on our most valued treasure, our kids.

It is disgraceful that this body has not acted yet. It is disgraceful that we are getting half of the deal we had worked on for years, the tobacco buyout of the quotas. Guess what happened. The way they worked this tobacco quota buyout is you are going to buy out the quotas, but now tobacco will be growing cheaper. Now the tobacco companies will be able to buy tobacco cheaper than they had before, making more money, hooking more kids, without FDA authority.

The reason I say that is because when we passed the bill in the Senate, we had a provision that provided for a licensing program that would prohibit more and more people growing tobacco in this country. The House took that out. So we got the worst of all possible worlds—no FDA regulation, a buyout of the quotas, more people will be able to grow tobacco, and the tobacco companies will get it cheaper and make more money to hook our kids. What a deal. Yet we can take care of foreign gamblers who come to bet on horses. But we can't take care of our kids. Shame on us.

(Mr. HATCH assumed the Chair.)

I know the hour is getting late. I see the occupant of the Chair, someone for whom I have great respect, the Senator from Utah.

I will state publicly that the senior Senator from Utah has also been in the forefront of the fight against tobacco. He always has been. I compliment him for that. I know he feels as strongly about antismoking and stopping kids from smoking as I do, or as Senator DEWINE does, or Senator KENNEDY, or anybody else does. The Senator from Utah has been stalwart in his support for getting FDA regulation of tobacco. I thank him for that. I encourage him to keep up his leadership on that because we have not yet fired the last shot. We are going to be back.

I wish the President of the United States, using the bully pulpit of the White House, had come out in an address to the Nation and said we need FDA regulations for tobacco, we need to stop our kids from getting hooked, and call upon the House and the Senate and say he will not sign this bill, he will veto this bill unless we protect our kids.

Think of what would have happened if the President of the United States had said that. We would have a tax bill here, but we would have FDA regulation of tobacco in here. I am sorry the President missed a golden opportunity and thus we have missed a golden opportunity. Thus, tomorrow and the day after, and next month, and next month, and next year, thousands of kids every day might pick up a pack of Liquid Zoo, because it smells nice. It tastes like strawberries. They will say, There is no harm in that, plus it makes me look glamorous. That is what all the ads say.

Think about it. That is what is going to happen. Shame on us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. I see the occupant of the chair, and I know he wants to go home. But I said to the managers I can be interrupted when they are ready to wrap up. I want the occupant to know I am not holding him here.

I will talk about one other item that is not in this FSC bill that we got stiffed on. We passed it four times in the Senate and twice in the House. I am talking about overturning the regulations that this administration put out that will deny overtime rights to over 6 million people.

Again, just last week, in a replay of what happened a year ago, the Bush administration used the conference to kill my provision to stop the Department of Labor's new rule on overtime pay that if allowed to stand will strip 6 million people of their right to time and a half overtime.

The bill before the Senate today serves the simplest of purposes. This tax bill has everything in it for everyone, but what is not in it is protection for the workers of America, protection for those who make over $23,660 a year. Actually, for some below because of little gimmicks that can be used to deny them their right to overtime.

Again, this is simply a matter of fairness. People believe if they put in more than 40 hours of work a week, they are giving up premium time, time with their family. I had a woman who wrote me and said: Look, I go home from work and my second job starts. I go home, take care of my kids, I get dinner ready, help them with their homework, and then I have to do washing, and this and that. But my time with my family is my premium time. If I am asked to give up my premium time with my family to work on my job, I ought to get premium pay.

What the Bush administration has done is said: No, sorry, we will ask you to work overtime and we will not pay you one cent more.

Again, a little history. It has been sacrosanct since 1938, the Fair Labor Standards Act. If you work over 40 hours a week, you get time-and-a-half pay. It has been that way since 1938. We

have modified it a little bit here, a little bit there, but every single time we have changed the Fair Labor Standards Act, we have enlarged the pool of people who get covered by time and a half. This is the first time where up to 6 million people will lose their right to overtime pay.

Now, some will say but they raised the base to $23,660. In other words, anyone who earns under that is automatically eligible for overtime. Quite frankly, most people working there are already eligible because they are not salaried, they are hourly workers. While that is fine, we should raise the base. The administration then went and took away overtime pay rights for anyone making over $23,660 a year. If you are making $23,661, you are in a separate category. Just barely over—well, that is poverty wages—and you still are not eligible for time and a half overtime.

I also say every time since 1938 when we have changed the Fair Labor Standards Act, it has come to Congress. We go through the committees, the committees have hearings, we bring in witnesses, they draft a bill, it is debated in the Senate, and it finally goes to the President. That is the way it ought to be. That is transparent; it is open; everyone gets their say. We can debate it and amend it. We, the elected representatives of the people, get to debate and amend it—a strange concept, I guess, to this administration.

What this administration did 1½ years ago, sort of in the stealth of night without having one public hearing, they promulgated these new rules on overtime.

Some might say: Well, they have had hearings since then. Yes, thanks a lot, after the horse is out of the barn and they closed the door. Fine. But that is not the way it should have been.

So now we have a situation where they finalize the rules on August 23. We have never really debated or amended that in the Senate. I have on four different occasions in the Senate offered amendments to overturn those rules, to go back to square one, to start over. Let's do it the right way. We have passed them here, but the administration says no every time.

I watched the debate last night, and I heard the President talking about domestic policies and jobs and economic growth. And I thought, wait a minute, he even talked about overtime. He said people are working overtime. I heard him say it last night. I thought, they are working overtime, but what the administration wants to do is take away their overtime pay.

That is exactly what is happening. We have facts. We have the data. People are now being denied time and a half overtime for working over 40 hours a week because they are being ''reclassified.'' Guess who is getting hit first. Women. Why do I say that? Many women raise families, start later in life, and start at lower income jobs. Many of these are salaried positions. Because they are on a salary, they will be reclassified. As they get reclassified, they will be exempt from the overtime laws. If overtime is free to the employer, it will be overused.

This chart shows a study by the Center for Women's Work at Rutgers University. The chart shows those who are eligible for overtime, in the green, are protected; the red are not protected. Those protected by overtime work are about 20 percent of workers working 40 hours a week. If they are protected, chances are 20 percent of these people work over 40 hours a week. If they are not protected by overtime, 44 percent of these people work over 40 hours a week—twice as many. So now we will take away this protection from this 20 percent. Then they will be working overtime, and they will not get paid for it.

Right now, if they are covered by overtime protection, only 5 percent work over 50 hours a week. If they are not covered by overtime, 15 percent, three times as many people not covered by overtime laws work over 50 hours a week.

That says it right there. If the employer does not have to pay you time and a half, work them more, and they will not hire any new workers.

It is interesting to note—the occupant of the chair will find this interesting—in 1933, 5 years before the Fair Labor Standards Act was signed into law, the Senate voted 53 to 30 to set a cap on the number of hours in a workweek. Was the cap 50 hours? Was it 40 hours? No, it was 30 hours. Imagine in 1933, this Senate, in this Chamber, voted 53 to 30 to say that the workweek would be 30 hours. You could not pass 60 hours here now. Imagine that. In 1933, this Senate voted 53 to 30 to set a 30-hour workweek. Amazing. The compromise was reached 5 years later at 40 hours a week, and that is what it has been ever since.

Again, we know what the intent of this proposed rule is. The intent of this proposed rule is to allow employers to work employees longer than 40 hours a week and not have to pay them time and a half. And we have a final rule on that, a final rule. These are going to be low- to middle-income workers. They are not organized. They do not have a strong voice. So the administration feels they can run roughshod over their rights.

For the life of me, I cannot understand this. People work hard. Many families are working two jobs where the husband and wife are both working, trying to make ends meet, trying to save a little money to put away for the kid's college education, maybe to buy a better house, move up the ladder a little bit. For those who work overtime, 25 percent of their income comes from overtime.

I see the managers are here to wrap up. I will just conclude by saying that, again, just as it is a shame and a shame on us that we do not have FDA control of tobacco, shame on us also, and shame on this administration, for taking away the overtime rights of 6 million people in this country.

With that, I yield the floor.

Mr. HATCH. Mr. President, I express my strong support for the conference report to accompany the American Jobs Creation Act. In order to protect our domestic manufacturers, strengthen our economy, better help U.S.-based multinational firms compete globally, and honor our trade obligations, the Senate must pass this critically important and overdue legislation before recessing for the elections.

I wish to start by congratulating the chairman of the conference committee on this bill, Congressman BILL THOMAS, and the cochairman, Senator CHUCK GRASSLEY, for their leadership and exceptional cooperation in finishing the conference on this bill in time to bring it to the House and Senate floor this week. Many thought completion of this task would be difficult or impossible, given the large differences in the Senate and House versions and the time constraints the conference committee faced.

The innovative conference process developed by the chairman and cochairman 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 recognize the extraordinary achievement of this conference committee and thank its leaders and my fellow conferees for their hard and dedicated work.

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, ET, 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 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, 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 cosponsored 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.

The result, as we all 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 the Senate conferees agreed with me should be in there. Unfortunately, the House conferees disagreed and they were omitted from the final product.

For example, I am personally very disappointed that the House conferees voted against including 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 our auto industry by granting strong tax incentives for consumers who buy alternative fueled and advance technology vehicles, such as hybrid electric cars.

Moreover, it would move us to a more responsible age of cleaner air and less fuel dependency on the Middle East by simultaneously breaking down the three barriers that keep our nation from adopting the already-existing technology to help us meet these goals—the higher cost of such vehicles, the higher cost of alternative fuel, and the lack of a refueling infrastructure.

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. It was a mistake to omit these important provisions.

I also very much regret that the House conferees refused to adopt the amendment I offered, accepted by the Senate conferees, which would have bolstered 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 that was contained in the Senate FSC/ETI bill designed to improve the incentives this provision gives for companies to engage in R&D activities.

Nevertheless, the conference report is worthy of our support. As I mentioned, as a nation we must honor the 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 E. U. This level is currently at 12 percent and is growing by one percentage point per month and is definitely having a very serious negative effect on certain U.S. industries.

Moreover, the trade sanctions are authorized to continue to increase until next March, when they will have reached 17 percent. After this, the E. U. may authorize even more serious sanctions against us that would surely harm our economic growth.

As all of my colleagues well know, 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.

Will this result in a better bill?

Perhaps, but such an outcome 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.

Now, I take a few minutes to discuss some of the specific provisions that did make it into the conference report and why I believe my colleagues should enthusiastically support them.

First, let me express my satisfaction that 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.

Central among these relief provisions is the manufacturing deduction. This provision is designed to lower the tax burden of any business entity that engages in production activities in the United States. I am happy to see that the Senate provision allowing this deduction to be taken by unincorporated businesses was retained in conference.

Also included in the conference report is a significant section of relief designed 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 sought. Along with my colleagues, Senators BREAUX, SMITH, and LINCOLN, we have attempted to get these and other S corporation improvements passed for several years now. I am gratified to see them included in the conference report.

Other provisions that are very 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, the current state of our international tax rules is appalling. This part of our Tax Code generally dates back to the early 1960s, and was designed for a different world from the one in which we live now.

U.S. businesses, whether large, medium, or smaller, that decide to expand their markets beyond the borders of the United States confront a set of tax rules that are not only mind-numbingly complex, but far worse result in double taxation and often leave them on the down side of a tilted playing board when compared with competitors based in most other industrialized nations.

Our rules governing the foreign tax credit, for example, which are designed to eliminate the double taxation of income, often are ineffective, some blatantly so. A provision added to the Internal Revenue Code in 1986 reduces the foreign tax credit by 10 percent to the extent it reduces the alternative minimum tax. There is little or no justification for this double taxation that I can see, and this conference report repeals this unfair provision.

The bill includes about two dozen provisions that will help improve the tax law for our companies that have expanded their markets overseas. I have long been interested in getting this type of reform passed by the Congress, having introduced bills to do this since the mid-1990s. It is gratifying to finally see this long overdue relief come to pass.

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. 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 United States 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.

I now say a few words about the issues regarding tobacco associated with this conference report. I have not forgotten that at the center of the tobacco buyout is the tobacco farmer. I understand that the tobacco price support and tobacco quota programs have helped to secure a reasonable living for many family farmers.

I have also come to the understanding that breaking the dependency of U.S. citizens and especially children on nicotine 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 we need to help these families to survive it.

Contrary to the belief of some, the United States Department of Agriculture, USDA, does not provide a direct subsidy to tobacco growers. However, the USDA does maintain artificially high prices for tobacco leaf by managing the loan, or-price support, program for tobacco growers which serves to maintain artificially high prices for tobacco and cigarettes in this country.

The USDA also manages the tobacco quota system to keep down the amount of tobacco grown each year. This, again, keeps the price of tobacco and cigarettes high. All direct and administrative costs for these two programs are reimbursed to the USDA by tobacco farmers and their trade association. There is no net cost to the government as a result of the tobacco program. In fact, smokers carry most of the burden of the tobacco program through higher costs for the tobacco products they purchase.

Shifting tobacco farming away from tight government management toward the free market has risks for our farmers. 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, it is at no cost to our 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 stop 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 Food and Drug Administration.

First, the Committee of jurisdiction, the HELP Committee, should have the opportunity to consider this legislation before it is brought to the full Senate for a vote the next time. 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.

I also want to make sure that we in the Congress are clear about the impact that such legislation would have on the Food and Drug Administration and whether or not the FDA has adequate resources to regulate tobacco, and, in addition, keep up with its other, extremely important responsibilities, such as the approval of drugs, medical devices, and protecting our food supply.

While I understand that user fees were included in the legislation, I am not convinced that those user fees would have provided the FDA with sufficient resources to regulate tobacco. I am someone who has fought to provide FDA with adequate resources and have led the fight on unifying the FDA campus. I do not want anything to jeopardize the progress we have made in those areas so before we consider similar legislation again. I believe it is imperative to work closely with the FDA to find out exactly how much money is necessary for the agency to regulate tobacco, and whether or not the agency is capable of overseeing the regulation of tobacco.

Again, let me make one thing perfectly clear—I believe that tobacco should be regulated, however, it needs to be a well-thought-out process. Therefore, allowing the proper committees of jurisdiction to review and consider the legislation and consultation with the FDA must take place before similar legislation is voted upon by the full Senate and House of Representatives before we consider another measure.

Finally, I want to touch on some of the revenue offsets included in the conference report. I want to make it clear that I support the principle of keeping this bill revenue neutral, and I congratulate the conferees for doing so. This was a particularly sticky problem with the House Members, so I especially recognize their hard work in bowing to the Senate's demands 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 make it into the conference report raises revenue in connection with the donation of used vehicles. In essence, the provision requires that taxpayers wait to take a deduction for the donation of a used vehicle until the donee charity has sold the item in an auction. Then, the deduction is limited to the actual purchase price.

While this may appear to be a reasonable requirement, particularly in light of some of the alleged abuse surrounding the charitable donation of used vehicles, I am concerned that these changes will result in far fewer used vehicles being donated to charities. Some charities, such as the National Kidney Foundation of Utah, rely heavily on such donation programs for a great deal of their funding. A chilling

effect on the donation of these used cars could leave many worthy charities short of vital funds needed to perform their invaluable services to needy citizens in Utah and elsewhere.

I will keep a watchful eye over the implementation of this change in the law, to make certain it does not harm the charities that have relied on donated vehicles for funding. While I agree that we should preclude any real abuse of the law, I do not think we should create a burdensome new requirement that would discourage charitable giving. It may well be that we need to revisit this area of the law in the future.

In conclusion, the conference report before us represents a good bill that deserves our support.

As I have tried to indicate in these remarks, the bill is far from perfect. But given the very difficult political and other circumstances surrounding the issues this bill addresses, it is remarkable we were able to bring to the Senate floor a product that is as good as it is. I urge my colleagues to support the conference agreement.

SECTION 422

Mr. SMITH. Mr. President, I would like to ask if the Chairman of the Committee on Finance would entertain additional questions regarding the American Jobs Creation Act of 2004.

Mr. GRASSLEY. Mr. President, I would be glad to take questions from the Senator from Oregon.

Mr. SMITH. I ask for additional clarification regarding the conferees' intent with respect to the rule in section 422 of the American Jobs Creation Act of 2004 that disallows deductions for expenses ''properly allocated and apportioned to the deductible portion.'' I would ask for clarification of the type of expenses that may be ''properly allocated and apportioned''. Would it be reasonable to say that properly allocable and apportioned expenses would not include general and administrative costs not directly related to generating the income being repatriated and such indirect expenses as research and development costs, interest, state and local income taxes, sales and marketing costs, depreciation, and amortization.

Mr. GRASSLEY. Yes, your understanding is correct. I would add that directly related expenses would include, but is not limited to, stewardship costs and directly related legal and accounting fees.

Mr. SMITH. Thank you Mr. Chairman. Under the conference report's provision on the temporary dividends received deduction, the amount that may be brought back to the United States may be determined by the reference to the ''applicable financial statement''. In general, this term looks to the most recently certified financial statement filed on or before June 30, 2003. In the case of a taxpayer that subsequently re-filed or restated its pre-July 1, 2003 certified financial statement, it is not clear how this would be determined. Is it the legislative intent to lock in the earnings permanently reinvested amount from the most recent pre-June 30, 2003 financial statement, which had been certified, regardless of any subsequent restatement?

Mr. GRASSLEY. The applicable financial statement is the most recent statement that had been certified, and filed with the Securities and Exchange Commission if required, on or before June 30, 2003. However, in the event of a subsequent restatement of a financial statement that had been certified, and filed if required, on or before June 30, 2003, if the subsequent restatement contains a lower permanently reinvested amount, then the lower amount shall apply.

Mr. SMITH. I thank the chairman for this clarification.

IRS

Mr. SANTORUM. Mr. President, I read with great interest an exchange of letters in the House between my colleague from Pennsylvania, Mr. ENGLISH and the chairman of the Committee on Ways and Means, regarding regulations issued by the Internal Revenue Service under section 263(g) of the Internal Revenue Code in the context of the Conference Report on H.R. 4520.

The issue raised in their discussion relates to the IRS decision in regulations published on January 17, 2001, to expand its authority under that section. Without at this point questioning the IRS interpretation of the law, the colloquy notes that the IRS has in some case imposed its new interpretation retroactively. The colloquy urges the Department of Treasury to take the position that the new interpretation should be applied only on a prospective basis.

I rise to agree with my friends in the House. Our practice in Congress is to give taxpayers notice when we intend to change the law in ways that could affect ongoing transactions that were undertaken in reliance on the law as it existed. Certainly Treasury can and should follow the same rules.

I hope the Treasury Department will take note and act accordingly.

BUSINESS AIRCRAFT

Mr. BROWNBACK. I want to thank the distinguished chairman of the Committee on Finance, as well as the chairman of the Ways & Means Committee, Mr. THOMAS, and all the conferees on H.R. 4520, for retaining the provision allowing business aircraft purchased this year to qualify for bonus depreciation if the aircraft is delivered and placed in service in 2005.

This provision is important to the hard-working Kansans who build these aircraft. Provisions such as this will help to further bolster our rebounding economy with respect to expensive and complicated equipment like business aircraft. Without bonus depreciation, there is a risk of a shortage of orders for delivery next year with a resulting impact on employment.

It would have been better if this legislation had been enacted earlier this year, but, even now, this provision will allow manufacturers several extra weeks to take orders for delivery by the end of 2005. That should help to ensure that there will be planes to build in 2005.

I ask the chairman a technical question on the effective date of this provision.

Mr. GRASSLEY. I thank the Senator from Kansas for his kind words, and would be happy to respond

Mr. BROWNBACK. The effective date of the placed-in-service-extension, section 336 of the conference report, states that the amendments ''shall take effect as if included in the amendments made by section 101 of the Job Creation and Worker Assistance Act of 2002.'' I believe that this means only that, if a purchaser orders a plane for delivery in 2005, the limitations on the amount of the deposit, time for construction and purchase price must be met. It does not mean that taxpayers who did not or will not take delivery and place the aircraft in service after December 31, 2004, would retroactively be subjected to these limitations. The limitations apply only if a taxpayer wishes to take advantage of the extended placed-in service period. Does the Chairman agree with this interpretation?

Mr. GRASSLEY. The Senator is correct. The new provision is not intended to apply to aircraft placed in service before January 1, 2005 and does not limit or deny bonus depreciation for aircraft or any other asset that would qualify under the general rules. I would refer the senator to page 30 of the Conference Report. On that page, the conferees clearly state that this provision ''will modify the treatment only of property placed in service during calendar year 2005,''

Mr. BROWNBACK. I ask the chairman for a further clarification. Section 336 of the conference report includes amendment of clause (iv) of Internal Revenue Code section 168(k)(2)(A) to apply the additional year to place an asset in service to assets described in subparagraphs (B) and (C). Subparagraph (B) of the Code applies to certain property having longer production periods. Section 336 of the bill adds subparagraph (C). I would like to be sure that, by using the word ''and'', the conferees did not intend that a business aircraft would have to be described in both the existing subparagraph (B) and the new subparagraph (C) in order to qualify for the additional year to place the aircraft in service. As the chairman knows, the standards for qualification are substantially different under the two subparagraphs.

Mr. GRASSLEY. I agree that the drafting is not as clear as it might have been. However, it is very clear from all the legislative history that, by adding the new subparagraph, we intended to add a new class of property, business aircraft, to those assets which qualify for the additional year to be placed in service. We did not intend

that aircraft which qualify under subparagraph (C) must also qualify under subparagraph (B).

Mr. BROWNBACK. I would like to ask the chairman to address one final point. As the chairman knows, an amendment added to the Senate bill during floor debate temporarily reversed a Tax Court decision, affirmed by the Eighth Circuit Court of Appeals, concerning the limitation of business deductions for personal entertainment use of a business aircraft. This provision was drastically expanded and made permanent in the conference report. I am very concerned that this provision will have a substantial negative impact on the sales of new aircraft because, much of the business deduction for a new aircraft in its first few years is depreciation. In the same bill that Congress extends the period to place an aircraft in service and still qualify for bonus depreciation, Congress also reverses current law and limits depreciation and other business deductions, even when an employee has income imputed to him for any personal use of the aircraft.

I can understand that the facts of the tax court case that was intended to be reversed involved a high percentage of nonbusiness use. However, it would seem to me that some sort of de minimis amount of personal travel treated as taxable compensation should be allowed without reducing otherwise applicable business deductions. I can also understand limiting deductions for incremental operating costs incurred for a personal flight, but the aircraft depreciates whether it is in the air or on the ground. I do not see the rationale for this extraordinary provision in the conference agreement far beyond the scope of the original Senate provision. The section which the conference report amends concerns entertainment facilities such as hunting and fishing lodges which have no other use than for business or personal entertainment. An aircraft is purchased by a business because they have a business need to be served. It is not the same thing as a hunting lodge. It is difficult for me to believe that, if a court addressed the specific question of whether a business aircraft were an ''entertainment facility'' under present law, that it would rule against the taxpayer.

I hope that the chairman would be willing to consider a de minimis rule or other modification to limit the scope of this limitation in future tax legislation to allow occasional personal use without limiting otherwise deductible business expense deductions relating to the ownership and use of a business aircraft.

Mr. GRASSLEY: I appreciate the Senator's concerns and will keep them in mind in the future, although I would not anticipate repeal of the full provision included in this conference report.

SECTION 422

Mr. SMITH. Mr. President, I ask if the chairman of the Committee on Finance would entertain additional questions regarding the American Jobs Creation Act of 2004.

Mr. GRASSLEY. Mr. President, I would be glad to take a question from the Senator from Oregon.

Mr. SMITH. Mr. President, I have a question about how to interpret one of the rules contained in section 422 of the conference agreement for the American Jobs Creation Act. Would the chairman please clarify what the rule that disallows deductions for expenses ''properly allocated and apportioned to the deductible portion'' of the dividend is intended to cover?

Mr. GRASSLEY. I thank the Senator from Oregon for his question. The rule and the statement of managers contain some ambiguity as to which deductions are disallowed. The intent of the rule is to disallow only deductions for expenses that relate directly to generating the dividend income in question.

Mr. SMITH. I thank the chairman.

Mr. MCCONNELL. The tobacco buyout is very important to Kentucky, and it is also important that the provisions of the buyout included in the conference report are interpreted and implemented properly. The conference report provides financial assistance for producers in return for the termination of tobacco marketing quotas and related price support. For kinds of tobacco other than fluecured and burely tobacco, the payments to producers will reflect ''the basic tobacco farm acreage allotment for the 2002 marketing year established by the secretary for quota tobacco produced on the farm.''

My understanding is that for this calculation, the secretary will take into account non-disaster transfer of allotments that were made for the 2002 marketing year. As the Chairman of the Agriculture Committee, is that correct?

Mr. COCHRAN. Yes. For producer payments, such transfers for these crops will be taken into account as they are for the other tobaccos. The payments will be based on the actual amount available on the farm after those transfers.

Mr. MCCONNELL. I thank the Chairman of the Agriculture Committee for clarifying this point for me on this important aspect of the conference report.

Mr. LAUTENBERG. Mr. President, I rise to discuss the FSC/ETI conference report. What the Republican Leadership did to this bill in conference is downright shameful.

In July, I supported an amendment Senators DEWINE and KENNEDY offered to this bill that combined a tobacco buyout with a provision giving the Food and Drug Administration regulatory authority over tobacco.

The Senate passed the FDA amendment by a vote of 78–15. That is a strong show of support.

But something strange happened in conference. The FDA portion disappeared. So in this conference report we have the buyout, but not FDA authority over tobacco products. That is unacceptable.

It is nothing more than a sweetheart deal for tobacco companies. They get cheaper tobacco and continue to avoid FDA regulation.

I have a long history of working on tobacco control. As a former smoker, this is a personal issue to me. And the more I learn about that menace the happier I am for myself and my loved ones.

I have worked hard in the Senate to protect Americans—especially children—from the deadly effects of cigarettes and other tobacco products.

In 1987, long before tobacco control became a mainstream issue, I worked with then Congressman DURBIN to author the law banning smoking on airplanes. That law brought about a seachange in our society's attitudes about smoking.

Once non-smokers could experience a smoke-free environment—in this instance, the cabin of an airplane—they began to demand it.

I also wrote the law banning smoking in all federally-funded places that serve children. And I have long supported FDA jurisdiction over this deadly addiction.

I am deeply disappointed that the Republican leadership is putting politics ahead of the health of our children by opposing FDA authority over tobacco.

Make no mistake: tobacco addiction is still a huge problem in America. Tobacco continues to be the number one cause of preventable death and disease in our Nation. Each year, tobacco claims an estimated 440,000 lives prematurely here in the United States.

According to the Centers for Disease Control, if current tobacco use patterns continue in the United States, over five million children alive today will die prematurely from a smoking-related disease. That is because nearly 4,000 young people try cigarettes for the first time each and every day—a statistic I find mind-boggling.

In addition to the terrible human costs, there are massive economic costs to our Nation. It is estimated that direct medical expenditures attributed to smoking now total more than 75 billion dollars per year.

Despite all of this, the FDA has not been able to take actions to reduce tobacco's harm on society.

A pro-tobacco Congressman recently said:

Tobacco faces enough federal regulation.

But that is a joke. Cigarettes are essentially unregulated. When you go in a grocery store, the only consumable product you can't find a listing of the ingredients for is what's in cigarettes.

The Republican leadership is throwing away an historic opportunity to give the FDA the legal authority it needs to protect the public's health.

Today, we have worthless health warnings on cigarettes, no control over what tobacco companies claim about the relative health effects of their products, no authority to curtail marketing tobacco to kids, and no ability

to order the industry to remove especially hazardous ingredients.

The bottom line is: FDA authority will protect kids and save lives.

The 1998 legal settlement between the States and the tobacco companies prohibited the companies from taking ''any action, directly or indirectly, to target youth . . . in the advertising, promotion or marketing of tobacco products.''

But the tobacco companies are ignoring these promises.

Since the settlement, the tobacco companies have actually increased their marketing expenditures by 66 percent. According to the Federal Trade Commission, the tobacco industry spends more than $11.2 billion per year—over $30.7 million a day—marketing its deadly products just in the United States alone, often targeting youth.

For example, in 2002, Brown & Williamson unveiled a new marketing promotion for their Kool brand of cigarettes called Kool Mixx. This advertising campaign was designed with one simple goal: target young African-Americans and addict them to nicotine.

The ''Kool Mixx'' campaign included new cigarette packages with images of young DJs and dancers:

It is an outrageous attempt to addict youth.

Brown & Williamson doesn't even bother to be subtle when it comes to targeting African-American youth in this campaign.

The press release from Brown & Williamson announcing the campaign contained almost comical sentences revealing their racial targeting.

This is what the company's press release said:

Kool understands the vibrant urban world of the trendsetting, multicultural smoker.

It goes on to say:

Kool keeps it real and remains linked to the latest urban trends.

This campaign to addict young African Americans to cigarettes doesn't stop at product packaging and slick ads. Kool is sponsoring a nationwide ''DJ Competition'' in cities such as New York, Atlanta, Washington, St. Louis, and Chicago.

It seems that ''Kool Mixx'' is the new ''Joe Camel'' for minority teenagers.

This overt racial targeting of youth shows that the tobacco industry has not really changed its ways since its settlement with the State attorneys general.

The big tobacco companies have reverted back to the same atrocious behavior we all saw before they promised they would become good ''corporate citizens.''

Here is something even more outrageous difficult as that is to believe: one of the tobacco industry's new tactics is the introduction of candy-flavored cigarettes and other sweet-flavored tobacco products.

R.J. Reynolds—the same company that once marketed cigarettes to kids with the infamous cartoon character, Joe Camel has launched a series of flavored cigarettes,

One flavor is a pineapple and coconut cigarette called ''Kauai Kolada''; another is a citrus-flavored cigarette called ''Twista Lime.''

These names sound more like bubble gum flavors than deadly cigarettes—which is the point.

These new marketing techniques aimed at kids are especially troubling, given that over 550,000 children will become regular smokers this year alone.

FDA regulation is critical for many reasons. One reason—as we see with these candy-flavored cigarettes—is to keep kids away from these deadly products. Another reason we need FDA regulation is to make sure that preventable dangers in cigarettes are removed.

There are thousands of products for sale in America that people consume, but tobacco products are the only ones—the only ones—which don't have their ingredients disclosed.

That is amazing when you consider that cigarettes are by far the most deadly product you can buy in a grocery store.

Right now, the FDA can regulate a box of macaroni and cheese, but not a pack of cigarettes. If you wanted to know the ingredients of macaroni and cheese, they're listed on the package. But for cigarettes, there is no information whatsoever on the ingredients, toxins, chemicals, etc. It makes no sense.

When a smoker lights a cigarette, the burning ingredients create other chemicals. Some of these are carcinogenic. But tobacco manufacturers are not required by law to disclose the ingredients of their products to the public, including the toxic and cancer-causing ingredients.

A Surgeon General's report in 1989 reported that cigarettes contain 43 known carcinogens.

I wonder how many smokers realize that one of these chemicals is arsenic. I bet most smokers don't know that.

It boils down to this: by stripping out the FDA regulatory authority over tobacco products, we are failing our children. We are putting their health in jeopardy.

This conference report provides billions of dollars to tobacco farmers and boosts tobacco industry profits, but it does absolutely nothing nothing to reduce tobacco's terrible human and economic toll.

I don't know how any Member of this body who is truly concerned about children's health can, in good conscience, support this bill without the FDA provision.

We had a deal; everyone knew it: the tobacco buyout in exchange for FDA regulation. The Republican leadership broke that deal.

I urge my colleagues to oppose this conference report until we give the FDA the authority it needs to regulate tobacco as it does other products.

Mr. FRIST. Mr. President, it has been a long day, and I thank those Senators who have been here, and especially the presiders who we have had throughout the evening. We now have two appropriations conference reports at the desk ready for consideration. They are military construction appropriations and the homeland security appropriations, obviously two enormously important pieces of legislation, especially given the disaster relief package that is part of the military construction legislation.

It had been my hope to act on these as quickly as possible. I understand there are objections to these and that we will need to file cloture motions to bring these to a vote. I understand there is an issue relating to the military construction bill, but I am unaware of any issue with the appropriations bill relating to homeland security.

Homeland security clearly has important resources that address just what the title says; that is, the safety and security of the American people. I believe the American people, indeed, deserve that we act on this bill in a timely way and in an expeditious way, but it looks like we are being stopped from doing so.

I will file the cloture motions on both of these measures, but I would ask my colleagues on the other side of the aisle who are objecting to proceeding to please consider their objections overnight and allow us to proceed. I urge them, do not force a cloture vote on the homeland security bill, which addresses the security and safety of the American people. I ask that they consider allowing us to vitiate this cloture and move forward tomorrow.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005—CONFERENCE REPORT

Mr. FRIST. Mr. President, I move to proceed to the conference report to accompany H.R. 4837, the military construction appropriations bill.

The PRESIDING OFFICER. Without objection, the motion is agreed to. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4837), making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of today, October 9, 2004.)

CLOTURE MOTION

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

The PRESIDING OFFICER. The cloture motion having been presented