

their homes by their families, who have been physically, sexually, and emotionally abused at home, who have been discharged by State custodial systems without adequate transition plans, who have lost their parents through death or divorce, and who are too poor to secure their own basic needs;

Whereas effective programs supporting runaway youth and assisting young people in remaining at home with their families succeeded because of partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas preventing young people from running away and supporting youth in high-risk situations is a family, community, and national responsibility;

Whereas the future well-being of the Nation is dependent on the value placed on young people and the opportunities provided for youth to acquire the knowledge, skills, and abilities necessary to develop into safe, healthy, and productive adults;

Whereas the National Network for Youth and its members advocate on behalf of runaway and homeless youth and provide an array of community-based support services that address the critical needs of such youth;

Whereas the National Runaway Switchboard provides crisis intervention and referrals to reconnect runaway youth to their families and to link young people to local resources that provide positive alternatives to running away; and

Whereas the National Network for Youth and the National Runaway Switchboard are co-sponsoring National Runaway Prevention Month to increase public awareness of the life circumstances of youth in high-risk situations and the need for safe, healthy, and productive alternatives, resources, and supports for youth, families, and communities: Now, therefore, be it

*Resolved*, That the Senate designates November 2004 as "National Runaway Prevention Month".

There being no objection, the Senate proceeded to consider the concurrent resolution (H. Con. Res. 486), which was agreed to.

There being no objection, the Senate proceeded to consider the concurrent resolution (H. Con. Res. 473), which was agreed to.

#### AUTHORIZING PRINTING OF COMMEMORATIVE DOCUMENT IN MEMORY OF LATE PRESIDENT RONALD WILSON REAGAN

Mr. FRIST. I ask that the Chair now lay before the Senate the House message to accompany S. Con. Res. 135, providing for the printing of a commemorative document honoring former President Reagan.

The President pro tempore laid before the Senate a message from the House, as follows:

*Resolved*, That the resolution from the Senate (S. Con. Res. 135) entitled "Concurrent resolution authorizing the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan", do pass with the following amendment:

Page 1, beginning on line 13, strike [Senate document, with illustrations and suitable binding] and insert "House document, with illustrations and suitable binding, under the direction of the Joint Committee on Printing".

Mr. FRIST. I ask unanimous consent that the Senate concur in the House

amendment and the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

#### SPECIAL OLYMPICS SPORT AND EMPOWERMENT ACT OF 2004

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the immediate consideration of H.R. 5131, which is at the desk.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5131) to provide assistance to Special Olympics to support expansion of the Special Olympics and development of educational programs and a Healthy Athletes Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed; the motion to reconsider be laid upon the table; and any statements relating to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 5131) was read the third time and passed.

#### COLUMBIA MEMORIAL SPACE SCIENCE LEARNING CENTER

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 57.

The PRESIDENT pro tempore. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 57) expressing the sense of the Congress in recognition of the contributions of the seven Columbia astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. FRIST. I ask unanimous consent that the joint resolution be considered read a third time and passed; the motion to reconsider be laid upon the table; and any statements relating to the joint resolution be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The joint resolution (H.J. Res. 57) was read the third time and passed.

Mr. FRIST. Mr. President, I yield the floor.

Mr. REID. Mr. President, while the majority leader is on the floor, as the leader knows, we had a difficult time working things out last night and so I would ask that the 10 minutes we have used here this morning which would push the vote to right about 10 after 1, that we have these times locked in. I think that would be appropriate, so I

ask unanimous consent that everything slide 10 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

#### RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leader time is reserved.

#### AMERICAN JOBS CREATION ACT OF 2004—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the conference report to accompany H.R. 4520, which the clerk will report.

The assistant 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. 4520), to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad, 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 PRESIDENT pro tempore. Under the previous order, the time until 1 p.m. shall be equally divided between the managers. Within that time, there are specific times set aside for specific Senators: 11:40 to 12:10 p.m., the Senator from Louisiana; 12:10 to 12:30, the Senator from West Virginia, Mr. BYRD; 12:30 to 1 p.m., the Senator from Iowa, Mr. GRASSLEY, and the Senator from Montana, Mr. BAUCUS.

There are further exceptions to this in the Calendar before the Senators.

Who yields time?

The Senator from Kentucky.

Mr. BUNNING. Mr. President, I yield myself 10 minutes of allotted time. I so ask unanimous consent.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. BUNNING.

Mr. President, I rise today in support of the conference report on the American Job Creation Act of 2004. This conference report will provide needed incentives for U.S. manufacturers and will take the first step toward ending EU tariffs on our exporters.

Most importantly for Kentucky, this bill will finally bring the help that our tobacco growers have needed for years.

Because we are repealing the FSC/E.T.I. rules, the European Union must remove the sanctions—now 11 percent—which they have levied on many U.S. exports.

I have from employers back home about how they are struggling under the weight of these tariffs, which are hurting their exports and their plans to expand their businesses.

By passing this bill, we make our exports more competitive again, and we help our economy create new jobs.

It is a big win for my state and our Nation.

The tax centerpiece of this bill, of course, is a provision to provide help to America's manufacturing sector.

This sector of our economy has been under serious pressure since early 2000.

The jobs that manufacturing creates are good-paying jobs and we must do what we can to ensure that these jobs will be here in the future.

This bill creates a new deduction for domestic manufacturers employing American workers. That deduction cuts the tax rate for domestic manufacturers who employ American workers.

This will help keep jobs here at home and make our manufacturers more competitive in the world marketplace.

I am pleased that we were able to improve one aspect of this provision in conference. We were able to eliminate the "haircut" that would have cut the benefits available to many businesses that employ workers in the U.S. merely because those businesses also operate abroad.

I am glad that this bill recognizes the contributions to our economy made by companies such as Toyota, Nestlé, and Mazak that are in my state providing jobs to hard-working Kentuckians every day.

While I am pleased that the conference report before us includes many other provisions that will have a positive impact on my state's economy, including the horse, restaurant and railroad industries, I am disappointed that the conference did not include the Senate energy tax credits.

We have waited for a comprehensive energy bill for too long. America has energy needs we must address today, and so we put a few energy provisions in this bill.

Despite these clear needs and my best efforts, they were stripped in conference. This bill could have done more, but let me be clear about one thing — we will be back.

Despite this shortcoming, I am pleased that the Soybean Biodiesel and Corn Ethanol Tax provisions are in the conference report.

These tax provisions will encourage the use of alternative fuels which will help Kentucky farmers and biodiesel manufacturers while also increasing domestic energy production, boosting conservation, and lessening our dependence on foreign oil.

And most importantly, this is an historic day for Kentucky's tobacco growers. My growers will finally receive the relief they need and deserve. We finally have a buyout.

Since Daniel Boone first came through the Cumberland Gap, farming has been both the economic and cultural backbone of the commonwealth.

The family farm is the basis of Kentucky culture and these farms rely on tobacco.

For years, we in Kentucky have tried to diversify from the tobacco crop. We have had some success and some failures.

But in the end, we come back to tobacco because nothing brings a higher return.

The money farmers get from tobacco pays their mortgage and puts their kids through school and allows them to stay on the farm.

Outside of the western part of Kentucky, we do not have tens of thousands of acres of flat land.

We need a crop that grows on rolling hills and that thrives in our climate. Tobacco does that.

But many forces have conspired against tobacco in the last few years.

The previous administration declared war on tobacco and, by extension, tobacco farmers.

The Asian economic crisis hurt exports. The master settlement agreement and state tax increases dramatically raised the price of cigarettes.

And although American tobacco is still superior, the companies have invested so much overseas that the gap has narrowed between American tobacco and cheap foreign tobacco.

As most of my colleagues know, there are no direct payments to tobacco farmers, but we do have price supports and production controls.

Growers own quota which they can buy, sell or lease. The government administers this program to get growers a fair price for their tobacco and make sure they only sell what they are allowed to.

If you grow too much, you can't sell it. However, the tobacco program, which has served Kentucky so well, now hangs like a millstone around growers' necks.

Burley tobacco quotas have lost 46 percent of their value since 1998. We are looking at another 10 percent cut this year. We have lost a lot of growers, from 10,000 in 1988 to 32,000 in the year 2003. We have many who are barely holding on.

Many of the tobacco quota holders are elderly and can no longer work the land, so they lease their quota and that income becomes a major part of their retirement security. That quota is tied to the land. It has a direct effect on the property taxes Kentuckians pay.

The conference report we have before us today will buy out those tobacco programs. We will give our growers relief and end the Federal price support program. We will also have many growers whose average age is 62 retire and get out of the business. Dr. Will Snell of the University of Kentucky estimates that 70 to 75 percent of tobacco growers will get out of the business with the buyout. We will allow growers to pay off their debts and have more certainty about their future.

I am also happy we were able to bring the bill out of conference without the FDA provisions. The House made it very clear in conference they would not pass a bill with FDA regulations in it. I voted for FDA regulations on the Senate floor, but only as a means to get my growers a buyout. But in the end, FDA regulation provisions have

become a hindrance to the buyout. A buyout without FDA is the best of both worlds for Kentuckians. My growers will get their relief but without the worry of having the FDA invade their farms.

In the conference, when we were forced to choose between my growers getting relief or killing the bill by adding FDA, I chose the buyout, and I would do so again in a heartbeat. That is how important this buyout is to Kentucky.

I strongly urge my colleagues to support this conference report.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. Senator GRASSLEY has 41 minutes 11 seconds.

The PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. I yield myself as much time as I may consume.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. GRASSLEY. Mr. President, there are several antifraud provisions in this conference report. Most of the focus in the media has been on the tax benefits of this legislation, but an extremely important aspect of the bill is how it closes giant corporate tax loopholes. This legislation, by closing them, obviously is going to bring revenue into the Federal Treasury that is otherwise just going into the treasuries of corporations.

This legislation includes Enron reforms that Members have been pushing for since Enron was exposed 3 years ago. Don't forget, for about 5 or 6 years before that, before the year 2001, Enron was doing their dirty work. But we finally got it exposed in 2001, and we have been taking some corrective action through corporate governance policies already passed by the Congress, and now we are taking action to close the abuse of the Tax Code by Enron-type executives.

It is a little ironic that many of those same Senators who have demagogged the Enron scandal are now opposing this bill. They seem to be more interested in something that is not in this bill than the very good public policy of cracking down on fraud that is actually in this bill. I am proud of the fact that many of these anti-fraud measures in this report stemmed from cases that were investigated and exposed by the very capable staff of the Senate Finance Committee. With that staff working for me and staff working for Senator BAUCUS, along with various whistleblowers and informants, and now with the House of Representatives passing this bill, we are about ready to shut down these Enron-type corporate tax abuses.

This has not been an easy process, but it is a real example of how our perseverance pays off. Back in July of 2001, the Finance Committee staff first discovered what has become known as a huge fraud upon the taxpayers, and that is the fuel tax evasion. This fraud is costing the taxpayers at least \$10 billion. So, No. 1, Enron-type fraud, abusive tax shelters; now we are talking

about fraud that comes from people not paying the fuel tax on gasoline and diesel fuel that would be then spent on the highways.

The Finance Committee had a very important hearing exposing this type of fuel fraud tax scam. The problem has come to light in more recent prosecutions. One involved an alleged terrorist cell that was skimming off fuel and selling it, using the money for God only knows what. It could have found its way into terrorist activity against the United States.

In another case, in July, prosecutors charged 19 workers at the Miami International Airport with falsely classifying jet fuel as contaminated to avoid paying the fuel tax. They would then sell it on the sly, stealing 2.7 million gallons of fuel.

Another tax scam that my staff uncovered involves what is known as service-in/lease-out, or SILO. These schemes were discovered by a Finance Committee major hearing, showing these fraudulent arrangements are put together by high-priced lawyers and accountants. In these scams, companies actually lease public works systems such as subways and sewers from cities, and then turn right around and lease them back to the same cities. The cities get upfront money, presumably under the argument that their municipal treasuries can use it, particularly in times when the economy is down. But here is what happens: The cities get a little bit of upfront money, but the companies get millions of dollars of tax writeoffs. So the taxpayer is left holding an empty bag under this scheme.

That sounds unbelievable, doesn't it? But it is true. The bill we are about to vote on puts a stop to this and saves the taxpayers over \$27 billion.

Let me also note that we have provisions in this bill that address other abuses, significant abuses in the donation of intellectual property, as well as the donations of cars.

Corporations have been reducing their tax bills by hundreds of millions of dollars each year by taking intellectual property of little to no value and donating it to charity. This legislation ends this abuse by corporations while still encouraging the donation of legitimate intellectual property that has real value for actual development.

We also ended the shady tax practice of people providing some junker cars to a charity and claiming thousands for it off their individual income tax.

The reforms in this legislation will place no additional burden on the donor, will not reduce the amount going to charities from the donated car by a single dime, and will benefit all taxpayers by ending this abusive scheme.

There has been noise coming from a few that this reform shouldn't have been done on this bill. A lot of that noise is not coming from charities but from middlemen who are the ones who really make the profit off of this abuse.

To say we should have delayed this is nonsense. As my comments highlight, it is very difficult and also uncommon for us to have a legislative opportunity to address tax shelters and tax abuse.

This bill provides the most sweeping attack on abusive corporate tax shelters in an entire generation of this Congress. So we cannot pass up an opportunity to address an abusive corporate tax situation. It can very well be years before another opportunity presents itself to the Congress to deal with the problem of people not paying their fair share of taxes. Forget about the word "fair share"—just say paying taxes that are due.

These efforts to address abuses in charitable donations are part of an ongoing bipartisan Senate Finance Committee review of nonprofits, something the Democratic ranking member, Senator BAUCUS, and I are working on together.

I anticipate we will be addressing other areas in the future such as land donations and facade donations based on our investigations of the Nature Conservancy and other land donation organizations.

But I do want to say, since I named some of these organizations, that I think some of these organizations have gotten the message and are making attempts to correct some of the deficiencies in their own operations that abuse the Tax Code.

I am very pleased that in this bill we deal with a situation where executives take corporate aircraft for personal travel. Legislation in this bill will put significant limitations on corporations being able to write off such high living.

Again, based on the work of the Finance Committee, we were able to ground a good number of these high-flying corporate executives. The Finance Committee initially placed limitations to deal with abuses that were seen in the Virgin Islands and other U.S. territories. There were many people going down there to the Virgin Islands to not only get a tan but also to avoid the taxman.

I am pleased that, working with Treasury and working with the Ways and Means Committee of the other body, we were able to further tighten these limitations to address the tax problems we are seeing down there in the sunny islands of the Caribbean.

Finally, I am glad that in the conference committee we were able to adopt the Finance Committee's proposal championed by Senator NICKLES to end the SUV deduction for businesses. Senator NICKLES also was right when he said it would be an embarrassment if we couldn't deal with this abuse, and we did. That is around \$50 billion of fraud which the Finance Committee uncovered, pursued, and that is in this bill. That doesn't count the billions of dollars which I considered abuse but which the House of Representatives must not have considered abuse because they wouldn't agree to putting it in this bill. But I am going

to continue to deal with corporate abuse.

I made this statement to the leaders of the Ways and Means Committee in our conference committee. I offered amendments to go further than this conference report goes. The House conferees refused, but I made clear that where these corporate abuses aren't adequately handled and dealt with in this conference report, that come January I intend, if I am chairman of the committee, to pursue more closing of corporate tax abuses. If I am not chairman, Senator BAUCUS will be chairman, and I think, although I shouldn't speak for him, he is as committed to this as I am because we have had 2 good years of working together on this issue.

The taxpayers are getting their money's worth out of this Senate Finance Committee. They are entitled to get more of their money's worth out of Senate Finance Committee when we continue to clamp down on these corporate tax abuses.

The Constitution may say that revenue measures have to start in the House, but the fact is, they are being created in the Senate by closing loopholes and cracking down on fraud and abuse.

I thank the House of Representatives, and particularly the cooperative working arrangement we had on this conference report with Chairman THOMAS of the House Ways and Means Committee in getting as far as we have in closing down these corporate tax abuses.

The Senate Finance Committee has been so successful in rooting out tax fraud. We have more and more information coming to us over the transom about newer, more crooked and creative scams being cooked up out there in the underworld of tax shelters. All I can say to this underworld is, watch out, because we are coming after you.

I yield the floor.

The Senator from Ohio is yielded 10 minutes off the time which I have remaining.

The PRESIDENT pro tempore. The Senator from Ohio is recognized for 10 minutes.

Mr. DEWINE. Mr. President, I ask unanimous consent that during my discussion this morning I be able to display several packs of cigarettes and a container of macaroni and cheese which I have in front of me.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I urge my colleagues today at 1 o'clock to vote no on the cloture vote. The conference committee stripped out from this bill the FDA regulation of tobacco. I think it was a serious mistake. It really represents a missed opportunity—a greatly missed opportunity—for us to cut health costs in this country and to save lives.

All of us come to this floor so many times and talk about saving lives. We come all the time talking about what has happened with health care costs in this country.

There is nothing we could do which would be more important than to pass the FDA regulation of tobacco. There is nothing we could do that would be more important to save lives and to cut health care costs in this country. Yet, unbelievably, the conference committee stripped this provision out of the bill.

How long are we going to allow the tobacco companies to remain above the law and outside the law?

What am I talking about? I talked about this a little bit on the floor yesterday, but I want to explain it again.

When I say "above the law," I really mean above the law. Macaroni and cheese—everyone knows macaroni and cheese. Kids eat a lot of macaroni and cheese, at least mine do. The side packet has every piece of information anyone would want to know about it and a lot more: calories, fiber, sugar, dietary fiber, saturated fat. It is all on here. It includes citric acid, sodium phosphate; everything is listed. But the same company that makes the macaroni and cheese also makes Marlboros. Guess what. Pick up a pack of Marlboros and there is no information about the contents. Why? Because there is a loophole in the law; Marlboros are outside the law.

How about claims made by tobacco companies? Marlboro Lights—it means nothing. When you have yogurt and it says "light yogurt," it means something. You read on here "one-third less calories." It is regulated by the Government. Not tobacco.

What about the other claims by the cigarette companies? When they make a claim, it doesn't mean anything, unlike every other product in the stream of commerce today. Take Advance Premium Lights. The back says "All the taste, less of the toxins." One would assume that means they are safer. Who knows there are less toxins? No one checks this. The Government does not regulate it. It is a dangerous product, and the Government does not regulate it. How crazy is this? How long are we going to put up with this?

Eclipse, another product. I read from the back what they claim:

Scientific studies show compared to other cigarettes Eclipse may present less risk of cancer, bronchitis, possibly emphysema, reduces secondhand smoke by 80 percent, leaves no lingering odor in hair or clothes.

More health claims, yet nothing to back it up.

The worst thing the tobacco companies do, the worst thing we allow them to do, the worst thing this Congress continues to allow them to do is to target kids.

Skoal, a pinch better. Apple blend. Does anyone think longtime Skoal users are using apple blend? Give me a break. Who is using this? Who are they targeting? Entry-level users. They are after kids with apple blend.

Cigarettes: Liquid Zoo, vanilla flavor. Give me a break. Kool, Mocha Taboo. Who is that after? Kids. Camels,

Beach Breezer. Or this one: Kauai Kolada. Do you think a 60-year-old longtime tobacco consumer of Camels is using this? Obviously not. Who is using this and who the tobacco companies are targeting is kids. That is who they want to use this entry-level drug. They want to get them hooked. They get them hooked on something like this: Mandarin Mint Camels. That is what they do.

We allow this to continue. The FDA regulation bill would have stopped it, the bill the conference committee inexplicably stripped out of this bill, a bill the Senate passed overwhelmingly and sent to the conference committee. The conferees turned their backs on children's health, turned their backs on public health, and stripped it out. That is the reason we all should vote no on this conference report.

We come to the Senate many times and we talk about health costs. We say we need to do something about health costs. Let me state the figures from my home State of Ohio. If we do not think the passage of this bill would have done a lot, the annual health care costs in Ohio for smoking, our annual health care costs, what it costs in Ohio, is \$3.4 billion, and that is just my home State of Ohio alone. Our Medicaid costs, much paid for by taxpayers—Federal, State—\$1.1 billion. That is not even talking about the cost in human life. The cost in human life, adults in Ohio who die each year prematurely because of tobacco, 18,900; kids 18 years of age and younger in Ohio who ultimately die prematurely from smoking, 314,000.

I have today with me letters from the American Heart Association, the American Lung Association, the Ohio Children's Hospital Association, the American Thoracic Society, and the Campaign for Tobacco-Free Kids which I ask unanimous consent to have printed in the RECORD.

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

NATIONAL CENTER FOR  
TOBACCO-FREE KIDS,  
Washington, DC, October 8, 2004.

Re opposition to FSC/ETI bill without FDA jurisdiction over tobacco.

HON. MIKE DEWINE,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR DEWINE: We were profoundly disappointed by yesterday's decision by the House/Senate conference on the FSC legislation not to include provisions establishing FDA regulation of tobacco products. An historic opportunity to protect the nation's children and the nation's health was lost.

Enacting FDA regulation of tobacco products is the single most important thing Congress could do to reduce cancer, heart disease, emphysema, chronic bronchitis and a host of other diseases. It is the single most important thing Congress could do to improve the health of our children and protect our children from unscrupulous marketing by an industry that produces a product that kills one out of two long-term users. Close to 90% of all tobacco users start as children. First and foremost, it is our children who were ignored and who are the big losers by

the decision not to include FDA in the FSC/ETI legislation.

The tragedy is not only that an opportunity to prevent disease has slipped through our fingers, but also that literally hundreds of thousands, if not millions of kids, once addicted, eventually will die of these tobacco-related diseases. And these deaths will be needless. They will occur because of the actions of the House/Senate Conferees who failed to include FDA in the original Conference draft and who voted not to add it the final bill. Tobacco use is also a leading cause of premature birth. If Congress had given FDA authority over tobacco products, Congress could have dramatically reduced the number of children born prematurely with serious medical problems due to tobacco use.

Rarely does Congress have the opportunity to take an action that will improve the lives and well being of millions of Americans. This was such an opportunity. Tobacco companies market candy flavored cigarettes, promote their products in a myriad of ways that make them more appealing to children, hide the truth about the dangers of their products and fail to take even the most minimal steps to reduce the number of Americans who die from tobacco use. By the decision not to include the FDA provisions adopted overwhelmingly by the Senate in this bill, Congress is doing nothing to stop them.

Not even our profound disappointment in yesterday's outcome, however, can diminish the gratitude we feel for your courageous efforts to pursue enactment of this legislation, against all odds, in the face of countless setbacks, always putting kids first. We commit to you that our struggle with you to achieve lasting protection of our kids and our society through regulation of tobacco products is not over.

Yesterday's vote by the FSC conference committee against FDA authority over tobacco is a big victory for the tobacco industry that will carry a heavy price in lives lost and kids addicted to tobacco. The nation will also pay a price in growing cynicism about government when Congress appears willing to trade tax breaks for kids' lives. We urge all Senators and Members of Congress to oppose the FSC Conference Report until the FDA provisions are included.

Sincerely,

MATTHEW L. MYERS,  
President.

OHIO CHILDREN'S HOSPITAL  
ASSOCIATION,  
Columbus, OH, October 7, 2004.

HON. MIKE DEWINE,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR DEWINE: I write today to express the terrible disappointment felt among Ohio's children's hospitals that Congress has lost an opportunity to protect the health of America's children. It is my understanding that your efforts to enact legislation granting the Food and Drug Administration authority to regulate the manufacturing and marketing of tobacco products has been thwarted by intense tobacco industry pressures. This is a shameful waste of a rare opportunity to take the bold action needed to reduce a staggeringly dangerous health risk that hurts kids and increases the cost of health care.

Ohio has been working hard to reduce youth smoking, and children's hospitals have long been at the frontlines of this battle to protect our children from the devastating toll that tobacco exacts. But, for every step forward we take (youth smoking in Ohio is down recently), we face a barrage of new and cunning attempts by the tobacco industry to regain its foothold with Ohio's children. The tobacco industry is spending more than ever

to market its products in ways that appeal to children. As a depressing example, we now face the prospect of candy-flavored cigarettes.

Across the country, every day 2,000 more children become regular smokers, one-third of whom will die prematurely as a result.

FDA regulation of tobacco products represents the best tool for combating the tobacco industry's reckless assault on our children's health. We need the FDA to have the authority to subject tobacco products to the same rigorous standards we impose on other consumer products, including ingredient disclosure, truthful packaging and advertising, and manufacturing controls.

Senator DeWine, we greatly appreciate your work on behalf of Ohio's children, and we only wish that the Congress could have stepped up to its responsibilities to protect our children from the tobacco scourge.

Sincerely,

ANDREW CARTER,  
*President.*

AMERICAN THORACIC SOCIETY,  
*San Diego, CA, October 7, 2004.*

Hon. MIKE DEWINE,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR DEWINE: Congress is about to give the Big Tobacco the one thing they want, continued access to the most attractive market for their deadly products—our children. Don't let Big Tobacco continue to peddle their products to our children.

The best way to protect our nation's children from the continuing disease and addiction caused by Big Tobacco and their deadly products is by granting the Food and Drug Administration (FDA) the authority to regulate tobacco.

The bipartisan compromise reached in the Senate FSC bill would have granted the FDA the authority needed to regulate tobacco and reduce underage smoking throughout America. Unfortunately, during conference the supporters of Big Tobacco struck the one provision that would have given our children a fighting chance against the pervasive marketing power of tobacco companies.

If Congress fails to give FDA the authority to regulate tobacco, our children will pay the price. Children will pay the price through a lifetime of addiction to tobacco products. Children will pay through the diseases associated with tobacco addiction—lung disease, heart disease and cancer. Children will pay the price, literally, with their lives.

Senator DeWine, the 14,000 members of American Thoracic Society thank you for your tireless efforts to protect children from tobacco. Please don't stop now. Don't let the opportunity to protect our nation's children from tobacco addiction go up in smoke. We are counting on you and your colleagues to exhaust every legislative tool available to you to ensure that the FSC tax bill includes the provision granting FDA the authority to regulate tobacco.

Sincerely,

SHARON I.S. ROUNDS, MD,  
*President, American Thoracic Society.*

AMERICAN HEART ASSOCIATION,  
*Dallas, TX, October 7, 2004.*

TO THE MEMBERS OF THE U.S. SENATE: On behalf of the American Heart Association's 22.5 million volunteers and advocates, I write you to express our deep dismay over the Foreign Sales Corporation (FSC) conference vote that failed to grant the Food and Drug Administration (FDA) authority to regulate tobacco products. This represents a squandered opportunity to protect the public against dangerous tobacco products, a failure to protect our children from the mar-

keting of tobacco products, and also the adoption of the wrong tobacco buyout plan. How can Congress explain such neglect for our nation's health?

The original FDA legislation approved by the Senate and introduced by Senators Mike DeWine and Edward Kennedy had overwhelming support from both the public health community and tobacco grower groups. In the Senate, true champions of public health had fought for the success of this measure, while others worked to derail efforts to reduce the death and disease that result from tobacco use. A few members' blind and unwarranted opposition to regulation that would save lives will have a tragic result. Our chance to reduce tobacco related deaths and disease has gone up in smoke.

Tobacco use is responsible for more than 440,000 deaths each year, with more than one in three from heart disease or stroke. Each day, 4,000 youth try their first cigarette and 2,000 become regular daily smokers. This FDA legislation offered our best chance to reverse that trend and reduce the senseless death and disease that results from tobacco use.

And sadly, the buyout that was adopted in conference fails in many aspects. First, it provides far less assistance to hard-hit tobacco farmers than the earlier Senate-approved measure: \$796 million less in North Carolina; \$490 million less in Kentucky; and, \$141 million less in Virginia, to name a few effected states. This buyout will only prolong the cycle of economic misery too many of these farmers face. It lacks incentives to encourage farmers to leave tobacco farming. It neither restricts the amount of tobacco that can be grown, nor does it limit where it can be grown. And without price controls, the result will be more hard times for tobacco growers trying to compete with cheap international tobacco.

The American people deserve an explanation for the failings of the current FSC legislation, and on behalf of our association and our volunteers, I hope the responsible votes are cast in opposition. As it stands, this bill is a raw deal for our nation's health, our youth and tobacco farmers.

M. CASS WHEELER,  
*Chief Executive Officer.*

AMERICAN LUNG ASSOCIATION,  
*October 7, 2004.*

Hon. MIKE DEWINE,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR DEWINE: How can the Congress give \$10 billion to tobacco growers without requiring anyone to exit the tobacco farming business and fail to do anything for public health? This is unconscionable.

Over 440,000 people die prematurely from tobacco-related illness each year and two thousand children become addicted regular smokers every day. Nearly 90 percent of lung cancer and 80 to 90 percent of emphysema and chronic bronchitis are caused by tobacco use. Despite this deadly assault on lung health, tobacco products are the most unregulated consumer products on the market today.

Senator, the American Lung Association thanks you for your steadfast commitment to America's children. Your leadership on FDA regulation is laudable. Please implore your colleagues to change course and include the FDA oversight of tobacco in the FSC bill.

Tobacco companies continue to aggressively market their products to our children, cynically targeting "replacement smokers" for those who die or quit smoking. New flavored cigarettes including R.J. Reynolds' Camel Exotic Blends Kauai Koloda with "Ha-

waiian hints of pineapple and coconut" and Kool Caribbean Chill and Mocha Taboo are aimed at young people. The tobacco companies make health claims of "reduced carcinogens" or "less toxins" without any oversight of the veracity of the statements or their impact on health.

FDA regulation of tobacco would:

Ban flavored cigarettes.

Stop illegal sales of tobacco products to children and adolescents.

Require changes in tobacco products, such as the reduction or elimination of harmful chemicals, to make them less harmful or less addictive.

Restrict advertising and promotions that appeal to children and adolescents.

Prohibit unsubstantiated health claims about so-called "reduced risk" tobacco products that would have the effect of discouraging current tobacco users from quitting or encouraging new users to start.

Require the disclosure of the contents of tobacco products and tobacco industry research about the health effects of their products.

Require larger and more informative health warnings on tobacco products.

How many more children must become addicted to tobacco before Congress regulates cigarettes? Senator DeWine, do not allow the U.S. Congress to squander this opportunity to protect the public health and provide the Food and Drug Administration regulatory oversight over tobacco products.

Thank you again for your leadership.

Sincerely,

JOHN L. KIRKWOOD,  
*President and CEO,  
American Lung Association.*

Mr. DEWINE. They all make the point that the FDA provision that was in this bill would have saved lives, would have made a difference, would have protected our society.

Members may say: There are good things in this bill—I have to vote for this bill—good things for my State. I simply point out to them at some point we have to say enough is enough. At some point we have to say the status quo is not acceptable. At some point we have to look at the bigger picture than what is going on in this bill. Yes, there are good things for Ohio, there are good things for your State, but the statistics I cited, the tremendous health care costs in dollars and cents and human cost, have to be considered. At some point we have to take a stand.

We may not win this battle today, but we will be back. We will be back to finally regulate this one product that is escaping the law, the one product we are not regulating today, a product which, even when it is used as intended, is a dangerous product that kills many Americans. It must be regulated. It must be brought under the law. We must stop the tobacco companies from targeting our kids. We must stop them from going after children every single day, trying to make more children addicted, trying to kill more children. It is wrong. It is morally wrong.

This Congress, some day I hope in the not-too-distant future, will say we have had enough; we are not going to stand for it anymore; we are going to do what we have to do to save our children. The fringe benefit, besides saving

lives, is going to be that we will dramatically slash health care costs in this country. I urge a "no" vote.

The PRESIDENT pro tempore. The Chair in his capacity as the Senator from Alaska suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

Ms. LANDRIEU. Reserving the right to object.

The PRESIDENT pro tempore. The Senator has control of 13 minutes 25 seconds. There is no right to object.

Ms. LANDRIEU. Thank you.

Mr. GRASSLEY. Mr. President, for this entire year I have come to the floor many times to tell my colleagues all the reasons this conference report is a must-pass piece of legislation. I have talked about trade and I have talked about tariffs. I have talked about the necessity of stopping outsourcing, lowering the cost of capital to our corporations so they can be more competitive in international competition, keeping jobs in America, reducing that cost of capital, as this bill does, by reducing the corporate tax rate for manufacturing in America—a direct incentive to produce here rather than producing overseas.

Now, that is what the main part of this bill is all about, but it has some other aspects to it. I want to talk about \$24 billion—\$24 billion—that may be gone forever if we do not pass this bill; \$24 billion to go into the highway trust fund. I do not serve on the committee that expends the money from the highway trust fund. I do serve on the committee, the Finance Committee, that provides how much gas tax we should have and other moneys that go into the highway trust fund. But for those who do deal daily with the highway trust fund, this \$24 billion is the biggest single increase in highway trust fund income in over 6 years.

Now, where does the \$24 billion come from? It does not come from new taxes. Instead, we overhaul an outdated excise tax system to address our Nation's increased use of renewable fuels, such as ethanol.

In addition to overhauling the excise tax system that is outdated, we crack down on big-time fuel fraud to make sure that bad guys are not robbing our States of their much-needed highway money. But the only way we can get all of that money is if we pass this bill, and do it right now, because that will bring \$24 billion into the trust fund—the only way.

You have to put the money into the trust fund today to build roads tomorrow. And you cannot start collecting

any new money until we change these outdated rules that keep this \$24 billion from going into the road fund. All of the Senators who are filibustering this bill are costing every State new highway dollars.

To put this in perspective, my home State of Iowa, as an example, under this bill could get an additional \$900 million over 6 years, but only if we pass this bill this year. So anybody from the State of Iowa voting in the Congress of the United States ought to know if they vote no on this bill that they are costing the State of Iowa \$900 million. Even if we postponed the rule changes until we pass a highway bill now, which is not going to be passed until next year, Iowa will still lose \$140 million forever—never get that back.

How many roads can Iowa build with \$900 million? How many bridges can we repair with \$900 million? I do not know why any Senator would jeopardize the safety of every citizen in his State by failing to pass the highway trust fund.

There are other Senators who do not want to put money in the bank today so we can build the roads for tomorrow. Every Senator, of course, has their right to vote as they please, but every State also has the right to know what that vote will cost the highway bill and what it will cost their State.

Let's look at California. They are going to be big winners in this VEETC and fuel fraud reform that is in this legislation. The estimated increase in California's highway revenue is over \$2 billion—\$2 billion of new highway money. But the only way to get the full benefit of the estimate is to pass this bill now. So I would ask the California Senators to look at this legislation, put the money in the bank today, and then build roads tomorrow.

Illinois would be a big loser if Members of that delegation would vote no on cloture and no on this bill. The Illinois Department of Transportation knows exactly what they would lose if this bill does not pass. It is close to \$3 billion. That \$3 billion can be put in the trust fund today to build roads tomorrow.

I would hope no one comes whining to me as chairman of the Senate Finance Committee next year that we do not have enough money to fund the highway bill, especially when you have an opportunity—right here today—handed to you on a silver platter to put \$24 billion into the highway trust fund, more money for your States. And you ought to consider that not a silver platter, you ought to see that as some sort of a golden platter, a golden opportunity. But we have Senators who are bound and determined to deny every State department of transportation \$24 billion. We never get an opportunity like this to put a package of highway funding together. We may not get this opportunity again.

Vote no today, and every road, bridge, highway construction project is cheated. Vote no today and every highway job not only next year but until

the year 2010 will be in jeopardy, running short of money. I do not know if we can ever get this kind of funding package put together again.

Let me suggest to you how tenuous it was on aspects of this. Disagreements between me and the House of Representatives a year ago last summer—not differences involving Democrats and Republicans, differences involving Republicans, between me and the House of Representatives—to get this put together so this money would come into the highway trust fund, so we would take care of this issue of fuel fraud.

The Vice President of the United States intervened to bring a compromise together a year ago last June because, quite frankly, I thought a year ago now we were going to have the highway bill passed, and this was going to be part of the highway bill, to bring this \$24 billion into this road fund. You do not get opportunities like that very often. You do not get strokes of luck like that very often to get to where we are today.

Now, the other thing about being where we are today is this bill before us is not a highway bill. The highway bill should have passed, but I guess now it is going to go over until next year. That is not in my area of responsibility, so I am anticipating what other Senators would tell you. But we have the good fortune of people looking very broadly at what is good for America or not good for America, and feeling that this provision of \$24 billion into the highway trust fund so we do not lose this revenue—and we have already lost some—we have this opportunity now. We can do it in this JOBS bill as opposed to the highway bill so we don't lose that revenue.

One other thing that is in dispute is why we don't have the regulation of tobacco in this bill. I don't know how the Senate Finance Committee that deals with taxes and trade and Medicare and Medicaid and Social Security and welfare and pensions and Customs and the IRS, all of those things, how we get saddled dealing with an issue that belongs in the Committee on Health or the Committee on Agriculture. But we got it dumped on us.

I don't know why the Health, Education, Labor Committee that has this in their jurisdiction, particularly when Democrats are complaining about it not being in this bill, couldn't have passed that in the year 2001 and 2002 when they controlled that committee. But, no, they dumped this on us. Anyway, we have to deal with it, and it is not in there. It makes some people mad, both Republican and Democrat.

I want everybody to know, even though it should not have been in this bill, I voted for it on the floor of the Senate to hasten this bill along, to put it in here, and I offered it to the House of Representatives that it be included. I didn't offer it; one of my colleagues offered it. But I supported my colleague because I thought regulation of



nicotine was legitimate. Now it is not here, and we had a lot of speeches last night and today about it. So I want to speak about that.

I voted for this despite the growing problems that are coming to light about the FDA falling down on its current responsibilities. And my investigative staff has been in the middle of that, of buyouts, as an example, trying to get the FDA to recognize that their scientists are trying to tell us there is some danger out there. And they won't listen to them; in fact, they tried to suppress it. Or antidepressants, as in the case of the FDA scientists raising questions about that and being stomped on for a year until finally the study committee studied it and voted 15 to 8 that there ought to be a warning put on antidepressants for children because they are committing suicide. Yet people want to put more on the back of FDA when they have problems there.

Anyway, that is a whole other issue. The FDA has come under investigation, including my own that I have just talked about, involving Vioxx, as we have been reading about within the last week. It was revealed by my Finance Committee staff that it looked as though the FDA pressured employees to suppress negative findings regarding Vioxx.

In today's paper, we read about what looks like the FDA falling down on the job in regard to the flu vaccine crisis.

So, I hope some around here aren't trying to mislead the American people into thinking that FDA regulation is some kind of panacea for smoking.

I heard one Senator from the other side say that we sided with the tobacco companies when the FDA provision failed. Well that is interesting. That is surely what opponents would like you to think. But, there is a dirty little secret involved here. Or, at least it is a secret vis-a-vis the public.

The fact is, the tobacco companies are divided on whether there should be FDA regulation. In fact, the largest tobacco company actually supports FDA regulation, and has been lobbying heavily and pouring money into the effort to get it.

Why? Well, for one thing, a great deal of its business is overseas, and it will therefore be immune from FDA regulation. This will give it a competitive edge against its competitors. So, the tobacco companies, or at least the biggest one, is much more in favor of FDA regulation than against it.

Therefore, anybody trying to frame this as tobacco versus kids, or tobacco versus health groups, is just flatly misleading the public.

But, even for those of us who pushed for FDA oversight, our legs were cut right out from under us during the negotiations. And guess who cut the legs right out of from under us? The leadership of the Democratic Party cut the legs right out from under us. That's who.

The leader of the Democratic party, Senator KERRY, went down to North Carolina to talk to tobacco farmers.

Guess what he said. He said he'd support a tobacco buyout with or without FDA regulation.

So, it looks to me like the senior Senator from Massachusetts didn't communicate very well with the junior Senator from Massachusetts—or vice-versa.

Moreover, we had the Democratic Senate Campaign Chairman saying the same thing last week. He said he didn't need FDA regulation with a tobacco buyout.

And, he even had his candidate for the North Carolina Senate seat up here lobbying right over in the conference committee room to get this buyout through, with or without FDA. Can you believe that?

And, to add insult to injury to the Democratic Senators from Massachusetts, and Iowa, the Senate Democratic Leader even signed the conference report.

So, obviously, when the House leadership knew the votes were there in the Senate for a buyout without FDA, they weren't about to agree to it in conference, and there's no way we could have successfully pushed it.

Now, what more does it take from their own leaders to undermine what the Democratic Senators from Iowa and Massachusetts wanted to do? Seems to me they need to get their own house in order before criticizing others.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. GRASSLEY. Does that mean all the time we had remaining on this side?

The PRESIDENT pro tempore. The Senator has 15 minutes, but it occurs later in the allocated time.

Mr. GRASSLEY. I thank the Chair.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Louisiana has 30 minutes under her control that is supposed to start about 11:40.

The PRESIDENT pro tempore. That time starts at 11:52.

Mr. REID. With the consent of the Senate, I yield 10 minutes to the Senator from Louisiana from the time of Senator DORGAN, who will not use his time, and I would ask unanimous consent that her time begin now.

The PRESIDENT pro tempore. Senator DORGAN only has 5 minutes.

Mr. REID. Senator HARKIN has 5 minutes, so I will yield Senator HARKIN's 5 and Senator DORGAN's 5 to her, and her time will start running now, for a total of 40 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Louisiana is recognized for a period of 40 minutes.

Ms. LANDRIEU. Mr. President, I want to begin by thanking Senator GRASSLEY, chairman of the Finance Committee, for his hard work on this bill. It has been a very difficult and complicated process. He and his staff, as well as Senator BAUCUS, have done

an extraordinary job moving a \$137 billion tax benefit bill through the Senate and through the Congress over the last 2 years. We have been intimately involved in the building and crafting of this bill. There have been literally hundreds of meetings, hearings, debates, and negotiations, some public and some in private, over the last 2 years to put together a bill that is \$137 billion.

My colleagues will note these bills that are on their desks that have been here since Thursday morning. This was printed Thursday morning or Friday morning and distributed to us, the first time that we have had this in its entirety to read its contents and to understand what is in it. We had our version, but we sent it over to the House and then the conference version came back.

Mr. GRASSLEY, the Senator from Iowa, and the Senator from Montana have done a great job trying to provide a lot of good provisions in this bill. I am going to speak about that specifically in a moment. But before he left the floor I wanted to commend him for his work.

I rise today to speak for 40 minutes and will continue to speak throughout the course of the debate, which may go on for a day or two or three or four until we finally wrap up the business of this session. I will continue to rise and speak about one item that was conspicuously and unconscionably and unjustly left out of this bill. There was one item that we had passed out of the Senate, a unanimously by voice vote, Republicans and Democrats, unanimously sent over to the House, to include in this \$137 billion tax bill an amendment for the Guard and Reserve called the Guard and Reserve Paycheck Protection Act—the Guard and Reserve, the 640,000 men and women who have been called up since the conflicts started in Afghanistan and Iraq, the men and women on the front line supporting our Active troops, protecting us at ground zero of the war on terror in Iraq and Afghanistan.

We had a provision in there to keep their paychecks whole. It was taken out by the Republican leadership of the House.

Before I get into the details, let me just divert and say, to get off on a little bit of a lighter and more positive note, I congratulate our LSU team, our Southern team, and our Grambling team for winning on the football field last night. LSU came back from a very dramatic game, which I got to watch part of after being here late into the night, and won 24 to 21 over Florida. Southern beat Alabama 33 to 24, and Grambling beat Mississippi State 34 to 26. And Louisiana at Monroe beat Idaho—I am sorry to say to the Senator from Idaho—16 to 14. The teams from Louisiana won last night.

I feel strongly that the people of Louisiana would like us to make our best effort to make sure that we can win throughout this week, whether the action is taken now or the action is

taken sometime in the near future, for us to win for our Guard and Reserve on the front lines.

I don't know why the provision was left out, but I would like to share a visual that is pretty dramatic. I have shared it before. I want to be clear: I have spoken on this on and off for several hours for the last 5 days. I don't object to anything in this bill. Although there are other Senators on both sides, Senator MCCAIN, Senator HARKIN, Senator DEWINE, Senator KENNEDY, other Senators have expressed real concern. I appreciate those concerns. But that is not my issue. That is not why I have stood on this floor objecting.

I am objecting to the passage of this bill because it left out the men and women who are on the front line of the war on terror, whether they are at home as first responders or in Iraq or Afghanistan. Members of our Armed Forces were left out of a \$137 billion tax credit bill. We could not find one page, one paragraph, one sentence to include them in. You can sit here all day and read this bill. I am going to see how many pages are in the bill. It looks like there are about 650 pages of provisions. We refer to this around here as the FSC/ETI legislation. We have been working on it for 2 years. It is supposedly a jobs bill. It supposedly provides tax relief to good companies, large companies, small companies, companies that import and export, companies that perhaps deserve the relief.

The bill started out correcting a decision made by the World Trade Organization to correct basically a \$50 billion problem. But as you know—because the President pro tempore is experienced and is chairman of the Appropriations Committee and one of the senior Members of this body—tax bills have a tendency to grow. They keep growing and growing and growing and getting bigger and bigger and more and more expensive because it is very tempting for individuals and corporations and people who petition their Government who want relief or some special credit or want some special provision or think they are not being treated fairly—they petition all of us.

Well, there was one group that sent some of us a letter. I would like to read from this letter, the statement they sent, the Reserve Officers Association of the United States of America, the men and women on the front line. It was signed by Robert MacIntosh, who represents the major general: We continue to support tax credits for employers of reservists and National Guardsmen.

This position is a result of a problem faced by employers of Reserve members who support our forces when they are mobilized. The extended mobilization and stop-loss authorities, which means basically a backdoor draft, enacted by the President and the service Secretaries to support Operation Iraqi Freedom and Enduring Freedom in Af-

ghanistan have served only to exacerbate these problems. Many employers want to extend pay and benefit coverage to the reservists but are finding this to be an unanticipated, long-term expense as operations in Iraq and Afghanistan entail multiple years of mobilization. Reservists are finding re-employment and employment difficult for the very same reason. As reservists' employers shoulder the burden of extra costs to support the employee's participation in the military, they become direct contributors to our Nation's defense. Employer pressure is listed as one of the top reasons for reservists to quit military service.

The ROA is disappointed to learn of recent actions by the House that defeated, by a voice vote, an attempt to revive amendment 3123 to Senate Report S. 1637, which would have provided a credit for the replacement employees of ready Reserve and National Guard employees called to military active duty.

The Reserve Officers Association of America—I am going to paraphrase here—represents the men and women who are carrying, in many ways, 100 percent of the risk, taking 100 percent of the bullets, leaving their families for hours and weeks and months and days for their training and their deployment.

I am paraphrasing this to say that the ROA urges Congress to support the employer tax credit as a means to eliminate civilian employment conflict and support recruitment and retention efforts.

It has come to the attention of some of us who have been involved in the Armed Services Committee—I have served on that Committee for several years and continue to support provisions through my position on Appropriations, as the Chair does, and many other Members of this body, support for our troops. I have supported provisions that support the Guard and Reserve as well as our Active because of many reasons but one in particular, which is that in the last several years, as you can see from this chart, our Government—all of us, the past President, the current President, the past Congress, this Congress, and Members from both sides—has basically rewritten the policy of defense. We have said we are going to have a total force structure, and it is going to be composed of 1.6 million Active-Duty officers—soldiers, sailors, marines, and Air Force—and we are going to have 1.2—that is the troop strength of our Guard and Reserve.

One of the reasons we count on the Guard and Reserve is for the benefit of the taxpayers, because it is not as expensive. They have civilian jobs and they only go when called up. They don't have to support them 24-7, year after year. We ask them to be ready. The least we can do is send them to Iraq with a full paycheck. We didn't do that because there are higher priorities in the bill. Every Member has come to

say something about a priority in this bill. It could be any number of manufacturers. But for the record, for this Senator—and I know others join me—there could not possibly be any higher priority in this country today, right now, than the men and women who are fighting on the front lines in Iraq, Afghanistan, and their families who support them.

As you know, Mr. President—and I do because I have visited many bases and spent a lot of time with our troops—the truth is that most of the soldiers are used to sacrificing. It is why they signed up in the first place. They think it is a virtue. That is something we can learn more about in this Chamber, including me. I don't sacrifice nearly as much as I should. They are quite an inspiration to us. They don't mind making the sacrifice. I have not had one soldier bellyache about anything, even those who lost their arms and legs. Most of them say: Stitch me up and let me go back to the front line. That is admirable. You would think we could honor their service with more than pictures and words or by putting them in a bill.

They didn't ask for the whole bill or half of the bill or even for 25 percent of the bill. They asked for \$2 billion out of \$137 billion. We could not find it anywhere. We could not find the time, the will, the attention, or the focus to give them a little percentage of this bill.

Let me tell you how many of them we call up. We seem to be able to find their phone numbers when we call them to service but not to put them in the bill. From 1953 to 1989, we called up 200,000 Guard and Reserve. This was the traditional way we operated in our Government to protect the country. We would call them up when we absolutely had to: during the Berlin crisis of 1961, we called up 148,000 of them, and 148,000 families stayed home and prayed for their safe return. During the Cuban missile crisis, we called up 14,200, and 14,200 families stayed home and prayed along with their neighborhoods, churches, and places of employment for them to come back. You can go through this list. There were 199,000 from 1990 to 2004, just in the last 14 years, 8 of which I have been a Senator in this Senate and a member of the Armed Services Committee, so I know something about this. We have called them up time and time again and told them to leave their wives, their children, their employment, and go to the front lines. And they go—proudly. They don't ask for much. They served in the Persian Gulf war, 238,000 of them. They went to Haiti, 3,680. They went to Bosnia, 29,670. They served in Operation Southern Watch, 2,038. They went to Kosovo, 5,933. And they went to Afghanistan.

Today, before I came to the Senate to speak, I turned on television set and the headlines this morning across the Sunday shows is "Elections Going on in Afghanistan." Who do we think made those elections happen? Did we



just wish for those elections to happen? I don't think so. Our troops made those elections happen. They wouldn't be happening without our Guard and Reserve troops, and our Active Forces.

I don't care how many speeches we give. I don't care how many bills we write. I don't care how many budgets we pass. The fact is, those elections would not be taking place today if it were not for these troops. They are good enough to get those elections started, but they are not good enough to be in this bill? That is why I am standing on this floor until the last possible minute that I can to delay these proceedings—not to be obnoxious, not to be ridiculous, not to be uncooperative, not because I don't support transportation, not because I don't support shipbuilding, but because I think we owe it to our troops to stand up for them. And I plan to do it.

Now I am going to talk about a couple of arguments I heard.

Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 23 minutes 25 seconds.

Ms. LANDRIEU. I thank the Chair. I want to talk about a couple of arguments I have heard the last couple of days, directly and indirectly, about why some Senators would object.

I want to be very clear. I know, as sure as I am standing here, at some later date I am going to have some sort of critic of mine, and I have my share of critics, standing up saying: There goes Senator LANDRIEU again. She's against tax cuts. She's trying to slow up our transportation bill. She's trying to slow up the highway bill. She never supports tax credits.

I am going to keep saying for the record the only reason I stand here, the only reason, is to try to get this Senate to do what it did a couple of weeks ago, which was to send over to the House of Representatives a bill that would include the Guard and Reserve.

There is nothing I can do as a Senator to make the House Republican leadership respond other than to bring this to light, to urge my colleagues to stand with me, Republicans and Democrats together, over here in the Senate, and send the bill back to the House and ask for them to consider it again. Maybe they made a mistake. Maybe they didn't realize this was one of the items. I don't know. I am not on the Finance Committee.

I sent a letter. Twenty-one of us signed it. I put it in the RECORD before so I won't read the letter, but it is addressed to Chairman GRASSLEY; to Ranking Member BAUCUS; to BILL THOMAS, chairman of the Ways and Means Committee; and to CHARLIE RANGEL, the ranking member.

I see Senator BAUCUS has come to the floor. I know he supports this provision, I know Senator GRASSLEY supports this provision, and I know CHARLIE RANGEL supports this provision. What I am not sure about is the chairman, BILL THOMAS. I don't know,

maybe he didn't realize it was part of the request. There were over 2,000 requests, as you can see. I don't know how many items are in this bill, but it has to be thousands of items. I know it is difficult, so I am assuming he didn't know about it. That is why I am spending some time talking, so maybe the word will get there.

Twenty-one Senators signed this: KIT BOND of Missouri, a leading advocate for the Guard and Reserve signed this letter, along with MARK PRYOR, CHRIS DODD, DANNY AKAKA, BYRON DORGAN and Senator MIKULSKI and Senator LAUTENBERG, Senator MURRAY, Senator CORZINE, Senator CANTWELL, Senator SCHUMER, Senator NELSON, Senator TIM JOHNSON, Senator FEINGOLD, Senator DAYTON, Senator SARBANES, Senator DURBIN, Senator WYDEN, Senator LEVIN, and Senator LEAHY. I am sure there will be other Senators on both sides who will let their views be known to the House Republican leadership.

How in the name of heaven could the House Republican leadership put a bill together and leave out the Guard and Reserve? Tax cuts for fan importers? I want the fan importers to know that I am not picking on them. But I think this picture speaks a thousand words. For some reason—we could find a reason, and it may be a good one. I am sorry I don't know the details of it. I can't talk about it. I understand there is a good reason. Maybe someone could explain it, about the fans. But they are in the bill. The fans are in the bill, but the guys in Iraq or Afghanistan, where it is 105 degrees most of the time, in tents that are hot, carrying 50, 60 pounds of equipment and armor, who could use these fans, can't even get a paycheck to buy the fans.

When they go to Iraq they leave their civilian paycheck at home. They leave the comfort of their families at home. The GAO report is that most of them take a 41-percent pay cut. We couldn't find time to acknowledge that and say: My goodness, we are passing a tax bill, maybe we can fit them in.

We can't fit them in the tax bill. We can't fit them in the Transportation bill. We can't fit them in the Homeland Security bill. We can't fit them in the intelligence reorganization bill because, obviously, we don't think they have anything to do with our security.

Whether you think the front line, as I said, is in Iraq in the war on terror—which is an issue of debate, and I actually could debate that. Maybe it is not exactly the front line. But regardless of whether you think it is the front line, the second line, the third line or the back line or whether you think it is in Afghanistan, the fact is, we sent them there. We sent them there with half a paycheck, or 75 percent of their paycheck, so their families at home can lose their houses and lose their cars?

If anybody doesn't think that is true, please go to my Web site or talk to me. I will most certainly give the information to you. You know it yourself. You have seen the reports about the sacrifices families are making.

There are some other arguments that were made about this. One of them was Senator LANDRIEU and others are just complaining. They want to slow the process down. I hope I have answered that argument. I hope my colleagues and the leadership know I am not trying to be uncooperative. I understand people's schedules. I have two children, 12 and 7; I understand schedules. But my family supports it. They understand what I am doing, and I told them if it takes 4 days or 5 days or 3 days or 2 days, it is going to take it. I am sorry. But I think I owe it to the 5,000 men and women from my State who are serving in Iraq and Afghanistan because I just went home 3 weeks ago and waved goodbye to a lot of them.

I have been to Fort Hood and Fort Polk, telling them I am with them, taking pictures with them, and I'll be darned if I will take the pictures with them and not stay in the Senate and fight for them.

One of the Senators came to the floor this morning to argue we had eliminated the haircut provision—whatever that is. We support, in this bill, contributions of our industry. What about the contributions of the employers, small businesses and large businesses, that are carrying the extra burden of our defense by making those paychecks whole, sometimes at great difficulty to those businesses? What about these companies? I am going to provide a list in just a minute of some of those companies, which I have for the RECORD, but hundreds of companies, thousands of companies are trying their best, in some difficult times, to make those paychecks whole.

Why should we be giving tax credits to every other company? Some of them may overlap, but there is no mention of that in this bill. There is no direct support to the many companies that are being patriotic, that are doing the right thing.

Let me say something about these companies that are the beneficiaries in this bill. Again, many could be in shipbuilding, could be other manufacturers—I don't think there is one company that benefits from this bill, small or large, with 5 employees or 50,000 employees, that would say to the Members of the Senate: Please put me ahead of the Guard and Reserve. I don't believe it. That is why I have confidence I can stand here and I can talk about this. I do not think one industry in my State believes that in any way I am trying to take a penny away from them.

But for our Guard and Reserve, and their employers, in a time of war, at a time of great sacrifice, to ask to be included in the bill, I think they will find it very difficult to explain why they are not.

I know the third argument people have made, and I think I heard the chairman talk about it, is this is a jobs bill. I know jobs are important. I would like to make more happen in my State to create private sector jobs, high-paying jobs, good jobs. I do believe there

are some provisions of this \$137 billion bill that will create jobs. But what job could be more important to our security than the job of our men and women in uniform and their service to our country?

Again, let me put up a chart that shows how many have gone, how many are serving, and to ask what we might do for them.

There is a total of 690,000 Guard and Reserve who are, right now, on the front line. Each of them, I presume, has some outside employment. Maybe some of them are working two jobs in their civilian life. These are doctors, lawyers, architects, truck drivers, policemen, firemen, nurses. There are 90,000 of them on the front line doing the work, but they are not in the bill.

Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 13 minutes 12 seconds.

Ms. LANDRIEU. Mr. President, in all of our States this is the number of the National Guard on active duty or alerted. You can see here that it is a very high percentage in many places in the country.

In Louisiana I have almost 40 percent of our Guard and Reserve who have been called up and activated.

In Washington State, 46 percent, almost half of their Guard and Reserve, have been activated.

In the State of Texas, 28 percent have been activated.

We can see this in every part of this Nation from the east to the west. In Hawaii, 57 percent—57 percent, almost 60 percent of the Guard and Reserve from Hawaii have been called up to serve.

These numbers may fluctuate as the needs of our military and the decisions made by the executive branch, the President and the Pentagon, change about where to shift these forces. But every one of these percentages represents thousands and thousands of families who are taking the direct burden of this.

I know we have tried to help them with pay increases. I know we have tried in other bills to help them improve their pensions. I have been part of most of those fights. I am proud to say in most of those fights we have been successful—but not always. My question is, Why do we only have to help the Guard and Reserve or the Active Forces in the military bills, in the Defense bills? Why can't we help them in our health care bills, in our tax cut bills, in any way we can? If we can afford it, we should step up to the plate. We should step up to the plate and do it.

I think I heard the chairman of the Finance Committee say earlier this morning that he was very proud that the Vice President himself could step in, and did step in—the Vice President of the United States. I think he said he stepped in to help the negotiations on a Transportation bill so we could get highways built in this country. I hope

the Vice President and the President himself would step in and say, "We made a mistake," or "We just missed the issue," or "We just missed the item," or "We just didn't focus on it as we should," or "The House leadership didn't focus, and let us make it up. Let us put it in this bill. Let us put it in another bill to help our Guard and Reserve."

There are many ways that this could be corrected.

Mr. GRAHAM of South Carolina. Will the Senator yield for a question?

Ms. LANDRIEU. I will be pleased to.

Mr. GRAHAM of South Carolina. I have been listening to the debate. I am sure putting together legislation is a very complex matter right at the end of the session. I need to make a comment and ask a question.

I could not agree more with the state of affairs as has been described by the Senator from Louisiana. The Guard and Reserve are being used in historic fashion. Does the Senator realize that of all the part-time employees who exist in the Federal Government, the Guard and Reserve is the only group that does not have full-time access to health care?

Ms. LANDRIEU. I am aware.

Mr. GRAHAM of South Carolina. Does the Senator further realize that at least half of the people called to active duty from the Guard and Reserve leave behind civilian jobs and thus have a reduction in pay, sometimes substantial?

Ms. LANDRIEU. I do believe that.

Mr. GRAHAM of South Carolina. Does the Senator agree with me that no matter what happens in the last hours of this session, that next year, because 40 percent of the people serving on active duty in Afghanistan, Iraq, and other places are going to come from the Guard and Reserve, that we need to fix this, and whatever excuses exist today why we can't, that the Senate and the House need to understand that thousands of families are going off to get in a fight, getting injured, getting killed, and having their pay cut and no health care, and that the No. 1 priority of the Senate and House along with whomever is the President next year is to rectify some of these problems?

Ms. LANDRIEU. I thank the Senator from South Carolina. I thank him for his help and support. I work on many issues with him, and he is, as a member of the Guard and Reserve, most certainly aware of these situations. I know the Senator from South Carolina is not asking this for himself because the situation with his family is probably stable and steady. I know the Senator understands that many of the men and women he serves with don't have that same kind of security.

So we are asking them to provide security for us, and we can't find the time for a page or paragraph or a letter to find security for their families. I don't understand it and my constituents don't understand it. Most cer-

tainly the men and women in the Guard and Reserve in Louisiana, 12,000 families, do not understand it.

And so I frankly do not want to go home. I don't know what I would tell them when I do go home, how we could pass a \$137 billion tax cut bill and forget them. How could we possibly forget them?

I got something from Senator DORGAN which is extremely upsetting to me I will speak about later today because I plan to speak and I am going to connect these dots for people. Maybe one reason we forget them is because there are corporate network executives demanding affiliates take the name of the dying soldiers off the reports at night. That is one way Americans could forget them. We don't want to take pictures of the funerals. We don't want to put their names on the screen, so we just forget they are dying. I understand that. Maybe there are good reasons. I don't want to get into that debate because it gets us into, well, some of the families want it, some of the families don't. I understand that. But still, even if they are not being scrolled on the television, if that is not the right thing to do, surely the Senators and elected leaders who represent them do not need to be reminded by the scrolls on television of those who died.

Many of us have been over to Walter Reed Hospital and visited them personally. Do we need to be reminded? I don't think I had to go stand at the conference committee and tell Chairman THOMAS. And I am going to speak later today about Chairman THOMAS's district and about what his district is like, and I am sure he knows that. I have done a little research myself about that, so maybe people in his district could get word to our colleague because while it is important what we say to colleagues, what is most important, as you know, is what our constituents say to us.

How much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 5½ minutes.

Ms. LANDRIEU. The third argument that I have heard from some people about why I should sit down and stop talking is because some people are opposed to tax credits. Some people don't like tax credits. Some people think it is an inefficient way to operate the Government.

I am not on the Finance Committee. All I know is when I run for the Senate and when I talk to people at home, everybody likes tax credits. I have tried to provide as many tax credits and some relief for a variety of different individuals, and all I hear every day from this administration is tax cuts, tax relief, tax credits. I hear that all the time whether we have a surplus or deficit, whether we are at peace or war, whether we need to spur the economy or slow it down. All I hear from the administration is about tax cuts and tax credits. But there are Senators who come to the floor, might come to the

floor and say they are going to oppose them because they don't believe in tax credits. So I want to put nine of the tax credits that are in this bill in the RECORD.

Section 221. Modification of targeted areas in low-income communities for new markets tax credits is in this bill—\$137 billion.

Section 245. Credit for maintenance of railroad tracks. Establishes a business tax credit equal to 50 percent of qualified expenditures for railroad track maintenance, capped at \$3,500 per mile. So we have a credit in here for railroads as they maintain their tracks, and we cap it at \$3,500 per mile. Now some good staff person could calculate how many miles of railroads we have and figure up how much that costs the taxpayers. Maybe it is a good thing, Mr. President. I don't know. But I will tell you what would be a higher priority for the constituents in my State—to send 1 mile, 1 mile of the railroad tax credit to one family so they could pay their house note.

No. 5. Appointment of small ethanol producer credit. Provision clarifies that the small producers' tax credit flows through a member of a cooperative.

No. 6. Section 339. Credit for production of low-sulfur diesel fuel. Provides that a small business refiner may claim a credit equal to 5 cents per gallon for costs paid to comply with the EPA sulfur regulations. The total production credit is limited to 25 percent of the capital costs to come from compliance with EPA requirements.

No. 7. Section 341. Oil and gas from marginal wells. Some of these are in the State of Oklahoma, some in my State of Louisiana. It adds the marginal well production tax credit. The credit is \$3 a barrel of oil or .50 percent per thousand cubic feet of gas. The credit is not available if the reference price of oil exceeds \$18 a barrel. The last I checked it was \$50 a barrel. So we can give tax credits to oil companies and gallons. We can't give a paycheck to the Guard and Reserve to put fuel in their car.

Now, I am obviously upset, but I am going to try to be respectful, but I have to tell the truth, and that is the ugly, unvarnished, unedited, uncensored truth about this bill, and so we are going to stay here till Thursday. I am prepared to stay here morning, noon, and night. I am going to be respectful. I am not going to get into any arguments and I am not going to raise my voice above this level. I am not going to be talked down. I am not going to be spoken down to because I am not speaking for myself. I am speaking for the 5,000 men and women who left Louisiana and are overseas, and if I don't speak for them on this floor, they don't have anyone to speak for them, so I am not leaving.

How much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 1 minute 16 seconds.

Ms. LANDRIEU. So the last minute and 16 seconds that I have this morning

before we vote on cloture, which I will not be voting for, I want to ask my colleagues, whatever they can do in the next 4 days to help this I would appreciate it. I understand schedules are tough, and I am not going to make a comment if no one else says anything or shows up or signs a letter because I understand we have a lot of things going on, very important things, and I would not be the least bit disrespectful to my colleagues in this Chamber. But I want them to know, my colleagues, that that is why I am here, and I am not leaving. I am not leaving this Chamber. So I want to apologize ahead of time to anyone I inconvenience. I hope they understand.

I yield back my time.

Mr. REID. Mr. President, Senator HARKIN still has 5 minutes.

The PRESIDENT pro tempore. Not yet. There is 7 minutes in between the Senator from Louisiana and the next time bracket.

Mr. REID. Senator HARKIN has 5 minutes under the order.

The PRESIDENT pro tempore. The time used in making the agreements was 3 minutes, so unless the time is extended, Senator HARKIN has 2 minutes.

Mr. REID. Mr. President, when we started this morning we asked unanimous consent that the time that was taken by the leader would be agreed to. That was clearly in the RECORD. Would the Parliamentarian confirm that?

The PRESIDENT pro tempore. The Senator is correct. Under the current situation, Senator KENNEDY has 5 minutes, Senator HARKIN has the remaining time before 12:22, Senator BYRD has 20 minutes, and then Senator GRASSLEY and Senator BAUCUS have 30 minutes divided.

Mr. REID. Is that right, how much time Senator HARKIN has left?

The PRESIDENT pro tempore. No.

Mr. REID. How much time does Senator HARKIN have?

The PRESIDENT pro tempore. He has 2 minutes.

Mr. REID. I don't understand that. Why did we lose that time?

The PRESIDENT pro tempore. The Senator yielded, and in the course of that the time was used. Does the Senator wish to extend the time to the Senator—

Mr. REID. Senator GRAHAM will need 5 minutes, so I ask unanimous consent that he get 3 minutes and Senator GRASSLEY get an extra 3 minutes. So that will give Senator GRAHAM 2 minutes of HARKIN's time plus the 3 minutes that I have asked be on our side and 3 minutes extra on Senator GRASSLEY's side.

The PRESIDENT pro tempore. And the time for the vote to be extended accordingly.

Mr. REID. Yes.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized for 5 minutes, followed by the Senator from Massachusetts for 5 minutes, and following that time Senator BYRD for 20 minutes and thereafter

Senator GRASSLEY and Senator BAUCUS will have 30 minutes divided, and after that time expires we will have the vote. Is there objection to that recitation?

Without objection, it is so ordered.

The Senator from Florida is recognized for 5 minutes.

Mr. GRAHAM of Florida. Mr. President, I want to express my admiration for the very strong and effective case the Senator from Louisiana made about what are our priorities, and that is the same issue I want to raise. I am going to talk about when these National Guard come home, will they have a job?

The statistics are that we are losing on average 5,000 jobs per day to foreign countries. That is the extent of outsourcing which is occurring in this country, and if there is one issue I believe the country is united on, it is that while there are things we cannot directly affect—we cannot directly affect that other countries are going to have lower wage rates and lower working conditions, we cannot affect the fact that some countries are going to have lower environmental standards—those you could describe as the consequences of the marketplace—but, Mr. President, we sure do not need to socialize the outsourcing of jobs by giving additional incentives for American companies to take American jobs to China or to any other foreign country, and that is exactly what this bill does. It socializes outsourcing by increasing substantially the tax incentives to move jobs out of America.

This proposal contains \$42 billion over 10 years for a dozen or more provisions, all of which are aimed at moving jobs out of the United States. The actual cost is substantially more than that. Mr. President, just one provision of this matter which represents one-third of that total, \$42 billion, do you know does not go into effect until the year 2009? You can imagine what the real 10-year cost of this proposal is going to be. This \$42 billion in international tax changes to encourage outsourcing is greater than the net tax cuts we are providing to domestic manufacturers, and yet the whole purpose of this enterprise was to increase the competitiveness of American manufacturers.

Let me give you one example of what we are doing. We are going to provide that U.S. multinationals which have taken jobs in the past outside the United States and have earned a profit and now want to bring that profit back to the United States, that they are going to have a tax rate on those repatriated funds not at the 35 percent that their American counterparts pay when they give the work in the United States. Can you believe it, Mr. President, that we are going to tax those repatriated funds from foreign jobs, outsourced from America, at 5¼ percent? That is an absolute outrage. And let me just tell you a group that is not exactly averse to outsourcing because

it has publicly supported it is the President's Council of Economic Advisers. In a letter, which, Mr. President, I ask unanimous consent to have printed in the RECORD, dated October 4 from the Secretary of the Treasury, Mr. John W. Snow, here is what the Council of Economic Advisers says:

... analysis indicates that this repatriation provision would not produce any substantial economic benefit.

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

DEPARTMENT OF THE TREASURY,  
Washington, DC, October 4, 2004

Hon. CHARLES E. GRASSLEY,  
U.S. Senate,  
Washington, DC.

DEAR CHAIRMAN GRASSLEY: As you work through the conference on legislation to meet our World Trade Organization (WTO) obligations and repeal the current foreign sales corporation/extraterritorial income (FSC/ETI) tax benefit, I write to offer the Administration's views on major issues raised by this important legislation.

First of all, I applaud your efforts to replace the current FSC/ETI benefit. This legislative process has been unique, in that the impetus for the legislation was a WTO ruling and subsequent EU sanctions. The Administration recognizes the challenges of moving a large tax bill under these circumstances and appreciates the efforts you have exerted to succeed.

In our Statements of Administration Policy (SAPs) to the House and Senate, the Administration emphasized its broad priorities for legislation to replace FSC/ETI. These include ending the European Union (EU) sanctions and promoting the competitiveness of American manufacturing and other job-creating sectors of the U.S. economy. As you know, the EU sanctions are escalating at a rate of 1 percentage point per month and will inflict an increasing burden on American exporters, American workers, and the overall economy. The Administration is committed to working with conferees to end these sanctions as quickly as possible.

The Administration believes that a conference report to replace FSC/ETI should be budget neutral. Both the House and Senate-passed bills include a myriad of special interest tax provisions that benefit few taxpayers and increase the complexity of the tax code. Legislation taking up more than 1000 pages of statutory language (or even 400 pages) goes far beyond the bill's core objective of replacing the FSC/ETI tax provisions with broad-based tax relief that is WTO-compliant. The Administration will work with the conferees to eliminate these narrowly crafted provisions.

The Administration will also work to make the tax relief in this bill as broad as possible to benefit all job creating sectors of the American economy.

The Administration has strong concerns regarding the so-called "haircut" provision in the Senate bill which would needlessly complicate the tax code and interfere with the ability of U.S. businesses and American workers to compete in the global marketplace. Worse, the provision would deter companies operating internationally from investing and creating jobs in the United States. More than 5 million Americans work for international companies at facilities here in the United States. The Senate haircut could endanger the growth of direct foreign investment into the U.S. and the jobs such investment creates in the U.S. The Administration urges the conferees to eliminate this provision from the conference report.

In addition to these provisions, the Administration also has concerns regarding the fairness of the repatriation provision included in both bills. This provision would offer international corporations a partial "tax holiday" for repatriating foreign income that is currently held overseas. U.S. companies that do not have foreign operations and have already paid their full and fair share of tax will not be able to benefit from this provision. Moreover, the Council of Economic Advisers' analysis indicates that the repatriation provision would not produce any substantial economic benefits. The Administration believes the \$3 billion revenue cost of this provision could be better used to reduce the tax burden of job creators in the United States.

The Administration commends the House and Senate bills for including many provisions that close corporate tax loopholes and tax avoidance schemes. The Administration supports elimination of the Sales-In/Lease-Out tax loophole, but has concerns regarding efforts to apply this proposal retroactively. The Administration opposes attempts to codify the Economic Substance Doctrine. The Administration supports complete elimination of the "SUV tax loophole," except for cases where there is a demonstrated legitimate business need for a large Sport Utility Vehicle.

The President's FY 2005 budget included energy tax incentives totaling \$7 billion over ten years. These incentives were dedicated to alternative and renewable fuels, conservation, energy efficiency and emissions-free energy. During the energy bill conference, the Administration expressed additional support for certain tax provisions supporting the Alaskan pipeline, and encouraging investment in electric transmission. Finally, as part of the highway bill discussions, the Administration has expressed support for shifting the ethanol tax credit (VEETC) from the Highway Trust Fund to the general treasury. The Administration is concerned that the energy tax title in the Senate bill goes far beyond these positions and includes provisions whose revenue loss greatly exceeds policies that the Administration has previously agreed to. Energy tax provisions in the final bill, if included at all, should be limited to only those provisions mentioned above that reflect the President's priorities of environmental protection and energy conservation and maintain needed fiscal discipline.

The Administration opposes the Senate amendments which effectively vitiate the Department of Labor's new rules to improve the nation's outdated overtime laws. The Department's revised rule strengthens overtime protections for 6.7 million low-wage workers by simplifying complex eligibility tests and by raising salary thresholds that have not been changed in almost 30 years. In contrast, the Harkin amendment would lock in the old overtime standards and part of the new overtime standards, requiring each job to be analyzed twice, once under the old rules, which are no longer in effect, and once under the new rules proposed by the Department of Labor which would have been in effect for months. Consistent with past Administration positions, if the Harkin amendment or other limitations to the Department of Labor's rule making authority is included in the final version of the FSC/ETI legislation, the President's senior advisors would recommend that he veto the bill.

The Administration is open to a tobacco buyout as long as it meets certain conditions. We believe the buyout must end all aspects of the tobacco program and not replace them, should do so at a reasonable cost that is fully offset, and should be consistent with WTO rules. The Administration promises to

work with interested parties to craft a tobacco buyout that ends federal subsidies of tobacco growers while meeting these criteria.

On behalf of the Administration, let me express our willingness to provide assistance during the deliberations of the conference committee. I look forward to working with you to enacting legislation that removes the threat of escalating EU sanctions and encourages economic growth and job creation here at home.

Sincerely,

JOHN W. SNOW.

The administration believes the \$3 billion of revenue cost of this provision could be better used to reduce the tax burden of job creators in the United States.

That is what the administration says about just one of these dozens of provisions.

I have been here for 18 years. Mr. President, you have been here much longer, but I cannot imagine a proposal that would be more repugnant to the American people and more averse to our long-term economic interests.

We have a major challenge in this country. How does the United States remain globally competitive with a standard of living that in some cases is 10 times that of our competitors? We certainly are not going to do it by socializing with our tax dollars the movement of our jobs—the jobs of those National Guardsmen who will be coming back from Iraq and other foreign countries.

This is only one of the many deficiencies in this legislation, but it is a core issue that goes to the global future of the economy of the United States and the future of those men and women who are returning to their jobs from Iraq.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, ours is a government of the people, by the people and for the people. And we should be judged as U.S. Senators in fulfilling that commitment by how well we put the needs of average Americans first. Middle class families are the backbone of America. Our first duty is to them—for a secure nation, for good jobs, for healthy families, for good schools, and safe neighborhoods.

This bill betrays that solemn duty. On issue after issue, page after page, it puts the interests of big corporations ahead of the public interest—ahead of the hopes and dreams and everyday needs of the middle class.

It puts the profits of big tobacco corporations ahead of the health of our children. The Senate adopted the proposal by the Senator from Ohio, Mr. DEWINE, to prohibit tobacco companies from marketing cigarettes to children.

There is absolutely no doubt that tobacco companies are spending \$11 billion each year to lure our children into smoking. Every day, 5,000 children smoke for the first time. More than one-third of those will be regular daily

smokers by the time they graduate from high school.

What future do they have to look forward to? Years of battling cancer? A painful and premature death? Never getting the chance to watch their own children grow up and get married? Never living long enough to bounce their grandchildren on their knees? Is that what parents want for their children?

Tobacco use kills more Americans every year than AIDS, alcohol, car accidents, murders, suicides, and fires combined. Nearly 1 in 3 cancer deaths, and 1 in 5 deaths from heart disease are tobacco-related.

In fact, smoking is the No. 1 preventable cause of death in America. We had a chance to bring to an end the largest disinformation campaign in the history of the corporate world. We had a chance to save our children from this scourge—to save them from the clutches of the tobacco companies. But the tobacco companies carried the day in Congress and the House leadership said no.

Is that what “the people” want? Is that government “for the people”? I don’t think so.

The Senate passed an amendment by the Senator from Iowa, Mr. HARKIN, to stop the Bush administration’s misguided efforts to eliminate your overtime pay. That is right. President Bush says to millions of middle class workers that they no longer deserve the right to overtime pay. And the Harkin amendment would have stopped the Bush administration from doing that.

This comes from an administration that is already costing us jobs. In fact, we learned on Friday that President Bush will be the first President since Herbert Hoover and the Great Depression over 70 years ago to lose jobs on his watch—a total of 1.6 million private sector jobs. And now, on top of that, the President wants to reward his special interest friends by taking away overtime from more than 6 million hard-working Americans. On five separate occasions, the House and the Senate have voted to preserve overtime protections, but the White House stripped them from this bill.

Make no mistake—overtime cuts are pay cuts.

Is that what “the people” want? Is that government “for the people”? I don’t think so.

Finally, this bill outsources jobs.

Middle class families across America live in fear every day that their good jobs will be shipped overseas. The people expect us to protect their jobs. But this bill provides a stunning \$42 billion in new tax breaks for multinational corporations that will make it easier for them to export your jobs.

Imagine that. You are working hard every day, playing by the rules, trying to provide for your family, and faithfully paying your taxes. And this bill uses your tax dollars to ship your job overseas.

This bill is of the corporations, by the corporations, and for the corpora-

tions. It is a lobbyist’s dream and a middle class nightmare. It is an embarrassment to representative government. I urge my colleagues to reject it.

The PRESIDENT pro tempore. The Senator from West Virginia is now recognized for 20 minutes.

Mr. BYRD. Mr. President, I thank the Chair. I thank the distinguished President pro tempore of the Senate, the honorable TED STEVENS, a great Senator from the State of Alaska; as a matter of fact, the Senator of the 20th century for the State of Alaska.

On this Sabbath Day in which the Senate convenes in an extraordinary session, I read from the King James Version of the Holy Bible, Exodus 35, verses 1 through 3.

And Moses gathered all the congregation of the children of Israel together and said unto them, These are the words which the Lord hath commanded, that ye should do them.

Six days shall work be done, but on the seventh day there shall be to you an holy day, a sabbath of rest to the Lord: whosoever doeth work therein shall be put to death.

Ye shall kindle no fire throughout your habitations on the sabbath day.

I now read from the Ten Commandments, again King James Version of the Holy Bible, Exodus 20, verses 8 through 10.

Remember the sabbath day to keep it holy.

Six days shalt thou labor, and do all thy work:

But the seventh day is the sabbath of the Lord thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates:

For in six days the Lord made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the Lord blessed the sabbath day, and hallowed it.

That is the Fourth Commandment passed down from God to Moses and from Moses to the Israelites. Those words are holy for people of many faiths. Christians and Jews are bound to follow the Ten Commandments. Muslims, too, hold dear a similar lesson from the Koran, and scores of millions from that faith also make strict observance of their own day of rest.

But today the Senate has been called into session despite the words of the Fourth Commandment. Moreover, the matter being debated today is no question of life or death. There is no dire emergency that brings us here on this Sabbath Day. There is no emergency that demands the elected representatives of the American people place the pursuit of their work over the importance of their faith. No, the Senate has been called in on a Sunday for a mere procedural vote. What would be the consequences if the Senate were not called into session today for a single vote on cloture? It would only mean that the matter before the Senate might take 1 day longer to complete. What a tragedy that would be.

Must we ignore the sanctity of the Sabbath just to call the Senate into session and have Senate staff come in from their homes throughout the near-by area in order to cast one procedural

vote? The Senate should not be in this position. Our staffs and their families, our own selves and our families should not be in this position.

This Chamber, on the whole, has an excellent record for accommodating the faiths of those who serve the American people. It has become routine for the Senate to temporarily suspend its business so that Senators, both Christians and Jews, can carry out their religious services and their religious observances. In fact, I suggested yesterday that all the Senate would need to do would be to delay the vote until Sunday, today. That would be in accordance with the observing of the old Sabbath. That is when the Sabbath traditionally ends. If only there were a delay in this afternoon’s vote by 5½ hours, Senators would not have been forced to choose between our responsibilities to our Nation and honoring our Sabbath, our day of rest and prayer. This suggestion was rejected.

What is the rush to have this particular vote on a Sunday afternoon? Most of us would like to have observed this Sunday afternoon and this morning prior to noon with our families, would like to have observed the opportunity to go to the church or the churches of our faith. What is the urgent need to keep Senators and our staffs away from their families on this, a day of rest? What message does this send to the American people?

I do not believe a Sunday session of the Senate for such a trivial matter as a procedural vote sets a good example for Christians around this country or Christians around the world. It does not set a good example for anyone who wishes to observe the Fourth Commandment. And for what?

The Senate has been thrown into too much confusion as we rush to finish too much business in too short a time. I have said repeatedly the Senate should not be rushed in its business, especially on complex matters of great national importance. It is a disservice to those whom we are elected to represent.

Now we see that there is another side of that coin. The uncontrollable zeal to get business done as soon as possible has resulted in a decision that is a disservice to those who work in this Chamber. Because of this poor planning, many of us and our families are being forced to give short shrift to our observance of the Sabbath. That is not right.

I am a Christian. I don’t claim to be the best Christian around. My mom and dad were great Christian people. They had never been to school very much. I have heard someone on the campaign trail say he is the first in his family line to graduate from college. Let me say I am the first to enter the third grade in all of my line, my parentage, my ancestor line.

I can say this, though: My old dad and mom who raised me—I was an orphan at the age of 1; my mother died in the influenza epidemic of 1918—the

kind people who raised me were very religious. They didn't carry it around on their sleeve. They did not go around criticizing other people. They practiced. I can remember many times after I had gone to bed hearing my Christian mother on her knees, down in another room, praying, praying, praying. That old coal miner dad who was my uncle—I called him my dad—he was the only dad I ever knew, really. He was a coal miner. When he died and left this world he didn't owe any man a penny. He never criticized anybody else. I didn't hear him ever in all my years use God's name in vain. So those were my Christian parents. I was raised that way.

I profess today to be a Christian. I don't profess to be good. The Bible says no man is good, so I don't say that I am good. But I am a Christian. And there are millions like me in this country and around the world who believe that we should keep the Sabbath Day holy and remember it.

In this modern world of 24 hours a day, 7 days a week commerce and enterprise, keeping the Commandments and remembering the Sabbath, to keep it holy, may seem an antiquated notion to some. But it is, nevertheless, a central pillar of many faiths, and it reflects the principle on which this Nation was founded: "One Nation, under God."

Now, I do not try to press my faith on anybody else. I am like Samuel Adams, a few years before the Constitutional Convention, when he said: I can listen to any prayer—any prayer. And so can I. I can listen to the Muslim prayer. I can listen to the prayer of the Jewish people. I can listen to the Catholics as they pray. I am willing to listen to any prayer. I do not attempt to press my religion on anybody else.

But I think we as a Senate, here in the eyes of the American people and the world on the Sabbath, do not give a very good impression. We ought to set the example. We in the Senate ought to set the example.

Of course, if the ox or the ass were in the pit, as the Bible says, then pull him out if it is on the Sabbath. But the ox is not in the ditch. That is not why we are here. We are not here because of some dire emergency that threatens the lives of the American people. This is not a dire emergency. This could easily have been put over until tomorrow.

I have been the majority leader of this Senate in some years past. I have been the minority leader of this Senate in some years past. I know something about the rules. I may have forgotten more than some will ever learn, but I can remember the powers of the majority leader. And it is within any majority leader's power to put this matter over until Monday. It could have been done yesterday. And it could still be done. But we are here. The staffs have been called out now. Senators are here. And so we have to observe what the leadership has ruled. We are here. But I would say, it was unnecessary.

I am sorry that the Senate is in today. We would not have lost anything by waiting until tomorrow. But it has been done.

Mr. President, how much time do I have left?

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator has 4 minutes 20 seconds.

Mr. BYRD. I thank the Chair.

Mr. President, we hear a lot about religion these days. I say, let's practice a little of it here in the Senate and on the campaign trail. I hope the Senate in future years will not repeat this mistake of unnecessarily sacrificing the observance of the Sabbath on the altar of political expediency. We could have done better.

We waste a lot of time here. There were many days when we could have been in and we could have been doing the work of the people, the work of the Senate, but we chose not to be in. These are workdays I am talking about, many of them throughout the year that is past, some of them recent. The work could have been done. It was not necessary to back this work up to the point that we have to come in here on a Sabbath—on a Sabbath—to vote. And for what? A mere procedural matter.

Mr. President, I thank the Chair and I thank all Senators.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the current occupant of the Chair for yielding me 5 minutes from this bill.

#### DELAY OF CONFERENCE REPORTS

Mr. President, I come to the Senate once more to ask that the Senate consider what is delaying the Homeland Security bill and the Military Construction bill which carry with them the money for the hurricane recovery in the southeastern part of this country, including Florida.

I first want to say to my good friend from West Virginia, he reminds me very much of the comments my grandmother used to say to me about doing things on Sunday. And we tried to observe the commands of the Bible.

This is not the first Sunday since I have been in the Senate, in 36 years, that we have had to meet. I, too, regret we have to meet on Sunday. But we are meeting today primarily because of the objection of one man. We should have taken up the Military Construction bill and the Homeland Security bill when it arrived from the House last evening. The House of Representatives had passed both of those bills in the course of about 2 minutes, and not one person spoke against those bills. It was a unanimous vote on both those bills.

They came over here—and I congratulate the minority leader. Yesterday, when we opened the Senate, he said, without question—without question—we should pass the Homeland Security bill and the Military Construction bill before we leave.

The impact of this is an astounding delay because of one Senator, the other Senator from Iowa, Mr. HARKIN, who is objecting because of an offset that was used in the Military Construction bill to enable us to proceed with the drought provisions in the bill.

For the first time, we are putting up money to assist the people who are suffering around the country, primarily farmers, from drought. We needed an offset. This is the same offset we took once before. And we straightened out the program after that borrowing of budget authority was used effectively.

Now, I told the Senate last night I was informed that last evening FEMA ran out of money. On October 1, it had \$836 million, including a \$500 million carryover from fiscal year 2004. There was a \$336 million apportionment under the continuing resolution, which was intended to last until November 20, but because of the demands in Florida, they have run out of money. And we want to see these bills passed.

We and the leadership on both sides tried to clear this bill. We are primarily here voting on this cloture now rather than tomorrow because we had to come in in order to qualify cloture votes for tomorrow. We will not vote on the Military Construction and Homeland Security bills until tomorrow because one Senator—one Senator—wants to delay them.

Now, I want the Senate to know—this is my last year as chairman of the Appropriations Committee—we have worked hard with Congressman YOUNG on the other side, who is from Florida and is very disturbed about the delay. We worked our committees, and worked them literally night and day, particularly the staffs, to get these bills ready to move. And the Senator from West Virginia says we should only be working if it is an emergency. Well, it is true there are emergency bills right behind this bill.

I would hope we would get cloture and pass this bill as quickly as we can so we can move to the Military Construction bill. We cannot interfere now. We cannot call up the Military Construction bill or the Homeland Security bill until this process is over.

But I urge the Senate, every Member of the Senate, to talk to Senator HARKIN and ask him not to delay these bills any longer. These bills will take time to prepare and get what we call enrolled, and then they will be signed by the Speaker of the House and by the Vice President or myself, and they will go to the President. That could be done today. That could be done today, if this one Senator will relent in this procedure to delay these two bills.

I do not understand why the Homeland Security bill has been delayed at all. We were ready to put it in what we call wrap-up last night. The Senator from West Virginia and I and all those connected with it said: Let's just pass this. It has passed the House without objection at all.

The matter was reviewed by the Senator from Arizona. I am pleased to say



for one time we are in total agreement. That bill does not have to have any re-specification of anything we put in that bill that would raise the objection of my friend from Arizona. And he is my friend, despite our disputes.

But I tell the Senate, it is time to pass the Military Construction bill and the Homeland Security bill today.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from West Virginia.

Mr. BYRD. Mr. President, I believe I have 2½ minutes left.

The PRESIDING OFFICER. The Senator does have 2½ minutes left.

Mr. BYRD. Mr. President, may I say to my friend, the distinguished Senator from Alaska, who is the President pro tempore and the chairman of the Appropriations Committee, this man has, throughout the year, sought to keep the Senate on schedule and to not only have the committee report out all of the 13 bills but to have the Senate pass them. I think if all of us had worked as diligently as the Senator from Alaska to get the work done, we would not be here today.

Now, I hesitate to mention a Senator by name—the distinguished Senator from Alaska has done that—and that Senator is not on the floor. But let me say, whether we like it or not, that Senator was within his rights.

Mr. STEVENS. Yes, he was.

Mr. BYRD. And the Senator from Alaska might be in the same position one day, and I may be.

The blame here should be placed in a manner on the whole Senate and particularly, I have to say, the leadership of the Senate. The Republican leadership is in control so I think they bear the greatest responsibility. As I said yesterday, we all are at fault a little bit. But my complaint is not against a Senator. My complaint is the way we have done our work all year long. We dilly dallied, delayed, and had several days out of session when we could have been in, could have been doing our work. That goes for our recent times as well.

I say there is where the overall fault lies. I am sorry that because of that, we have been backed up with our backs up against a timeline here when we are about to go out for a Presidential election. And we should not have been put in this position. We should have done this work earlier. I say it was wrong to come in on the Sabbath Day. It didn't have to be done. I regret it.

I thank the Chair and all Senators.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Who yields time?

Mr. GRASSLEY. Mr. President, I yield the Senator from Oklahoma 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleagues. I want to speak a little bit about the conference report and maybe a little bit about Senator LANDRIEU's amendment.

First, I wish to compliment Senator GRASSLEY and Senator BAUCUS for their leadership on this bill. The FSC/ETI bill was a very complicated bill. The Senate provisions alone—there were 276 provisions—dealt with about \$180 billion of tax increases and tax cuts, a very complicated bill, very confusing bill. It had international provisions. But it was very important that we move forward, and we moved forward to basically—I started to say—become compliant with the World Trade Organization because they were imposing sanctions on U.S. exports, fees of 12 percent escalating 1 percent per month going up to 17 percent. So it was important that we resolve that problem.

Most people think the conference report solves that situation. I compliment them for it. The bill that came back from conference was a better bill than left the Senate—frankly, a much better bill. There are a lot fewer provisions. There were many amendments that were left out. I know the Senator from Louisiana is upset about her amendment being left out. There were hundreds of amendments left out, some of which have a lot of merit, some probably didn't have merit. I don't happen to agree with her amendment, and I want to touch on that for a second.

First, I want to finish on the FSC/ETI bill. The underlying premise of the FSC/ETI bill—which I am going to support, and I urge our colleagues to vote for cloture so we can finish this bill—is that we are going to give a benefit to manufacturers, a lower corporate rate than other corporations. I happen to disagree with that. I used to be a manufacturer. I used to run a manufacturing company, Nickles Machine Corporation. We made engine parts. We sold them around the world. Manufacturers get a lower rate, and we do it in this bill in the form of not a rate reduction but in the form of an exclusion of income. I think a rate would be a much simpler way to go, and I think it should apply to all corporations.

What we do in this bill is, we give an exclusion for a certain amount of income. I think 3 percent the first 2 years, 6 percent the next 3 years, and then 9 percent beyond that. The net effect of that for most corporations is, the corporate rate would go into effect 34 percent and then 33 percent and then 32 percent, if you are a manufacturer. If you are not a manufacturer but happen to be a corporation, in other words, you do professional services, maybe an attorney or maybe a doctor or something, or you have an accounting firm or you have a financial firm, if you have financial services, you are going to be taxed at a higher rate.

I think we should have a uniform corporate rate. It is a mistake. You have a lot of companies that do both. They are a manufacturer and they provide financial services or they provide other services. So you are going to find them having to segregate their income—this part is manufacturing, this part is financial or other services. That is going

to mean asking for a lot of audits, a lot of confusion, and maybe problems with the IRS and future Congresses. Future Congresses also will be dabbling with the definition of manufacturer because there are a lot of people defined in this bill as manufacturers that a lot of us wouldn't think of as manufacturers; i.e., individuals involved in architectural engineering, or individuals or companies that are construction or software companies or oil companies or extraction companies. There are software companies, the film industry. You have a lot of industries that aren't normally thought of as manufacturing and are now defined as manufacturing.

When people realize there is a 10-percent lower corporate rate if you are defined as a manufacturer, my guess is you will have a lot of future interest and amendments. The lobbyists will be very big trying to make sure that whoever their client is is defined as a manufacturer. So the number of manufacturing jobs, which has been on a fairly steady decline for the last 40 years—it has bounced up in the last year—will increase dramatically, not because there are more manufacturing jobs, but because more jobs are defined as manufacturing. I don't think that is good policy.

I have mentioned that. I know Chairman GRASSLEY and Senator BAUCUS are well aware of my concerns. I tried to fight that fight along with Senator KYL. We were not successful. We tried every way we could, but we didn't win on that one. But it is important that we become WTO compliant. It is important that we pass a bill. I don't think we are going to solve the problem I am talking about in differentials in the next 3 months or, frankly, the next 6 months. So I urge our colleagues to vote in favor of it.

In relation to the Landrieu amendment, her discussion on it, I appreciate her passion. But no one on her side raised this amendment. I sat in the conference for days. She had her chance. There were hundreds of amendments that were not adopted. I don't happen to agree with the substance of her amendment. But everyone was entitled to have their chance. Chairman GRASSLEY insisted on having the entire Finance Committee represented in the conference. I compliment him for that. It was a very open, fair conference. All Senators who were on the Finance Committee were represented, were there, or could have attended. So again, sometimes you don't win on your amendments.

I compliment again Senator GRASSLEY and Senator BAUCUS. I urge our colleagues to vote in favor of cloture.

RECUSAL

Mr. KOHL. It has come to my attention that Section 886 of H.R. 4520, the Jumpstart Our Business Strength (JOBS) Act, applies to the ownership of sports franchises. As owner of the Milwaukee Bucks basketball team, I have serious concerns that this provision creates a potential conflict of interest.

While I was previously unaware of this provision as one of the many tax simplifications included in the bill, I have decided to recuse myself from further votes on this issue.

Mr. NELSON of Florida. Mr. President, I rise today to support passage of the JOBS bill conference report. This legislation is a positive step toward alleviating the pain put on the manufacturing sector by the World Trade Organization tariffs, providing domestic companies with a sizable tax deduction that will help to create jobs, and simplifying our international tax regime.

Most importantly, though, it pays for itself. By eradicating a number of abusive tax shelters, this bill does not add to our deficit; it plugs holes that have been exploited in the Tax Code while ensuring this important tax relief is not at the expense of future generations.

I am also quite partial to a provision aimed at rectifying an inequity that has existed for over 18 years. The residents of the seven States without an income tax have been treated unfairly under the Tax Code since 1986. I applaud the conferees for including a temporary 2-year benefit for citizens of these States, allowing them to deduct the State sales taxes they pay from their Federal income tax liability. I look forward to working with my colleagues to once again make this benefit permanent, but I thank the conferees for including this important tax relief for the citizens of Florida and the other States without an income tax.

One part of the Senate-passed bill that did not make it into the final package would have dealt with our National Guard and Reservists who are performing so admirably overseas. I am deeply troubled by the omission of tax relief for the employers continuing to pay the salaries of their employees who have been called to active duty in Iraq and Afghanistan. This was inexplicably left on the cutting room floor in conference, and I plan to work with my colleagues to ensure this oversight is remedied. We owe this tax relief to the patriotic employers who have helped to ease the financial burden of serving overseas by continuing to pay their active duty employees.

I also am troubled by the absence of another Senate-passed component to the bill: FDA regulation for tobacco. This issue has received strong support in the U.S. Senate, so the House acted unilaterally, ignoring the will of the Senate and the bipartisan agreement that any buyout also would include regulation of tobacco.

Another aspect of this that disappoints me is the tobacco buyout assessment provision that emerged from conference. This rule places a greater burden on Florida companies, specifically Florida cigar manufacturers, than cigar manufacturers from other States. This new provision creates an assessment on cigar manufacturers to pay for the buyout of tobacco farmers even though they do not use the types

of tobacco being bought out. It amounts to a \$282 million price tag, leaving Florida companies to pay more than 75 percent of this assessment.

There are a number of other small issues in this bill that may be overlooked, but which mean a great deal to local economies. One that will have a profound effect on Florida deals with motorsports facilities. As you know, Florida is home to a great racing tradition and to the world famous Daytona International Speedway, as well as the Miami-Homestead International Speedway, and a host of other smaller race facilities. For decades, these tracks have been allowed to depreciate their property over 7 years. Recently, however, the IRS has questioned this classification.

I am delighted the FSC/ETI bill encourages continued investment by codifying the 7-year classification from the date of enactment through January 1, 2008. This is an excellent start. I am hopeful the IRS will recognize the legislative intent of this body and reconsider any new interpretation of the law. The action taken in this tax bill indicates the revenue procedures were not clear, so Congress acted to provide clarity.

I urge Congress to revisit this issue as soon as possible to provide the ongoing certainty that is needed to plan substantial investments in new track construction and expansion.

As with any conference report, I am not completely satisfied with this package. It is not perfect. There are omissions. It does not go far enough in some respects, and I would argue it goes too far in others. But legislating is all about compromise, and all in all, this bill is a good compromise. It adhered to the tenets of the Senate-passed bill, and will achieve its stated goal—finally ending the tariffs that have so burdened American manufacturers.

I am comfortable rising in support of this tax relief package, and I am confident any inadequacies will be addressed in due time.

Mr. REID. Mr. President, the Senate FSC-ETI bill contained \$19 billion in energy tax incentives that supported the diversification of the Nation's energy supply, conservation, and efficiency.

Although few of those provisions survived the House-Senate conference, I am pleased that the conference report extends and expands the Section 45 production tax credit for renewable energy resources.

My thanks to Senators GRASSLEY and BAUCUS, as well as 36 Senators who recently joined me in a letter to conferees urging the adoption of this very important renewable-energy provision.

The Section 45 production tax credit works.

Since its initial adoption in 1992, wind energy has become the fastest growing energy source in the world.

Other renewable energy resources like geothermal, solar and biomass en-

ergy will now be able to enjoy that same growth potential.

We know that renewable energy can provide a steady supply of electricity that is made in the USA.

We know it will spur economic investment and new technology, and create thousands of jobs.

According to the Department of Energy, tripling geothermal production by the year 2010 would stimulated \$61 billion of domestic investment, create 1.6 million person-years of new employment, and add \$180 million to State and Federal government treasuries from royalties.

The Western Governors Association projects the Department of Energy's initiative to deploy 1,000 megawatts of concentrating solar power in the southwestern area of the United States would create approximately 7,000 jobs and estimated expenditures of more than \$2 billion in the next decade.

We know it can protect our environment and reduce global warming. And we know it can help reduce our dependence on oil from the Middle East.

The renewable energy resource is unlimited.

Once we build the facilities, the fuel is free.

In simple terms, "batteries are included" with renewable energy facilities.

The sun will shine for a billion years, the wind will blow as long as our planet survives, and the heat of the Earth is the most abundant resource in the world.

My State and many others are rich in renewable energy.

Nevada is the Saudi Arabia of Geothermal energy.

I am proud that Nevada has set some of the highest goals in the Nation for developing renewable energy. We are going to steadily increase our electricity generated from renewable sources toward a goal of 15 percent by 2013.

The Section 45 provision in the FSC-ETI bill is an important step on the road to diversifying the Nation's energy supply by increasing our use of renewable energy resources, but our job is not done.

This provision only extends the Section 45 production tax credit for 15 months.

We need to extend the Section 45 production tax credit for renewable energy resources from 15 months to a minimum of 5 years.

It is also important that we work to include tradeable credits to public power utilities and rural electric cooperatives, which serve 25 percent of the Nation's power customers, by allowing them to transfer their credits to taxable entities.

I will work to make that happen in the next session of Congress.

Once again, I want to thank the managers of this bill for shepherding the expansion and extension of the Section 45 production tax credit in this legislation.

We must diversify our Nation's energy portfolio with clean, renewable energy resources. We must accept this commitment for the energy security of the U.S., for the protection of our environment, and for the health of the American people.

Mr. KYL. Mr. President, today the Senate is considering the conference agreement for H.R. 4520, the American Jobs Creation Act of 2004. I voted against this legislation when it was reported out of the Senate Finance Committee and again when it was approved by the full Senate, so I would like to explain why I am reluctantly supporting the conference agreement.

I was a conferee for this conference agreement and am supporting it for four reasons. First, the legislation makes necessary improvements to the way the United States taxes foreign-source income. These changes are a good first step at rationalizing the way we tax U.S.-based multinational companies. Second, the conference agreement dropped many of the tax increases that were included in the Senate-passed bill that would have inappropriately raised taxes on many U.S. businesses. Third, Senator GRASSLEY has committed to work with me on broad-based corporate tax reforms next year. Finally, I am supporting the conference agreement because it is important to come into compliance with our international obligations.

The conference agreement includes some very worthwhile provisions. Most importantly, it reforms and simplifies the way we tax U.S.-based multinational businesses. Under current law, U.S.-based multinational companies are subject to a tax system that was designed in the 1960s, that we have failed to modernize as global business transformed and grew, and that has only been modified when Congress needed to raise revenues. As such, the system is inconsistent and inefficient and subjects U.S.-based companies to double-taxation, all of which put our companies at a disadvantage vis-à-vis their foreign competitors. The conference agreement fixes a number of these problems.

First, the conference agreement addresses two very serious problems with our foreign tax credit system. The U.S. tax system is a worldwide system, meaning we tax the income of U.S. taxpayers no matter where it is earned. The problem with such a system is that income is double-taxed, once by a foreign jurisdiction and again by the United States. Because many other countries only tax income that is earned within their borders, U.S. companies face double-taxation while many of their foreign competitors do not. To avoid this problem, the U.S. gives taxpayers credits for taxes paid to a foreign jurisdiction, which are used to offset U.S. tax liability. If the system worked perfectly, the net result would be that corporate income is taxed one time at the U.S. rate of 35 percent. The problem is that the sys-

tem does not work perfectly; there are so many restrictions on the ability to use foreign tax credits that, in practice, foreign earnings are often double-taxed. Further, under current law, unused foreign tax credits can only be carried forward 5 years, after which time they expire, resulting in permanent double-taxation. The conference agreement does two things: First, it eliminates many of the restrictions on using foreign tax credits by reducing the number of "baskets" that the different types of credits are segregated into from nine to two, making it much easier to use foreign tax credits. Second, the conference agreement extends the carryforward period to 10 years so that taxpayers have twice as long to use foreign tax credits before they expire. Both of these changes are very important and are a big part of the reason I am supporting the conference agreement.

The conference agreement also reforms the "interest allocation rules," which can have the perverse effect of making it more expensive for U.S. companies to build new U.S. facilities by restricting a company's ability to deduct interest payments used to finance the construction of such facilities. The conference agreement gives companies a one-time choice of how to allocate and apportion their interest expenses so that if a company elects the new "worldwide fungibility" approach instead of current treatment, interest expenses incurred in the United States would only be allocated against foreign-source income in certain restricted circumstances. This also makes it less likely that U.S. companies will have their use of foreign tax credits restricted, thereby alleviating the problem of double-taxation. Like the foreign tax credit reforms I mentioned earlier, the interest allocation reforms are another reason I am supporting this legislation.

I want to express my disappointment with the centerpiece of this legislation, however. I continue to be concerned that the manufacturing deduction represents poor tax policy because it establishes for the first time a lower tax rate for one segment of our business community—manufacturing—while continuing to impose the higher 35 percent rate on all other U.S. businesses. Sound tax policy should be fair and neutral and the manufacturing deduction is neither. I expect that this provision will cause a great deal of "game-playing" as companies strive to define as much of their activity as possible as "manufacturing" to more greatly benefit from the deduction. As a result, I believe that the Treasury Department is correct when it predicts that we will see an increase in audits and litigation as a result of this provision.

I noted that, for the first time, Congress has established a bifurcated corporate tax rate system in this legislation. Non-manufacturing companies also create good jobs, contribute to our growing economy, and compete with

lower-taxed foreign companies just like U.S. manufacturers, yet these companies do not see tax rate relief in this legislation. It would have been far better to have provided a corporate rate reduction across-the-board for all U.S. companies. This would have avoided the game-playing, would have been far simpler for taxpayers and the government to administer, and would have made the United States a more attractive place to do business. This last point is important. Our combined federal and state tax rate is 40 percent, while in Asia the rate is 30.4 percent, and in Europe the rate is 27.7 percent. Our trading partners have been aggressively cutting their corporate tax rates. It is time the Congress stop trying to set industrial policy through targeted tax preferences and confront our high corporate income tax rate directly. I urged my colleagues to take this approach, and while many of my colleagues agreed with me, this effort did not prevail. I predict that, in time, Congress will repeal the manufacturing deduction and replace it with a corporate tax rate reduction. Canada had a similar manufacturing deduction in place and found it to be so complex, subject to abuse, and such a source of tax controversies that Canada eventually replaced it with a lower corporate tax rate.

Because of my serious concerns about the manufacturing deduction, I am pleased that Senate Finance Committee Chairman GRASSLEY has agreed to work with me on a review of our corporate tax structure, including not only corporate income tax rates, but also on making the lower tax rates on dividends and capital gains permanent. I appreciate his offer and look forward to working with him on this important issue.

The conference agreement drops some of the special interest tax provisions that were included in the Senate-passed bill. I am disappointed, however, that other tax subsidies, such as various tax subsidies for electricity production, were retained in the conference agreement. In this era of budget consciousness, I would much prefer to use scarce revenue offsets to enact meaningful, pro-growth, broad-based tax reforms that will have a positive effect on the overall U.S. economy. While some of these provisions might be justifiable, we should always keep in mind that the purpose of our tax system is to raise revenue for the Federal Government in the most efficient means possible, and not to reward special interests. I firmly believe we should focus on broad-based tax relief that provides growth-oriented incentives. This would make our system of taxing business income far more efficient for the Federal Government and for taxpayers alike, and most importantly, it would foster greater economic growth and help businesses create jobs. The conference agreement we consider today largely provides the opposite result and thus accentuates the

great need for tax reform. The President has expressed support for comprehensive tax reform and I fully intend to work with him on that project.

This conference agreement is revenue neutral, which, in itself is not a bad thing, but should not be a prerequisite for tax legislation. Revenue neutrality means that there are as many tax increases as tax cuts, and we must be very careful about increasing taxes. I am pleased that in the conference committee we were able to eliminate several of the more troubling provisions we euphemistically refer to as revenue raisers, including the codification of the "economic substance doctrine" and the taxation of certain settlements, fines and penalties. Quite simply, these are tax increases—sometimes warranted, if we are closing unintended loopholes, but tax increases nonetheless. Congress should approve tax changes to improve the conditions of the economy and to leave more money with the taxpayers who earned it and should not be bound by strict rules of revenue neutrality. We must remember that tax cuts and spending are not the same and do not have the same effect on the economy or on the Federal budget. Tax cuts allow American families, business owners, and investors to keep more of their own money, which encourages economic activity. Increased economic activity brings additional tax revenues into the Federal government, thus improving our budgetary situation. Unlike tax cuts, new spending requires the government to take control of a bigger slice of the economy, which hinders economic growth. I encourage my colleagues to refuse to be bound to "revenue neutrality" for its own sake, but to pursue rational tax policies on their merits.

Finally, this legislation repeals our export tax subsidy that was judged to be illegal by the World Trade Organization, WTO. While I have serious concerns about the commitments made by our negotiators that led to this result, the United States nonetheless must abide by the agreements we make. Repeal of the export subsidy will bring the United States into compliance with our international obligations and this will end the tariffs the European Union has imposed as a result of the dispute on many U.S.-made products, including products made in my State of Arizona.

While I am supporting the conference agreement, I want my colleagues to know that I am very serious about my commitment to pursue policies that provide broad-based, pro-growth, supply-side tax incentives, rather than targeted tax preferences or misguided industrial policies.

Mr. SANTORUM. Mr. President, I wonder if the distinguished chairman of the Finance Committee might respond to a colloquy. I specifically have a question about the formula used to calculate the financial statement limitation for computing the amount of permanently reinvested earnings eligible for repatriation.

Mr. GRASSLEY. I would be glad to entertain a question from the Senator from Pennsylvania.

Mr. SANTORUM. I believe the purpose of this provision is to determine the amount of permanently reinvested earnings eligible for repatriation in the case in which a company discloses in its applicable financial statements the incremental amount of U.S. tax that would be due on such permanently reinvested earnings if they were repatriated, rather than stating the actual amount of such earnings.

Mr. GRASSLEY. That seems to be an accurate interpretation.

Mr. SANTORUM. It would appear that the formula assumes that the incremental tax so disclosed would be at the full U.S. tax rate of 35 percent. Is it not correct that the amount of U.S. tax disclosed would instead be a lesser amount that takes into account the amount of foreign taxes already imposed with respect to such earnings?

Mr. GRASSLEY. As I read the statute, a 35 percent rate is assumed to apply only when a financial statement fails to show earnings permanently invested outside the U.S. but also includes an amount of tax liability attributable to such earnings. I believe that the formula is intended to produce an amount comparable to what would have been shown if the amount of earnings permanently invested offshore had been set forth on the financial statements. One shortcoming of the formula, which you have identified, is that the financial statements only take into account the incremental U.S. tax liability that would be incurred if the company repatriates its earnings, which would be the 35 percent rate reduced by any foreign tax credits. I think you raise a very good point that Congress should revisit in the future. In the meantime, I encourage the Department of Treasury to consider issuing guidance that permits taxpayers to more accurately reflect the actual amount of earnings permanently invested offshore.

Mr. SANTORUM. I thank the Senator for his insights.

#### DISTRIBUTION OF FILMS

Mr. BAUCUS. Mr. President, I would like to ask the chairman of the Committee on Finance an additional question regarding the American Jobs Creation Act of 2004.

Mr. GRASSLEY. Mr. President, I would be glad to take a question from the ranking member of the Finance Committee.

Mr. BAUCUS. I want to confirm that footnote 30 of the statement of conferees, relating to the methods and means of distribution of films, should not be read to create a negative inference with respect to the means of distribution of any other qualifying production property.

Mr. GRASSLEY. That is correct. No negative inference was intended.

Mr. BAUCUS. I thank the chairman.

#### CIVIL RIGHTS TAX RELIEF

Mr. BAUCUS. Mr. President, I congratulate Chairman GRASSLEY for as-

suring that the conference committee included Section 703, civil rights tax relief, in the conference report. As a member of the conference committee, I was very pleased to support this very important provision, which enjoyed strong bipartisan support among Senate and House colleagues.

As I understand it, the case law with respect to the tax treatment of attorney's fees paid by those that receive settlements or judgments in connection with a claim of unlawful discrimination, a False Claims Act, "Qui Tam," proceeding or similar actions is unclear and that its application was questionable as interpreted by the IRS. Further, it was never the intent of Congress that the attorneys' fees portions of such recoveries should be included in taxable income whether for regular income or alternative minimum tax purposes.

Is it the understanding of the chairman that it was the conferees' intention for Section 703 to clarify the proper interpretation of the prior law, and any settlements prior to the date of enactment should be treated in a manner consistent with such intent?

Mr. GRASSLEY. The Senator is correct. The conferees are acting to make it clear that attorneys' fees and costs in these cases are not taxable income, especially where the plaintiff, or in the case of a Qui Tam proceeding, the relator, never actually receives the portion of the award paid to the attorneys. Despite differing opinions by certain jurisdictions and the IRS, it is my opinion that this is the correct interpretation of the law prior to enactment of Section 703 as it will be going forward. In adopting this provision, Congress is codifying the fair and equitable policy that the tax treatment of settlements or awards made after or prior to the effective date of this provision should be the same. The courts and IRS should not treat attorneys' fees and other costs as taxable income.

As I stated in my May 12, 2004 press release summarizing this and other provisions passed by the Senate as part of S. 1637.

Tax relief gets the headlines, but part of tax relief is tax fairness. It's clearly a fairness issue to make sure people don't have to pay income taxes on income that was never theirs in the first place. That's common sense.

Section 703 will help in well known cases, such as that of Cynthia Spina, an Illinois police officer that secured a settlement in a sexual discrimination case that left her owing \$10,000 or more. There are literally dozens of others like her in similar situations and it is my strong belief that the courts and the IRS should apply the guidelines of Section 703 not only after the date of enactment but also to settlements put in place prior to that time.

Mr. BAUCUS. I thank Senator GRASSLEY.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. I yield myself time that is allotted under the rule. I appreciate if the Chair would advise me when I have 5 minutes remaining.

The British historian Thomas Carlyle said all work is noble. And Psalm 97, attributed to Moses, the psalmist's prayer says: Establish the work of our hands.

We all know the value and the meaning of work. It is so fundamental. Hard work counts. It helps us do what we need to get done. It also is good for the soul.

I am privileged in my State of Montana to have what I call workdays. I work at different jobs in Montana, show up early in the morning with a sack lunch, work all through the day. I don't want to watch, don't want to be told, shown what is going on. I would rather just do the work. It is wonderful. I got the idea from BOB GRAHAM of Florida. BOB has done this for countless years, and I can tell the Presiding Officer it is one of the privileges of the job I have. I know other Senators do the same. I would suspect the Presiding Officer has done that himself. He knows what I am saying.

I can remember sitting on this very cold day outside of Butte, MT with a pipefitter trying to cut pipes and fit joints together. And I don't know how he did it, but he did it. I helped him. I probably caused more problems and mistakes that he had to correct. It meant so much to me to watch this pipefitter who so appreciated the value of his job and doing a good job. He wanted to do a super job, and he did. He worked hard to get it done.

Another job I remember is in a mine outside of Columbus, MN, a platinum and palladium mine. You go up in the shafts. I was working a jack drill to try to drill holes into which charges are placed. I was totally fouled up. I couldn't do it. This guy was so skilled. He was creative. I mean he was a craftsman, setting that drill bit at the right spot, drilling those holes so the charges could be set. Or working in a hospital with a nurse, watching her so completely conscientious, wanting to do a great job in making sure her patients felt good and tending to her patients.

This bill is about work.

That is what this is. I am sure at one level it is about complying with the WTO ruling to assure that the United States is in compliance and the United States is no longer assessed these fees. As one Senator said, it could go up to 17 percent, which is a huge burden on our companies.

So the bill before us is about work, it is about how we help more Americans do the work they want to do, how they and their companies can manufacture more products that are somewhat difficult to manufacture because of the onerous fees we are paying on your export-manufactured products, particularly to Europe.

On another level, this bill is about straightening out our Tax Code. There

are a lot of problems with the Tax Code and loopholes. They are huge, massive. This legislation, to pay for the replacement provisions—that is, the manufacturing deduction that will allow companies to manufacture more—are paid for with essentially loophole closers, corporate loophole closers.

Some say this is a big corporate giveaway. That is just not accurate for two fundamental reasons. No. 1, there are many billions of dollars in loophole closers, tax shelters, for example, where a corporation has to list very dubious transactions so the IRS can look at them closely to see whether they are accurate. Several other post-Enron corporate abuse shelters that are closed down are also in this bill. It is many billions of dollars.

Second, there are provisions in the bill which help our international companies and are designed to achieve one purpose: avoid double taxation. The international tax provisions are extremely complicated, very complicated. Unfortunately, American companies often are taxed twice. They are taxed by the foreign country in which they are doing business and also, as they properly should be, by the U.S. Government.

We have a system, generally, where an international company is operating overseas but headquartered in the U.S., and it could generally take the taxes that are paid in another country and use that to offset taxes it pays in the U.S. to avoid double taxation. That is, the American company is taxed on its worldwide operations but doesn't have to pay twice, a second time, to that other country. There are many cases in the Tax Code where that doesn't work very well and, in effect, the corporation is taxed twice.

So these provisions that some people are complaining about are essentially designed to prevent double taxation. There may be provisions that Senators might argue with on the margin and split hairs, but, in the main, these provisions are designed to avoid double taxation.

Also, this bill is revenue neutral. Unfortunately, our country has accumulated massive Federal deficits—\$415 billion for this year. This is a big bill. It is very large. It is large because it appeals to this regime which the WTO organization says is illegal. It is large because it replaces it with a structure which, as I mentioned, is a deduction for manufacturing done in the United States to help spur more manufacturing, and that is massive; it is massive because it closes corporate loopholes.

But in the end, when you add it all up, it is revenue neutral. It doesn't add one cent to the Federal deficit. It is a responsible bill. It accomplishes the objective of complying with the WTO, and it also closes a lot of loopholes. It is massive. Also, it is fair because it avoids corporations being double taxed.

This bill is not perfect. We all say many times around here that we

should not let perfection be the enemy of the good. It is a platitude, it is commonplace, and we say it all the time. I often remind myself that sometimes the most trite things are the most true. That we should not let the perfection be the enemy of the good is a principle that we should apply here. We are 100 Senators, 435 House Members, and the President, and we cannot each have our own way. We have to work together and add up the pluses and minuses, and each Senator has to decide whether the pluses outweigh the minuses. In my judgment, it is very clear that the pluses here very much outweigh the minuses.

The FDA tobacco regulation is not in the bill. I wish it were. There was a general agreement. I was not part of it, but there was a general agreement with those who worked with the companies and the farmers on a design where there would be a buyout. That is my understanding of the general understanding. Unfortunately, the House was resistant. They didn't want to put the FDA regulation in the bill. The question is, Should we kill this bill because that is not in here? That is a tough choice for many Senators, as it is for me.

After all is considered, it is my judgment there is so much else that is good in the bill that it should pass. Unfortunately, we have to take up FDA regulation another day. I hope we do because I believe tobacco is a drug and it will help reduce a lot of deaths in the United States if that is properly regulated.

I am also a bit distressed about the provisions for Montana that are not in here, particularly for Indian reservations. I have several ideas on how reservations could get a better break. That is also not in the legislation.

Let me say one more thing and I will close and save the remaining few minutes. I want to explain one major corporate abuse, which is closed, but not sufficiently closed in this bill. The abuse is where an American financial institution will enter into a long-term lease, like say with the country of France, to build a subway system in France, for example. Because of the long-term lease, the American financial institution treats that as if it owns it and is able to take deductions against the lease purchase.

Now, those are deductions that the financial institution can take against earned income. It lowers the income of that company. The net result of that is this: In the end, the American company takes huge deductions. The foreign government, in this case France, would own the system in the end, but the American taxpayers essentially are paying for that subway system, not the French. In fact, there is a small fee paid by the French for the privilege of allowing the American financial institution to take the tax deduction. Americans are essentially subsidizing that subway system and that fattens up the wallet of the U.S. company and

the shareholders. Again, it is an extension of noncorporate shareholders as American taxpayers who are not shareholders of that company. It is an absolute outrage.

This legislation stops that from this day forward, but it does not stop it for ongoing, currently operating transactions. So, unfortunately, America will still be subsidizing this. There are many of these instances overseas and in America, but I am most concerned about overseas, where there are municipal construction projects—subways, streets, you name it. I think that is wrong. I wish closing that down were in the bill. I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, first, this bill passes an ultimate test that any bill has to pass that is of consequence.

This bill passes one of the strictest tests that something must pass in the Senate in order to get something done, and that is, it is bipartisan. It is bipartisan because of the leadership of Senator BAUCUS, and I thank him.

We have been hearing quite a bit about this legislation. Most of the complaints have been about what is not in the bill. I would like to have those who are complaining to focus on what is in the bill. Everyone needs to know that a vote against cloture is a vote against the items in this bill. This is a recorded vote, for which we will all be held accountable. The conference is closed. The House has voted overwhelmingly for this bill. If this bill does not get cloture, it is a dead bill.

Vote to end the Euro sanctions against U.S. exporters. They are now 12 percent. They will be 17 percent by March. Those sanctions hit farm products, timber, paper, citrus, and manufacturing. There are people being laid off because of these sanctions against our exports. A vote against cloture is a vote to continue the sanctions.

Farms and businesses shoulder this burden because Congress has failed so far to act. The manufacturing tax cut to create jobs in America that is in this bill goes to large and small corporations, family-held S corporations, partnerships, sole proprietorships, farmers, and co-ops. This \$76 billion portion of this bill is only for manufacturing in the United States. It is not creating jobs offshore because it does not benefit manufacturing offshore.

Are you going to vote against giving individuals a deduction for the State sales tax against their Federal income tax that is in this bill? This bill is the most comprehensive agricultural, small business, and rural community incentive tax package ever. A vote against cloture is a vote against benefits in this bill that will help value-added agriculture.

The bill contains VEETC; 37 of our 50 States will receive more highway money because of the provisions in this bill. VEETC and this bill's provisions

that shut down fuel tax fraud will put over \$24 billion into the highway trust fund alone. This provision alone will create 674,000 new jobs across the country. A vote against cloture is a vote against highway money for your State.

A vote against cloture is a vote against highway jobs for construction of highways in your State. The energy package in the bill includes new incentives for biodiesel. This provision means jobs in our heartland, over 150,000 new jobs.

The bill accelerates production of natural gas from Alaska and the construction of a pipeline to carry it to the lower 48 States. This will create nearly 400,000 jobs in construction, trucking, manufacturing, and other sectors.

This bill devotes over \$2 billion to section 45, renewable electricity production credit. This was a high priority for Senators BINGAMAN, SMITH, DASCHLE, HATCH, BAUCUS, SNOWE, BREAUX, LINCOLN, CONRAD, BUNNING, and GREGG.

The small business package in this bill extends small business expensing for another 2 years, and contains significant S corporation reforms. S corporation reform has always been a high priority in the Senate because it helps family-owned businesses.

A provision in this bill expands the new markets tax credit to help economic development in rural counties.

We have included also the Civil Rights Tax Fairness Act. We included a National Health Service Corps loan program to enhance the delivery of medical services to rural areas.

The bill provides all these benefits, nearly \$140 billion worth, and this is a revenue-neutral bill, which means this bill does not add one dime to the Federal deficit.

It is all paid for by shutting down corporate expatriation to Bermuda, tax shelter leasing abuses by corporations, and ends all the Enron-type tax shelter deals. This is the most tough antitax shelter measure since 1986.

This bill contains some of the most important international tax reforms in decades, bringing foreign earnings home for investment in the United States instead of investing overseas, hence creating jobs in the United States.

We have heard complaints from Senator LANDRIEU because the bill does not contain her reservist amendment. I would like to make it clear that Senator BAUCUS and I offered that amendment on her behalf. We came up with a way to pay for that. All Senate conferees, Republican and Democrat, voted for it. The conference was open to the public. There were no backroom deals. The House, the other body, rejected it.

Voting down this bill will not bring back the reservist amendment. The conference is closed.

There is a great deal of good in this bill. We can rescue the manufacturing sector; we can end European Union sanctions on our farmers; we can re-

spond to the recent rise of gas prices by supporting renewable fuels, and we can shut down every known tax abuse. Vote to finish the job. Vote for cloture. It is time to pass this very important bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield the remainder of our time.

#### CLOTURE MOTION

The PRESIDING OFFICER. All time is yielded back. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

#### CLOTURE MOTION

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

BILL FRIST, CHUCK GRASSLEY, TED STEVENS, KAY BAILEY HUTCHISON, CONRAD BURNS, THAD COCHRAN, NORM COLEMAN, GEORGE ALLEN, LARRY CRAIG, TRENT LOTT, MITCH MCCONNELL, JON KYL, CRAIG THOMAS, JOHN CORNYN, BEN NIGHORSE CAMPBELL, ELIZABETH DOLE, JOHN TALENT.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on H.R. 4520, the American JOBS Creation Act of 2004, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), the Senator from Pennsylvania (Mr. SPECTER) and the Senator from New Hampshire (Mr. SUNUNU) are necessary absent.

I further announce that if present and voting the Senator from Texas (Mr. CORNYN) would vote "aye."

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. CORZINE), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

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



The yeas and nays resulted—yeas 66, nays 14, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—66

Alexander	Ensign	Murkowski
Allard	Enzi	Murray
Allen	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bennett	Fitzgerald	Nickles
Bingaman	Frist	Pryor
Bond	Graham (SC)	Reid
Breaux	Grassley	Roberts
Brownback	Hagel	Rockefeller
Bunning	Hatch	Santorum
Burns	Inhofe	Schumer
Cantwell	Inouye	Sessions
Cochran	Jeffords	Shelby
Coleman	Johnson	Smith
Collins	Kyl	Snowe
Craig	Lieberman	Stabenow
Crapo	Lincoln	Stevens
Daschle	Lott	Talent
Dayton	Lugar	Thomas
Dole	McConnell	Voinovich
Domenici	Mikulski	Warner
Dorgan	Miller	Wyden

NAYS—14

Akaka	DeWine	Landrieu
Byrd	Dodd	Levin
Carper	Graham (FL)	McCain
Chafee	Harkin	Reed
Conrad	Kennedy	

ANSWERED "PRESENT"—1

Kohl

NOT VOTING—19

Bayh	Corzine	Lautenberg
Biden	Durbin	Leahy
Boxer	Edwards	Sarbanes
Campbell	Gregg	Specter
Chambliss	Hollings	Sununu
Clinton	Hutchison	
Cornyn	Kerry	

The PRESIDING OFFICER. On this vote, the yeas are 66, the nays are 14, and 1 Senator responded present. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, the Senator from Louisiana is recognized for up to 1 hour.

Ms. LANDRIEU. Thank you, Mr. President. May I have order, please?

The PRESIDING OFFICER. The Senator will be in order.

The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President. I am not going to speak until we have more order.

The PRESIDING OFFICER. The Senate will be in order. Please take your conversations to the cloakroom.

The Senator from Louisiana.

Mr. DORGAN. Mr. President, the Senate is not in order. The Senator from Louisiana has an hour. She deserves to be heard. The Senate is clearly not in order.

The PRESIDING OFFICER. The Senator will be in order.

Mr. STEVENS. Mr. President, will the Senator yield to me for the purpose of making a unanimous consent request?

Ms. LANDRIEU. I am sorry, Mr. President, no, I won't. Maybe in a few minutes but not at this point.

As my colleagues know, we have been working toward this point, actually on this particular bill, for over 2 years, so there have been many meetings, many votes, many debates, many conferences. I understand that. I know we

are to the very end of this discussion, and we have a bill before us with \$137 billion worth of tax cuts. This is a bill that started out 2 years ago because of a decision by the World Trade Organization that called to our attention that our Tax Code was not in order and that if we did not straighten some things out in our Tax Code, some of our businesses could be penalized. So 2 years ago, an effort was undertaken to correct that.

Some of us, knowing that effort was going to be undertaken, crafted a provision to give tax relief to the Guard and Reserve and their families, to the members of the Guard and Reserve who are on the front line, by saying to all the patriotic companies in America, large and small: As you continue to give that paycheck to the men and women on the front line, we thank you, we appreciate that effort. We know it is difficult for you. We know it is tough for you. And we want to provide a 50-percent tax credit to you to help your Guard and Reserve to keep their paychecks whole.

Because a lot of paychecks in America are going to get fattened, a lot of dividend checks are going to be improved, and a lot of benefits are in this bill, some of us thought, and the whole Senate voted, Democrats and Republicans, that one of the paychecks we should make sure was complete and whole was for the men and women taking the bullets on the front line.

Mr. President, 640,000 men and women have been called up since 9/11, and when we called them up, they have gone.

Mr. President, may I have order, please?

The PRESIDING OFFICER. The Senator will be in order.

The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President. I know that tempers are short because it has been a difficult process, and I am trying to be as cooperative as I can. I do not mean any disrespect to anyone in this Chamber, and I do not mean any disrespect for the managers of this bill, who have done a magnificent job under very difficult circumstances, but I have, since Wednesday, been trying to make this point.

When this bill left the Senate, there was a provision that gave a tax credit to the men and women on the front line in Iraq and Afghanistan, wherever they serve, to keep their paychecks whole by giving a 50-percent tax credit to the thousands of employers, large companies and small companies, who send their civilian paychecks to the front line, not so much for the benefit of the soldiers. Many of these men and women who are fighting on the front line understand sacrifice. That is why they joined. If we understood sacrifice a little bit more in this Chamber—and I include myself. I don't understand the sacrifice, but I can tell you the men and women in uniform understand it. But this is not really all for them. It is

for their families, their spouses and children, to keep that one paycheck whole.

For some reason, we passed a bill out of the House of Representatives, crafted in large measure by Chairman THOMAS, that left them out. They couldn't find \$2 billion in \$137 billion to put in for our troops.

We have ceiling fan importers in the bill. We have the gambling industry in the bill. We have the oil and gas industry in the bill. There are many industries in this bill that are important to me. But I have confidence—complete confidence—that not one business in Louisiana, not one industry in Louisiana thinks they deserve to be in line before the Guard and Reserve and the employers that are keeping their paychecks whole—not one. If there is a company in Louisiana, if there is a company anywhere that thinks the tax credit in this bill is more important than the paychecks going to the men and women on the front line, please contact me, because I don't understand it, and maybe it is something I have missed.

I want my colleagues to know that I am only going to speak for the first few minutes, and I have an hour reserved. I am going to speak throughout the 30 hours, use a little bit of my time as we go on.

It is really not that complicated. My colleagues understand this issue. I don't think I have to go into any more detail about the amendment, what it did, how much it cost, and the fact there were 100 percent of the Senators, Republicans and Democrats, who supported the issue. It was moved over to the House. I think they understand it was the House Republican leadership primarily that crafted this bill and evidently did not think it should be included.

Let me spend a few minutes about what I am going to do so we can be clear about the schedule. I do not take this move lightly. I understand we are at the end of the session. I understand people have commitments. I understand there are elections going on. I know there is a Presidential election going on and elections for many of our colleagues in the Senate. But I am going to use all the parliamentary procedures available to me as a Senator to fight for the 5,000 men and women in the State of Louisiana who are currently activated and have gone to the front lines and don't get a whole paycheck. They get their Army or their Navy or their Reserve paycheck, but they leave a lot of pay on the table because they don't get their civilian paycheck.

Here is a tax bill that could have allowed their employer to get a 50-percent tax break, thereby encouraging them to continue that paycheck.

I am going to stand here and fight for them. I can't extend this debate past Thursday. I don't think there is anything in my power to do that. But I can and intend to use all the parliamentary procedures available to me until the

end of this debate. If I have to stay on the floor for the next 4 days, I am prepared to do that. It is with the greatest amount of respect that I let my colleagues know this.

The solution is something I have offered to my colleagues which I want them to consider. I know this bill cannot be amended. I understand that. I am not asking for that. There is a bill, H.R. 1779, that is in the Finance Committee now. Amazingly, because I didn't have anything to do with this bill, I can't believe the bill addresses exactly the same subject that I am discussing. It is a House bill that came over here from the House from the Committee on Ways and Means, the same committee that cut them out of this bill. There is another bill that came over from the Ways and Means Committee that is in the Finance Committee now. So by unanimous consent of the Senate, without even a rollcall vote, just if all the Senators in this body would agree, we could amend this provision into that bill and simply send it back to the House.

I understand I am only one Senator. I know the Senate can do its will, and we can't force the House of Representatives, but we can go on record to say, this bill is important. We can amend the bill.

I would like to spend a moment just to say what the bill is because there is a little bit of irony about the underlying bill. There is an interesting irony about the underlying bill. I will tell you who the author is in a minute. But it is an interesting bill that came over here to give the Guard and Reserve a tax benefit. The tax benefit described in that bill is to waive the 10-percent penalty for the Guard and Reserve taking money out of their IRAs so, presumably, they could pay a house note or a car note. In other words, there is a bill that came over to us from the Committee on Ways and Means to give a tax benefit to Guard and Reserve members to allow them to waive the 10-percent penalty so they could take money out of their retirement account to make ends meet while they are taking the bullets for us.

I have to hear objection for our amendment supported by many Senators, Republicans and Democrats, that would actually keep their paychecks whole so they could put some money in their IRA. What do you put in your IRA if you don't have a paycheck to put in your IRA? If anybody can explain to me what goes in an IRA other than money from a paycheck, maybe if somebody is lucky to have a dividend check or some passive investments or some capital gains, but most people I know take their paychecks and out of their paychecks, after they have paid their rent, after they have paid their car note, after they pay health insurance for their family, after they pay their food bill, after they pay their insurance bill and everything else they have to pay for, if there is anything left, they put it in their IRA. Be-

cause most Americans I know try to do their very best to manage their money.

So I have to have the insult of having the House send us a bill saying they want to waive the 10-percent penalty for the Guard and Reserve, but they won't help put an amendment on to give them a full paycheck so they have money to put in it. This Senator finds that quite obnoxious.

The irony of it is unbelievable. I asked the staff, go find me any bill, any Finance Committee bill that wouldn't get blue-slipped. They came back and said: Senator, you will not believe it; it is a bill about the IRA.

Mr. NICKLES. Will the Senator yield?

Ms. LANDRIEU. No, I will not yield.

So we have this bill that is over here. All I have asked my colleagues is this. As the leader knows, I am not even asking for a record vote. Even though I think our guardsmen and reservists deserve a recorded vote, because I think we should go on record, but I am not even asking for that. I am asking for a voice vote—a voice vote, not a recorded vote—to take that IRA bill, put this amendment on it and simply send it back to the House. This filibuster will be over. That is all I am asking.

Let me say one other thing. I am not opposed to one item in this bill—not FDA, not the pork issue.

I have tried to be respectful of other Members. I would ask that same consideration.

I am not opposed to any provision in this bill. There is \$137 billion in this bill. This bill was supposed to be about \$50 billion. Of course, when you open a tax bill, everyone in America would like to be in it. They have done a good job because everybody is in here. The only people who are not in here are the men and women taking the bullets on the front line. Six hundred and forty-three thousand Americans on the front line, and we couldn't find one page, not one line, not one paragraph for them. This is disgraceful.

It is not our fault. The Senate did not do that. But somewhere between the Senate and the House, the papers got lost. I don't know why they get lost. I don't know why we can't remember them in the tax bill because we sure remember them in photographs. We sure remember them in the parades. We sure have them all over our ads for those running for office.

I am not up for reelection now. I will be up for reelection in 4 years, and I am certain I will hear from every industry in here about how I didn't help them with their tax credits. I will say it again. I am not opposed to any tax credit in this bill, not one. What I am objecting to is how we could, in the middle of the war, with no end in sight, no real plan for the peace, no understanding of when our troops might get home, no understanding of how long they are going to have to be there, we cannot keep the paychecks going to their families.

When is somebody going to tell me we don't have enough money? What is

this? This issue is not complicated. This is very simple. That is why people are responding because it is not complicated. I am trying to explain to my colleagues that it is very simple. I am not even asking for a record vote. I didn't want people to stay here until Thursday. I have 2 children; one is 12 and one is 7. I have had to make arrangements for the next 4 days for them and for my husband. I understand that. I have canceled everything on my schedule. I am not looking for awards or sympathy. I am not asking for anything unreasonable. If these guys can go to the front lines and leave their families for a year or 2 years, can't I stand here for a few days? Can we not work for a few hours to try to voice vote, in the air-conditioning of this building, and send this bill back over to the House and mark it up as they just were not clear about what they were doing? They just didn't realize what they were doing? When they come back in November, they can fix it. That is all I am asking.

One more thing about the tax credit, and then others may have questions. Maybe I haven't been clear. Here is the list of the tax credits. The only arguments I have heard against what I am trying to do are two. One was given by one of the House Ways and Means Committee members when I called to let them know ahead of time I was going to do this. I tried not to surprise anyone. I called them as soon as this bill was printed and came here Wednesday. I called members of the Ways and Means Committee and asked them: What could have possibly happened?

The only comment they gave back that was reported in the newspaper was the House did not like our offset. Forgive me, I am not a member of the Finance Committee. I don't know all of the details about offsets. I don't think our Guard and Reserve know about offsets. I don't think the people we represent know about offsets. But I will tell you, somebody in this Chamber knows about offsets because there is \$137 billion worth of offsets right here. Did anybody think we could find \$2 billion for them? So I am sorry I am not an expert in offsets.

The only other argument I have heard from anybody—maybe there are others and I haven't heard them, and I have been here 3 days—is I don't think we should have tax credits in this bill. Somebody might object philosophically to tax credits. That surprises me because, from the day I got to the Senate, all I have heard from the Republican leadership is tax credits, tax cuts, tax relief. If they don't say it a thousand times every day, it is amazing. Just tax credits, tax relief for everybody, whether we have money in the Treasury or not. That is all I hear about. So it is amazing to me that someone could say we don't like it because, technically, it is a tax credit.

Let me read the nine tax credits that are in the bill. I want the Guard and Reserve to listen; they got left out. I

will tell you the ones in this bill. Section 221: There is a modification of targeted areas of low-income communities for new market tax credits. That is probably very good. It is for new markets. I am sure it will help everybody in low-income areas. I think that is great.

Section 245, credit for maintenance of railroad tracks: It establishes a business tax credit equal to 50 percent—Mr. President, I am losing my voice having to speak over the conversations.

Mr. NICKLES. Will the Senator yield for a question?

Ms. LANDRIEU. No, I will not.

The PRESIDING OFFICER. The Senator will be in order.

Ms. LANDRIEU. Section 245, a credit for maintenance of railroad tracks, establishes a business tax credit equal to 50 percent of qualified expenditures for railroad track maintenance, capped at \$3,500 per mile. Maybe there is a staffer or somebody who can calculate how many miles of railroad tracks we have and multiply it by 3,500 because that is a tax credit that is in this bill. We may need to do that. I have tons of railroads running through Louisiana, but not one railroad company in this country thinks their tax credit should come before making the paychecks of the Guard and Reserve whole.

Biodiesel income tax credit: Provides a 50-cent-a-gallon income tax credit similar to the present law ethanol benefits for each gallon of biodiesel used in the production of a qualified biodiesel mixture used or sold as fuel. I am fine with that, but you would think the tax credit some of us had and thought was important, which gave them a paycheck so they could buy gas, is equally important to this.

Section 339, credit for production of low sulfur diesel fuel; section 341, oil and gas for marginal wells—I know in Oklahoma they have a lot of marginal wells. I have some in Louisiana myself. I am very aware, as a member of the Energy Committee, of the importance of this tax credit, but again, not before the men and women taking 100 percent of the bullets.

Expansion of credits for electricity produced from certain renewable sources and then certain business credits allowed against regular minimum tax.

This is what I was given this morning. Perhaps there are more. I know these are nine tax credits in the bill. The rest of this bill has to be something else that they don't call tax credits. But it is tax benefits. I am not sure I know the title of it. Maybe I am not exactly correct. But these are the tax credits, which is the same thing I asked to be in this bill, and many of us asked, and it was left out by the House Republican leadership.

So, again, I am prepared to stay here until Thursday. I am not going anywhere. I am only asking for a voice vote—not a rollcall vote—on a bill that is already over here, that is already in our Finance Committee, to put this

amendment on and send it back to the House. Then we can all go home and talk about it and we can say we supported it, which we did, and we did a great job, and then people can talk to House Members about are they going to accept this bill or amend this bill or kill this bill. Let the House Members answer that question.

All we can do here is take care of the Senate's business. This is the Senate's business, Mr. President. If we don't stand up for these guys and gals, if we don't fight for their families, who is going to fight for them?

Let me ask the Chair how much time I have remaining?

The PRESIDING OFFICER. The Senator has 38 minutes.

Ms. LANDRIEU. Mr. President, I think the Senator from Florida might have a question.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, as I direct my comments to the Senator from Louisiana, this is one of the most impassioned personal statements that I have heard on the floor of the Senate, and I suggest that our colleagues take heed. The Guard and Reserve have had to carry the burden in Iraq. That is one of the main points of discussion in this Presidential race. It has been one of the main points of discussion in our Senate Armed Services Committee, headed by the esteemed chairman, who is on the floor.

Do we have enough active duty? We have concluded that we do not have enough active duty, and we have seen that the Guard and Reserve are being asked over and over again, on several rotations, to take up the slack because of the needs.

It was called by Senator KERRY the other night in Missouri a backdoor draft. So I ask the Senator, does this—

The PRESIDING OFFICER. The Senator only yielded for a question.

Ms. LANDRIEU. He is asking a question.

Mr. NELSON of Florida. I am sorry?

The PRESIDING OFFICER. The Senator may only yield for a question.

Mr. NELSON of Florida. Mr. President, did I not just ask a question right then? Would the Parliamentarian please advise if I was not asking a question right at the moment?

The PRESIDING OFFICER. The Senator did ask a question.

Mr. NELSON of Florida. I thank the Chair.

Would the Senator please point out if she thinks that this is important to the Guard and the Reserve given the fact that so much of the load has been put on our National Guard and our Reserve?

Ms. LANDRIEU. I thank the Senator from Florida for his comments, and I would be happy to answer his question because he is exactly correct. All members of this Chamber are aware that since 9/11, 640,000 guardsmen and reservists have been called up from Flor-

ida—and I see the Senator from Arkansas—from her State, other Senators who are here this morning and will be here through the debate—from all of our States. The Senator is absolutely right. The large measure of the burden has been placed on them and their families. The Senator from Florida knows they do not ask for much. These guys and gals are used to sacrifice. They do not ask for much and they really do not like to complain. They are the last ones to stand in line and come ask to be included in this bill, but we should ask on their behalf. That is why this amendment is so important.

If we were not passing a tax cut bill and we did not have any money to give anybody credits or tax cuts, then they would be the first to say: Please do not include us. But how can we, in good faith, stand here and pass a \$137 billion bill and leave them out and leave out their employers, small businesses from Florida, Arkansas, and Louisiana that are digging deep, sending that paycheck to the front line even though the man or woman is not in the office or in the manufacturing plant, trying to help their families? Surely we could have found some room in this budget for them.

I thank the Senator for the question.

Mr. NELSON of Florida. Will the Senator yield for another question?

Ms. LANDRIEU. Yes, I would.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Would the Senator from Louisiana recall for us if she has had a similar experience in her State as this Senator has from my State of Florida in talking with members of the families of the National Guard who are at an enormous financial sacrifice when they have to leave their civilian job and are activated, especially if it is two or three rotations they have to go to, and if their employer—I am curious if the Senator has heard from the employers in her State of Louisiana, as I have in my State of Florida, if her employers who want to help the Guard men and women and who want to help the reservists and want to pay them, why they should not receive some financial incentive through a tax break? Would the Senator recall for us her experience, and is it similar to the experience I have had talking to employers and reservists and Guard men and women?

Ms. LANDRIEU. The Senator from Florida raises a very good question to me, and the way I would like to answer that question is with an e-mail. It is wonderful that I received this e-mail this morning. I have received hundreds of e-mails from families all over the United States who have been keeping up with this issue, but because this answers the Senator's question—this is from Bossier City, LA, and he writes: First, I would like to give you a little background on myself. I was raised as a military brat. My father served in the Air Force for 28 years, and we were stationed at Barksdale Air Force base

three times. He and my mother retired in Bossier City. We had a good life growing up in the military, and in my opinion it brought us closer together as a family, but there were many, many, many times when things were tough financially for a family of five. I watched you today on C-SPAN, and I was proud that you have represented us and our State and our military families. I think it is extremely important for funding to compensate our military families, especially now when there are no clear answers on how long our troops will be required to be in Afghanistan and Iraq. I have many friends whose spouses have lost significant amounts of income due to activism. Not only do they worry about their spouses on the front lines, they have to worry about how to make ends meet here in the States. Please keep fighting for their cause. By the way, this should not be a Republican versus Democratic issue. My parents are conservatives and I am a liberal, but we consider this matter a matter of patriotism.

I say to the Senator from Florida and other Senators, I have received hundreds of e-mails just like this, and so I want to make one more point. I do not think this is a Democrat versus Republican issue. As I said, the amendment we are fighting for already passed the Senate by 100 votes. The Senator was a cosponsor. The Senator from Arkansas was a cosponsor. I see other Senators in the Chamber who were cosponsors. We wanted this amendment in the bill, and it was in the bill. It went over to the House, and in the negotiations it was dropped. My question is, why? How could we afford to give a tax credit to everybody else but not the Guard and Reserve?

I thank the Senator for his question. I will yield for another question in a minute but to the point in answering the question: This is a page out of the handbook that the Guard and Reserve receive from our Government. This is the handbook they receive, "Family Readiness Paradigm." The center of this says "self-reliant families." "Self-reliance" is a powerful word. I like to think I am self-reliant. I like to encourage my children to be self-reliant, self-sufficient, independent, hard working. So we send out a memo just to sort of reinforce to our Guard and Reserve that we expect them to be self-reliant. We provide reunions for them. We help them with their deployment, tell them what is going to happen. We try to help them set up health care plans. We arrange telephone calls. We do the training and mission. The only thing we do not do is send a paycheck.

Then we have the President saying:

The National Guard and Reserves are a vital part of America's national defense.

[They] display values that are central to our Nation: character, courage and sacrifice, [and demonstrate] the highest form of citizenship.

And while you may not be full-time soldiers, you are full-time patriots.

Evidently, they do not deserve a full paycheck?

Mr. NICKLES. Will the Senator yield for a question?

Ms. LANDRIEU. No, I will not yield. I am sorry.

That is what the argument is about. Again, I am not asking for a rollcall vote. I know this bill cannot be amended. It is against the rules. There is nothing I can do to amend it. But the bill that is right now before the Senate, I am asking our leadership—I am asking my colleagues to please join with me; I know many do, but I need everybody, I need 100 percent—to agree to amend this bill and send it back to the House and give the House time to reconsider this position. I am fairly certain they did not know the specifics of it. I am going to give them the benefit of the doubt. I do not know that they specifically looked at this and said: These people do not deserve it. I do not think that happened. All I know that happened is that it came back without it in it, and we have time to fix it. We cannot fix it today, we cannot fix it tomorrow, but if we send a bill back to the House, whenever the House comes back, in October, November, December, or January, they could fix it.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 28 minutes remaining.

Mr. NICKLES. Will the Senator yield for a question?

Ms. LANDRIEU. I will yield to the Senator from Florida and then perhaps to the Senator from Oklahoma at a later time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I ask the Senator from Louisiana if her experience in Louisiana, in talking to the Guard people as well as the reservists, that often she finds, as I have found in Florida, that many of them, their employers, the fact that they are first responders, that they are local law enforcement or they are firefighters or they are EMS personnel—if she has found that, as we have seen today on the front page of the Washington Post, that a lance corporal in the Marine Corps went into the Marines because he wanted to get revenge after 9/11? He was a firefighter in New York, and that is the patriotism, as it has been expressed by so many of these first responders. Would the Senator, if she has had that similar experience as I have had in Florida, would she explain that her provision also involves a tax credit for the employers of first responders?

Ms. LANDRIEU. I thank the Senator and will respond to his question by saying: Yes, in this amendment, besides what I have described, there is a portion of the amendment—that was actually led by Senator BOXER—that would allow this tax credit to be applied by local governments to try to keep the paychecks whole for firefighters and police officers who have gone to the front line.

Think of the irony. The Senator from Florida understands this issue well. In

the case he described, a firefighter who fought the fire in New York on 9/11, maybe one who went up into the building, put his life on the line or her life on the line on that day—and we know what happened. We don't have to go back and replay that memory in our head. Then he is in the Guard or Reserve and he signs up to go to Iraq to fight, to take the bullets. Because we left this amendment out, he has to send his family back half a paycheck, and we can't find the money in this bill, \$137 billion, to help them keep that paycheck whole? It is a disgrace. It is shameful. It is unjust. It is unconscionable. That is why I am going to stay here until Thursday. I understand it may not work. I understand the session may adjourn. But it is going to adjourn with me speaking about this, and I hope all of us, saying the Senate has already spoken on this. Our leadership, Republican and Democratic, said if we are going to have a tax bill, a tax cut, a tax break, the Guard and Reserve should be a part of it.

If we could find other things to help, I am happy to do that as well. I put this particular thing together with some of us. There are many other items I am sure could be put in a comprehensive package. In fact, I have spoken to many of the colleagues who have said to me: Senator, we could put together a more comprehensive package. I am working on that with them as well. However, there is no reason and no excuse and nothing anyone can say to me to convince me that before we adjourn we should not take the action, with not a rollcall vote but a unanimous consent, and at least send this bill back to the House. Then we will have all the time in the world—October, November, December, all next year. I am going to be here at least 4 more years unless I get recalled. My election is not up for 4 more years. I will work on it with anybody who wants to for the next 4 years and come up with a comprehensive package. I know that.

But I want the Senator from Florida and the Senator from Mississippi to know, we don't have to wait for a comprehensive package. We don't have to have it all neat and pretty. We don't have to have a commission that could decide let's do this and let's do this. This is what is before me right now. This is what is before me—\$137 billion of tax cuts, and not one page, not one paragraph, not one title, not one scribble for the Guard and Reserve.

Mr. NICKLES. Will the Senator yield?

Ms. LANDRIEU. No, I will not.

So that is my issue at this moment. I am hoping to put a package together. I don't expect this bill to be amended. But I have asked the leadership to allow a unanimous vote—not even on the record—to put this Paycheck Protection Act on the IRA.

How do you have an IRA without money to put in it? I don't know. So it makes sense to put my paycheck bill

with the IRA bill, so then they could actually have an IRA to take the 10-percent credit if they had money in it. You can't get the 10-percent credit unless you have money in your IRA, so this matches pretty perfectly. You get the paycheck, put the money in your IRA, take the IRA out, and you don't have to pay your 10-percent penalty. That would be terrific.

Then on that bill, also an amendment, there is a possibility there could be some hurricane relief. But I want to be clear about one thing. I didn't ask for that although my State will benefit from it. The Senators from Florida, Senator GRAHAM and Senator NELSON, rightly led that. I am a cosponsor of that. That would fit nicely on that amendment. We have to give help to the hurricane victims as well. So we have the Paycheck Protection Act. We have the hurricane help.

Right now, as I speak, I have flooding in my State. I woke up this morning and turned on the television and, besides seeing Donald Rumsfeld in Afghanistan, the next I saw was a levee break in Louisiana. So there is money in this tax bill that I am talking about to help Florida, Mississippi, Alabama, and everybody who is flooding, help this paycheck protection, and do this IRA provision which, again, was not my idea but I support it. I think it was a good one.

All I need is for 100 Senators to say it is OK. Evidently I don't have 100 Senators. I might have 98, 99, 89. We don't have a rollcall so I don't know. All I know is I don't have 100, because if I had 100 this filibuster would be over. So that is where we are.

Mr. NICKLES. Will the Senator yield for a question?

Ms. LANDRIEU. I will yield to the Senator from Florida and then the Senator from Oklahoma, after one more question from the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. I think the Senate, in my question to the Senator from Louisiana, better take note of the passion and the intensity of the Senator from Louisiana.

I would ask the Senator from Louisiana, Why is it that certain members of the leadership on the other side of the aisle are blocking your attempt to help the National Guard and Reserves on a House bill that has already been sent here from the Ways and Means Committee, that is a very logical, underlying piece of legislation because it gives a tax break by allowing people to take money out of their IRA to help them with their expenses as a member of the Guard and Reserves, with paying the 10-percent penalty?

Why in the world would somebody be blocking the Senator doing that? There is no guarantee it is going to pass when it gets down to the other end of this Capitol. So at the end of the day they might still kill it. Why in the world would they be blocking such a logical

thing, to help out the National Guard and the Reserves?

Ms. LANDRIEU. Thank you. That is actually the question of the day. It may take all day or tomorrow to get the answer to that, but I don't know the answer to that. Maybe some Senator could give us the answer to that. I do not know why, but that is what this debate is about.

Is there any compelling reason we could not do that, end this filibuster, move on? These bills are very important to do. I am not objecting to anything in this bill. I am not objecting to anything in the military construction bill. I am not objecting to anything in the intelligence reorganization bill. Surely there are things in here I don't particularly like, but that is the process. That is the process. I cannot write this bill perfectly. There are things in here my constituents would find absolutely laughable. But I have to tell them we have to laugh sometimes, that is the way it is. That is the process. I have been a legislator for 25 years. I know the process. But this is more than process. This transcends all issues, in my mind. This is about whether this Senate, Republican and Democratic leaders, will stand up for the men and women on the front line—yes or no.

It is as simple as that.

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

Ms. LANDRIEU. Yes.

Mr. NICKLES. I need to know a little bit more about the amendment. The tax credit goes to the employers. Is there any guarantee that money, the tax credit—let's say \$20,000 for the service man or woman—goes to the service man or woman. How do we know that happens? Is there a delay before they would benefit from those dollars?

Ms. LANDRIEU. I would like to respond this way. I have the greatest respect for the Senator from Oklahoma. I actually like him very much. He and I have worked on some important issues—the issue of child welfare, adoption, foster care. I respect him as a Member who understands the details of the finance and tax system and the Budget Committee. He chairs the Budget Committee.

All I can say in answer to that is we drafted the amendment as carefully as we could to make sure that, in fact, that happens. I assure him that there are people wiser than myself, smarter than myself, who have worked here either as a Member or a staffer who could carefully craft such an amendment. I know they crafted this whole entire bill of 600 pages to help the railroads maintain their tracks, for ceiling fan importers so they can keep the fans on, but the troops in Iraq can't afford a fan. Their families can't buy one.

The Senator can talk about whatever. I am respectful of his question. I am completely convinced that the amendment could be written in such a way.

Does the Senator have any other questions?

Mr. NICKLES. I am not sure it is written that way. I am not sure it is a requirement that an employer has to give the money immediately to a service man or woman. I suspect that is your intent. I don't believe that is the way the amendment is written. I would like to know more about it.

I have a different question. If the amendment were agreed to, you would be paying substantially more for a man or woman serving side by side—let us say in Iraq or Afghanistan in combat a situation, the Federal Government would be paying significantly more for that reservist than they are for the Active-duty. How much differential should we pay? Is that equitable for the thousands of people who are Active-Duty to be paid less than the Reserves when their lives are at risk equally, when they are in the same trenches doing the same job?

Ms. LANDRIEU. The Senator's first question, in my opinion, doesn't have a lot of merit. The second one does have a lot of merit, and I would like to respond to it.

There is an argument that comes out of the part of the Pentagon, not the whole Pentagon. There is something unsettling to a man on the front line, some active and some Reserve, when both are driving in a truck in Iraq, that they should get the same paycheck. They both should get \$30,000 no matter what. No matter if the reservist makes \$70,000 in the United States in their regular work, when they drive the truck in Iraq they should make \$30,000. I don't hold to that position. I will tell you why.

Our Government benefits significantly financially, and the taxpayers benefit by not having to keep that Guard and Reserve full time, 24-7, year after year after year. We benefit as taxpayers, so we have more money to give out in tax cuts to everybody else. We benefit by not having to keep a force. We have 1.6 million Active-Duty, and we have 1.2 million Guard and Reserve who are now 40 percent of our force and growing every day. You can see during World War II, in the 1940s, we called up everybody. We had to fight the war. We called up everybody who would go, and even those who didn't want to go because they were forced to go under the draft. Our Active Forces are down at the lowest level since 1941.

I hope everybody can see this. Our Active Forces are down to their lowest level since 1941. You know who makes up this gap? After the terrorists attacked the World Trade Center and we are in a war, do you know who makes up this gap? The Guard and Reserve. They go to the front lines.

All I am talking about is since we asked them to go, just let their paychecks follow them by giving a tax credit to the thousands of businesses, large and small, in this country that are doing the patriotic thing, as acknowledged by our President and our

Secretary of Defense and the leadership. Can't we give a tax credit to keep their paychecks for their families? This isn't for the soldier. This is for their families. I think the men and women, active, traditional units, understand that. They get health benefits. They get other benefits when they are Regular Army or Reserve. The reservists don't even have a matching 401(k) savings plan. The reservists don't even have TRICARE. The reservists have very little, and we are blocking them from keeping the one paycheck they do have.

Some Senators don't think they should be able to get the employers' tax credit to keep bread on the table and keep their mortgages paid. This is the issue.

I understand the Pentagon disagrees with that. I understand their position. I don't agree with it. I think, yes, we should pay a differential, or at least allow reservists, when they go to the front lines, to keep as much of their pay as possible, even if they are in a fox hole next to a 10-year, full-time Army soldier. The full-time, traditional soldier gets other benefits and other compensation. They might get free housing. They understand that.

I think the active Army and the active military support this amendment. I am convinced of it. They are not jealous about the Reserves.

Mr. NICKLES. Will the Senator yield further?

Ms. LANDRIEU. For one more question.

Mr. NICKLES. I understand the Senator didn't like my first question because she is trying to give the Guard and Reserve additional compensation and additional pay but through a tax credit which goes to their employer which may take some time to get directly to the guardsmen or reservists who have been activated. If you want to pay them more, why don't you pay them more? Why don't you move an amendment through the DOD authorization bill? We did just last night under the good work of Chairman WARNER—or pay more through the Appropriations Committee so they would be paid on a monthly basis. I am not sure I agree with the Senator that there should be a differential. She may make an eloquent argument, but if she feels compelled they should be paid more, pay them more. But don't you think there is something lost by giving a tax credit that may or may not be funneled to the employees? It may take some time. There may be some lag. There may be some fraud, or it might not happen. But if you want to pay them more, pay them more.

Ms. LANDRIEU. I would like to answer the question. First of all, the Senator has drafted many amendments in his career. If he wants to help me modify this amendment, I would appreciate his help. It clearly is my intention to get this direct tax credit in a way that makes sure that these companies can take tax credits for the Guard and Reserve.

If we can write \$137 billion worth of instructions to other companies about how this would apply to their tax credit, we could most certainly write a law or rule that allows these companies to be able to cover the paychecks, which they are doing already. This is totally voluntary. These companies don't have to do it. But if they are going to do it—some in Oklahoma and some in Louisiana are digging deep—they have budgets to meet. They are paying the guys on the front line and then paying to replace them in their offices.

I will tell you why I don't want to put it on the Armed Services bill. I see the chairman on the floor, the Senator from Virginia. What happens is—and the Senator from Oklahoma knows this—under our rules, the Defense Department gets just so much money. Why should I ask my soldiers to make a choice: Do you want a paycheck for your wife, or do you want a covered Humvee for your battalion? I am not asking them that question. You might want to; I am not. Do you want a paycheck for your wife, daycare for your children, or do you want a covered Humvee for yourself? How would you like to answer that question? That is why I object to putting it on the Defense bill.

This is a tax package bill. I don't have to take one Humvee away from them. I don't have to take one rifle away from them, or one helmet away from them. All I have to do is put them in this bill. And I am going to stand here until 100 Members of the Senate agree to do it, and if not we will be back here next year.

How much time do I have remaining?

The PRESIDING OFFICER. There is 7½ minutes remaining.

Ms. LANDRIEU. I will reserve the remainder of my time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I speak in opposition to the amendment, both in substance and on procedure, and procedure may be more important.

First, on the substance, I question the wisdom of whether we want to have in our active combat forces and our Reserve forces who are fighting side by side a significant pay differential for doing the same thing. Senator LANDRIEU wants to. We have not done that in the past. I don't think that is a smart thing to do. We have benefits for Regular Army and we have benefits for the Guard and Reserve.

I used to be in the Guard, but to say we want to have a significant pay incentive if a guardsman or reservist is activated over and above the soldiers who are full-time active duty, I question the wisdom of that. That is debatable.

I have no doubt in my mind if we are going to compensate them, and we are talking about compensation for our men and women who are fighting, whether they are Guard and Reserve or whether they are Active, that should

be done in the Armed Services Committee. That should be done in the Appropriations Committee, not compensate them through the Tax Code. The Tax Code was not written to be, yes, we will finance their pay. We have a Tax Code that is favorable for people who are in combat situations. It is tax free. They do not pay income tax. That is for Guard and Reserve or Active Duty. If they are in a combat area, they do not have to pay taxes. That is fine. That is the way it should be.

The Senator wants a differential. The Senator wants to pay them more, pay them more. The Senator from Louisiana is on the Appropriations Committee, and we have the chairman of the Appropriations Committee and the Defense Subcommittee. If it is necessary to have a differential to make it work for our Guard and Reserve, have an amendment to pay them more. If it is 10 percent, if it is \$10,000 or \$20,000, the substance of the amendment is we will give a tax credit to some employers—some get a \$15,000 tax credit and some employers get \$20,000, some would be 50 percent and some are 100 percent. It is confusing. How are we sure that tax credit gets to the individual, and will it get to the individuals and/or their families immediately? I don't think that connection has been made.

My point is that is not the right way to do it. If you want to compensate them, compensate them through the appropriations process. Pay them more. We passed an authorization to increase pay for men and women.

Substantively, the amendment leaves a lot to be desired. Procedurally, it is worse. Procedurally, this was an amendment in the Senate; it was not in the House. I happened to be a conferee.

I heard my colleague from Louisiana say she called up House conferees and asked: Why didn't you accept this? A couple of comments. The Senator needs to call up conferees before the conference is closed. Not one Member raised this issue in the conference individually. I understand Senator BAUCUS and Senator GRASSLEY put it in a package of amendments and sent it to the House, and the House rejected that entire package. But we also considered dozens and dozens of amendments individually that people felt strongly about. Some were passed. I had some pass and I had some defeated. That is the legislative process. No one raised this amendment individually. The House did not reject this amendment individually. It was not sent to the House.

No Member of the Senate Finance Committee, Democrat or Republican—we had 23 members of the conference committee. Anyone, Democrat or Republican, could have offered this amendment. My guess is it would have passed the Senate conference. It would not have had my vote, but it would have passed the Senate. Conferees would have sent it to the House, but no one did.



That is the way we work a conference. Sometimes you win and sometimes you lose. To say, wait a minute, my amendment was not adopted, so therefore I will try and tie the Senate up for 3 or 4 days until you pass my amendment by unanimous consent—there are hundreds of amendments that were not adopted in that conference, hundreds. Every member of the conference had an amendment they wanted to have passed that did not pass. That is part of the legislative process. If we all came up and said, wait a minute, I feel so strongly about that amendment that did not pass I will hold the entire Senate up for a few days to bring that to the attention of the Senate, that is not a very effective way of legislating. There are effective ways to legislate.

If Members really want to increase the compensation of Guard and Reserve, they need to be talking to the chairman of the Appropriations Committee. They need to talk to the authorizing committee. They need to talk to the Pentagon. They need to ask, How can we make this work? Not have a system that says, Well, some companies get a tax credit, a bigger tax credit, and maybe it will flow to the employee or maybe flow to the employee a year later—that is not a good way to compensate them. Compensate them directly, as we should, not through refundable tax credits that may or may not get to the family. Try and work it out in a way that would be of benefit, not to say, yesterday they were trying to pass this as a freestanding tax bill but automatically it would be blue-slipped in the House. They will not even consider that. That does not help the cause.

Procedurally, this approach of demanding we pass something by unanimous consent because it was not included in the conference when no one even raised it in the conference is just not the way you legislate. I can think of any number of Senators who were disappointed they did not get what they wanted in conference, and they could try the same thing. I don't think that is effective in legislating. I don't think it will work.

I make those comments. Substantively, the refundable tax credit going to employers is not the correct way to do it. The correct way to do it is, if the individuals who spend a lot of time on how much we should compensate our men and women in the armed services, Regular Army and regular military, as well as Guard and Reserve, if they are convinced we should have a differential for people serving side by side, then we need to be working to implement that through their committees and make it direct compensation so the men and women serving receive that paycheck immediately, not some deferred way that might come through an employer and might be subject to abuse.

I make those comments. The procedure is fatally flawed and substantively

the approach is very well intended, but unfortunately I don't think substantively the amendment is the correct way to compensate the men and women who are serving both Active Duty and in the Guard and Reserve. We have to keep in balance what we are paying Active and what we pay Guard and Reserve, and having a big differential could cause a lot of problems.

Mr. WARNER. Will the Senator yield?

Mr. NICKLES. I am happy to yield.

Mr. WARNER. Mr. President, I was very pleased with the total cooperation on both sides of the aisle. We passed yesterday the annual authorization act in honor, by the way, of Ronald Reagan. We named it in his honor. However, it was a stack about three times the size of this when it reached the Senate.

I saw my distinguished colleague from Louisiana, who, incidentally, served on the Armed Services Committee with great distinction. She does have a keen knowledge of the needs of the military people. I respect that greatly.

In that bill we have made some progress this year on a very delicate package of benefit increases for the Guard and Reserve and made inroads to the TRICARE situation and made an impression on that in this bill. It is a balance we constantly have to watch between the active service—that individual, he or she, 365 days a year on call, their families likewise—and then the contribution of the Guard and Reserve, which has absolutely been extraordinary, as the distinguished colleague from Louisiana points out.

I can speak from some personal experience. Never before has the United States relied so heavily on the Guard and Reserve since, the Senator pointed out, World War II. I see my distinguished colleague here from Alaska. He had a very heroic career in World War II, and I had a far less distinguished career. I was 17. We did what we had to do. I saw it swelled to 16 million men and women in the Armed Forces. The chart also showed how we are down to a level of 1941. The reason for that is the spectrum of threats against this country—the standing armies and navies of other nations don't anywhere near approach what we have, and the weapons are so different. One ship today can do the work of four ships we had during World War II. So there is a reason for that leveling off.

The point I wish to make in conclusion is every time a pay in benefit is brought up for any one of the Active or the Reserve, it goes through enormous formulations in the Department of Defense by people who spend their total careers trying to maintain a fair and equitable balance between the Guard and Reserve and to meet their needs and to have that standing Army, Navy, Marine Corps, and Air Force that is required for 365 days of the year, and then proudly to have the Guard and Reserve, which can respond in time of need.

So with all due respect to my colleague from Louisiana, I would hope this type of legislation again would be analyzed in the normal course of the authorization and appropriations bills. I say to the Senator, you were so active as a member of our committee. That way, we can have access to that tremendous infrastructure within the Department of Defense and elsewhere that has the knowledge as to how best to structure the benefit package for the Active as well as the Reserve Forces.

Ms. LANDRIEU. Will the Senator yield for a question?

Mr. NICKLES. Mr. President, I appreciate the comments and question by my colleague from Virginia.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

UNANIMOUS CONSENT REQUEST—CONFERENCE  
REPORT TO ACCOMPANY H.R. 4567

Mr. STEVENS. Mr. President, the Senate now has before it two of our appropriations bills. The first is the homeland security bill, H.R. 4567. That bill has \$6.5 billion, among a lot of other money, for FEMA. That is to be used for those disasters that were not part of the hurricane disaster but for those such as the tornado damage and flood damage, the things that spun off from the hurricane. That money is going to be particularly used for that.

We sought to add some money to that bill for that purpose. We urged to let FEMA do its work and see how much would be needed, and if we have to have a supplemental next year we will have it.

We also have the military construction bill, H.R. 4837, before us. It has some \$9.1 billion in it in the supplementals that were included in that bill that are primarily aimed at recovery from the four hurricanes to hit the Southeast, particularly Florida. There is no question that money is vitally needed, also. That money, by the way, would have been in the \$6.5 billion had the homeland security bill passed, as we should have been able to do by October 1. It would have been available immediately and there would not be the emergency in that area now.

But homeland security has been traveling on a continuing resolution. As I pointed out this morning, the moneys that were allocated to FEMA under the continuing resolution since October 1 are supposed to last until November 20. They ran out last night.

I have not seen two bills of this type, of this magnitude, passed by the other body as rapidly as they passed these two yesterday. They passed them in less than 2 hours. There was not one single vote in opposition, not a single word opposing it. As a matter of fact, every Member of the House voted for each of those bills.

Now, we tried last night, when the bills were received here, to proceed with the homeland security bill, and that was not possible because of an objection.

Mr. President, at this time, I ask unanimous consent that this procedure under cloture on the FSC bill be put aside so that we may consider the homeland security bill.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Reserving the right to object, I would say to my friend from Alaska that the precipitating cause of why we are here was the insistence of OMB, I am sure with the concurrence of the White House, and with the acceptance by the majority party on the Appropriations Committee, to fundamentally change an authorized bill in the Agriculture Committee under purview of the Agriculture Committee that would treat those who were hurt by the hurricane differently than farmers would be compensated in Iowa or Ohio or Pennsylvania or Wisconsin or a number of other States. And so it is not fair—

Mr. STEVENS. Regular order. Is there objection to my motion?

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, I ask the Senator, what is the unanimous consent request before the Senate right now? What is that unanimous consent request?

Mr. STEVENS. This is to proceed with the homeland security bill, H.R. 4567. And if it is brought before the Senate, I intend to ask unanimous consent that it be immediately adopted.

Mr. HARKIN. Mr. President, reserving the right to object, I ask the Senator if he is willing to modify his request as follows: that immediately upon passage of the homeland security appropriations conference report, the Senate agree to include in the military construction conference report a provision prohibiting the use of farm bill funds to offset disaster assistance in that same report?

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator accept the amendment?

Mr. STEVENS. Is it possible for me to amend the conference report, as the Senator requests, by unanimous consent?

The PRESIDING OFFICER. It is a hypothetical inquiry, but the Chair believes you cannot amend a conference report.

Mr. HARKIN. Mr. President, reserving the right to object—

Mr. STEVENS. I have the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. HARKIN. Reserving the right to object, I had some conversations with the majority leader about this, and I would hope perhaps some further discussions could take place on resolving this.

Mr. STEVENS. Is there an objection, Mr. President?

Mr. HARKIN. Therefore, I object.

The PRESIDING OFFICER. Is there an objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

Mr. STEVENS. Mr. President, I still have the floor.

Mr. COCHRAN. I do not want to interfere with the chairman's right to the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I am about ready to make another motion pertaining to the bill from the subcommittee that the distinguished Senator from Mississippi chairs.

I want to point out that the military construction bill, as I said, has the moneys for the immediate repair and assistance to the people who have been severely harmed in the wake of these hurricanes. And we would like to get that, too, before the Senate. So unless the Senator has some objection—

Mr. COCHRAN. Mr. President, if the Senator will yield, I want to point out the fact that this was a bill that was taken up in our committee back in June, and approved unanimously by the Committee on Appropriations, to fund the Department of Homeland Security. I want to lend my support and encouragement to the Senate to go along with the chairman of the full committee. It no longer contains any language to which there had been some objection posed by other Senators. So I hope the chairman of the full committee will be respected by the Senate and that his unanimous consent request can be agreed to.

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

Mr. STEVENS. Mr. President, the request of the Senator from Iowa is that we amend the conference report. The conference report contains a directed scoring concept that we put in there to assure the Senator that the program that he authored, against which we have sought to offset some of the budget authority required for this military construction bill, would be taken so we could proceed with that program. The drought program is not specifically authorized by law. The House of Representatives required, as is their right, an offset to the moneys that would be appropriated within the military construction bill for the drought program. And it was the House of Representatives that made this proposal.

In conference we did as I said, put in a directed scoring provision, and it was the directed scoring provision that the staff of the Senator from Iowa requested.

Now, it is that provision the Senator is using as a basis for objecting to consider even the homeland security bill. The homeland security bill does not have the drought program. He has objected to taking up the homeland security bill because we will not change the military construction bill.

Now, to me, in view of the crisis that faces this country, particularly in regard to the use of FEMA funds, I find that appalling—just appalling. And I am going to come back again and again and again.

I repeat the request. Mr. President, I ask unanimous consent that we place before the Senate the homeland security bill. It does not contain the drought provisions. It does not contain the provision the Senator objects to. I know of no other Senator who is objecting to that bill. So I ask unanimous consent it be brought before the Senate and the current procedure be put aside so we may consider it.

The PRESIDING OFFICER (Mr. TAL-ENT). Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alaska.

UNANIMOUS CONSENT REQUEST—CONFERENCE  
REPORT TO ACCOMPANY H.R. 4837

Mr. STEVENS. Mr. President, now to the military construction bill. The President has asked us on repeated occasions to bring matters before the Senate and the Congress as a whole to deal with those disasters caused by the hurricanes. Those hurricanes came so fast, as we got one request, we got another request, we got another request, so we decided to put them all together and move them all.

I credit the wisdom of the distinguished chairman of the House Appropriations Committee, Chairman BILL YOUNG, for the ingenuity in doing that because we might have been facing separate bills on all of those supplemental requests had we not put them all together. We requested the Military Construction Subcommittee in conference to allow us to add that coalition, that combination of those hurricane supplementals, to put them on that bill.

That military construction bill passed both Houses. And obviously that is the quickest way to get the money to Florida and those other States. That money, some \$9.1 billion in particular for the hurricane areas, is of extreme importance.

I point out that in that bill is directed scoring that shows the provision we put in this bill to obtain the budget authority that we did not have available to our committees—we borrowed in effect from a program that has budget authorities extending out until 2012—we have a provision in this bill that says that program cannot be impacted by this offset from now until the year 2007. So there is ample time to deal with how we adjust, if we wish to, the impact of this money on the program that Senator HARKIN authored. That offset is \$2.8 billion against a program that is currently estimated to cost \$8.9 billion, notwithstanding the fact that its original estimate was \$2 billion. But it won't affect the program.

The Senator has 2 years before there will be any diminution at all. No one

would be hurt in any way. This is an accounting mechanism. We used budget authority and outlays. We had the outlays. We need the budget authority. So we borrowed, as we did 2 years ago, from that fund. It is an enormous fund, a noncontributory, mandatory program that builds and builds and builds.

I think the Senator has called attention sufficiently to this program. Many of us are going to examine that program in real depth. I know of no other program, even Medicare, that has contributions from the public at large, from people who are benefited by employees. It is not just taking of money directly from the taxpayers' funds, from the Treasury, and spending it without regard to any consideration at all as to cost.

Again, this MILCON bill must pass. I ask unanimous consent that the existing procedure for cloture on the FSC bill be put aside so that H.R. 4837 may be placed before the Senate for the purpose of considering it at this time.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, how much do I have left of my hour?

The PRESIDING OFFICER. The Senator has 47 minutes left.

Mr. STEVENS. I reserve the remainder of my time. I will be back.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise to say how disappointed I am that we are holding back vitally important pieces of legislation in the Senate for in some respects—I understand the political shows that we all put on before elections. I understand that. But we are holding back money from States such as Pennsylvania, Louisiana, Florida, and others that right now need resources to help recover from the hurricanes that hit us in the eastern part of the United States. We have individuals—not just one, now two—who are holding us from passing that legislation to get those needed resources the Senator from Alaska suggested are vitally needed for FEMA now to get those resources to people who need it now.

I was on the phone the day before yesterday with my Governor. We were talking about the concern over the shortage of funds, the concern about the ability for FEMA to respond and get some of these businesses affected by floods in Pennsylvania up and going. The bill we have here on the floor right now, we could pass it right now and get this money into the hands of people in Pennsylvania, North Carolina, South Carolina, Georgia, Louisiana, Alabama, Mississippi, Florida, and other States that have been affected by the hurricanes over the last couple of months. We are being blocked because someone doesn't like a provision that takes money out of a program that was overfunded, that is

spending enormous amounts more than what it was intended to spend.

So we have a program that was supposed to spend a couple of billion dollars, now is spending four or five times that amount. And the author of the program doesn't want to put any fiscal constraint on it. As a result of that, we are not getting flood relief. We are not getting hurricane relief.

This is the kind of pettiness in the Senate, partisanship, that gives this institution a bad name. This is the kind of stuff people sit at home and wonder: What are we thinking here. There are people hurting. The money that is being taken out of this program that is the reason for this bill not passing, most of that money isn't for 6, 7, 8, 9 years. The Senator from Iowa can come back next year and get his money back. If there is enough support in this body to get the money back in the program, come back next year and put the money back in the program. You want the money, prove to the Members here that this is an important enough program to get the money put back in next year. If it is that wonderful, if it is that broadly supported, come back with an amendment to an appropriations vehicle and get the money put back in.

But don't stop people who are in desperate need, who have to have furnaces for their homes as the weather turns cold in our area of the country, from having the resources necessary to respond to this disaster.

The money being taken out of this program is over the course of the next 8 years. We are holding up vital funds for people in need today. I can understand how people get upset with this place. Because a lot of the things we do around here don't make a lot of sense. It can be one person. If anybody doesn't think one person can make a difference, one person can make a difference here in the Senate, positively and negatively.

I will let you decide whether a program whose funding was cut over the next 7 or 8 years is as important, no matter what it is, as getting resources to people who are suffering now in America. You decide.

Then we have the issue on a bill, the tax bill that is before us. We have the Senator from Louisiana who is upset that she didn't get a provision in the tax bill. I would like to tell the Senator from Louisiana and every other Senator, I have a long list of things I did not get in this tax bill. I spent two full days sitting over in the House of Representatives Ways and Means room, pleading with the Congressman from California and others for provisions I thought were vitally important to the economy, to average working people, to people in my State, to people in other States, energy provisions.

I understand the Senator from Louisiana didn't get her provision in the bill. By the way, this is a bill having to do with foreign tax credits, foreign sales corporations. Everyone complains

about putting extraneous provisions on. This is probably an extraneous provision to the core of this bill. I would make the argument that the provisions I was arguing for, which was the Baucus amendment—he offered a single amendment on this, the 5-year net operating loss carryback—to me that was important. There are businesses in my State that can't hire people because of the way the Tax Code works and unfairly treats them when they have a good year versus bad. It averages it out to keep things going smoothly. It is a vitally important provision, from my perspective, to create jobs and employment opportunities. It was defeated. The House defeated it. We passed it in the Senate. We pass lots of amendments in the Senate, and the House defeated it.

I had an amendment that was vitally important for me in my State and for the neighboring State of Ohio. I worked diligently on that amendment. It wasn't a \$2 billion-plus provision; it was for \$30 million. I look at the Senator from Mississippi, who may be thinking: \$30 million? We worry about \$30 million over 10 years—\$30 million? I could not get a \$30 million provision in this bill. It could have meant thousands of jobs for my State and neighboring States, and I could not get it in the bill.

Yes, I could grandstand before the people of Pennsylvania and grandstand before the people of America and say I am going to fight this bill and stand up for everything, and I am going to get my amendment passed and we are going to send it back to the House, and the chairman of the House Ways and Means Committee is a rotten guy. I could do that stuff, and I could act like a hero and make great political headlines. But do you know what. That is not going to get my provision passed, and I can guarantee that the chairman of the House Ways and Means Committee is not going to pass my provision if I call him names on the floor of the Senate, which has been done over the last 24 hours, and particularly if they don't agree with the substance of the provision. They are not going to pass it when they see political grandstanding at its worst a few weeks before the election.

What are they holding up? They are holding up a provision that—right now, this bill being held up stops tariffs from being levied on businesses in America, which is hurting jobs today. If we pass this today and get it to the President that much quicker, we would stop those tariffs. We hear so much complaining about how we need to be competitive internationally. This is a bill that will end unfair tariffs that are being imposed on American businesses. We are holding it back for this provision. Is it worthy? I will get into the worthiness in a moment. Even assuming it is the most worthy provision in the world, we are holding back something that is a vitally important piece of business that will get our businesses

help and help people be competitive in a world with a global economy.

We have political grandstanding going on. Let me assure anybody who thinks they can play this game on any amendment they may like and they are going to hold up the show because they didn't get their provision, which wasn't even offered by any individual Senator, an amendment that was so important—I understand it was so important to one particular Member, but I can tell you not one Senator on either side of the aisle offered this as a singular amendment to be passed.

As the Senator from Oklahoma said, I sat there for two days. If it was that important of an amendment, I can tell you there was a whole energy bill in there that is very important. You want to talk about important for national security and for economic security and stability? How about passing an energy bill when you have \$53-a-barrel oil? You bet I wanted to get that done. Am I upset that we did not include that? You bet. Part of the legislative process is that you have to make choices.

This was a bill very narrow in scope. There were a lot of things we passed in the Senate that we didn't pay for, or we did pay for but the "pay fors" probably had more objections than the underlying amendments. When it came over to the House, all these "pay fors" went away. We had a requirement in this body on both sides of the aisle that this was going to be a revenue neutral bill. So there we are. We had to cut out provisions in the Senate bill. The provision of the Senator from Louisiana got cut. My provision was cut. The energy bill got cut. A whole list of very good pieces of legislation got cut. I wish they had not. I wish we could have found a way to pass them. We could not. Here we are.

Are we going to end tariffs and give our businesses the opportunity to compete globally? Are we going to grandstand and talk about how we are going to keep people here all night long? The Senator from Missouri will have to sit here all night long and other Senators have to sit in the chair all night long just to show how tough we are, how we are going to stand up and fight for our men and women in uniform.

Let's see. The Senator's amendment provides a tax credit for businesses who have employees who are guardsmen and reservists overseas. As the Senator from Oklahoma said, that seems to be a rather indirect way of increasing pay for Guard and Reserve. Also, I make the argument it is a very inefficient way. I have the magazine of the Reserve Officers Association of the United States in my hand. This magazine surveyed the Fortune 500 companies. I commend the article to my colleagues.

This was published in the January-February 2003 edition. What this said—by the way, obviously, I don't have an updated copy. I don't know whether they have done another survey. When they did the last survey, we found that, in 2003, only 17 of the Fortune 500 com-

panies did not provide additional compensation for guardsmen and reservists who were deployed. In fact, well over a hundred—154—provide full compensation. In other words, they pay them fully, every penny of their salary—not just what the Senator from Louisiana suggested, \$15,000, but fully pay their salaries. The rest pay some or most of their salary and benefits for the individuals and their families.

What are we going to do with this legislation? We are going to enrich the Halliburtons of this world and the other big Fortune 500 companies that are already providing these benefits. We are now going to give them a tax credit. We are going to spend \$2 billion-plus to give tax credits to Fortune 500 companies and a lot of other companies that already are providing these benefits. Is that a very efficient, cost-effective way, in a time of big deficits, to pay Guard and Reserve a lot of money? I argue that is about as inefficient a way as possible to do this.

Who are we benefitting here? Certainly the Fortune 500 companies. Are we benefitting the reservists or the Guard person when all but 17 of these companies are giving benefits now in excess of their pay that the Government pays them? So if we send those companies that money, all the company has to do is say: Thank you for the money. We are already paying them, but we could use the money. We can increase our profits a little bit. Thank you very much. There is no obligation in this legislation that they have to take that money and pay even more benefits. In fact, 154 of the companies already pay full benefits. They could not pay any more benefits.

I understand the Senator from Louisiana wants her provision included. We all like to get our provisions included. We also would like to go home. We would all like to get our business done. We would all like to go out and get in touch with our constituents and find out what they really think instead of what we think here is best for them. We do a lot of that around here—what we think is best for everybody. I argue that this provision, which is going to enrich a lot of Fortune 500 companies, is the most inefficient way possible to solve this problem. If you want to pay guardsmen and reservists more, talk to the Senator from Virginia, talk to the Senator from Alaska, talk to the new chairman of the Appropriations Committee, the Senator from Mississippi, and you ask them whether we can structure something so that we are now going to compensate Guard and Reserve more than we are going to compensate Active Duty people. That is a legitimate issue. I believe we can have that debate.

But to make all this fuss about how we are going to stand up for all our guardsmen and reservists and fight for them until the end, let me assure the Senator from Louisiana, at 7:40 tomorrow we are going to pass this bill. If the Senator from Louisiana wants to

make everybody sit here until 7:40 tomorrow night, we can wait until then, and at 7:40 this bill will pass and her provision is not going to be on it, and her provision is not going to become a Senate bill passed by the Senate between now and then. We can wait until that time. We can wait and let the tariffs continue to be levied another day on our workers here in America.

We can wait and have provisions having to do with energy such as the Alaska pipeline another day; we can wait so we can have the political opportunity to talk about how important Guard and Reserve members of our military are; but this is an inefficient and costly way of solving the problem.

I argue that is as much a reason why it did not pass as anything else. The idea that someone believes their provision is so much superior to everybody else's, I think that probably every Member of the Senate had a provision they wanted or they would like to have seen in that bill that they did not get.

The thing about legislating is we do the best we can. We work hard and live to fight another day, and we do so in a way that builds relationships, tries to get things done in a collegial way. I make the argument that keeping Members here on Saturdays, Sundays, Mondays, and Tuesdays during recesses when people had scheduled events, when their campaigns are, obviously, at this point very much underway, when nothing substantively that they are proposing is going to happen, is not the most effective way to win friends and influence people.

Now, if I were for the Senator's provision—I do not know whether I will ultimately end up voting for it, but I ask her, if I were a supporter, to please give this proposal a chance instead of making it a proposal that has fostered some ill will around this place. We have an opportunity to do something right, pass three pieces of legislation that should be passed. We have disaster assistance that should be out today, as well as homeland security. I wish I had a nickel for everybody who talked about how much more money we need for homeland security. We listened to the debate the other night where it was said we were not spending enough on homeland security.

Well, we have a Homeland Security bill. The subcommittee chairman is in the Chamber. I do not know what the increase is for homeland security in this bill from last year, but I suspect it is substantial. That money is not being spent. We are in the next fiscal year right now. We could be spending that money right now. We could be securing our homeland right now.

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

Mr. SANTORUM. I would be happy to yield.

Mr. COCHRAN. In fact, I can answer that question partially. I looked at the legislative notice that was published back in September when we had the bill on the Senate floor. We are increasing by 9.2 percent the spending

that goes to the Department of Homeland Security overall. So by withholding this funding—we are into the new fiscal year as the Senator points out—we are allowing individual programs administered by the Department of Homeland Security to suffer. We are requiring them to give up, in effect, the increases that have already been approved by this Senate and in the conference report on the Homeland Security appropriations bill.

Some of the programs, for example, that have been increased substantially are Project Bioshield, the Transportation Security Administration activities, the U.S. Coast Guard. Those are fully funded at the administration's requested level, which were substantially increased over the last fiscal year.

So this is causing real harm, and the Senator makes that point.

I point out specifically how it is causing the harmful results: new technologies to enhance security of our country by identifying people coming into the country who are using visas. We have new technologies now that can be used to screen and to make sure people are who the visa says they are. This is something that is not going to be utilized for this period of time in the new fiscal year because the increases in funding are not being made available. So this is really serious. We need to pass this Homeland Security appropriations conference report as soon as possible. We need to do it today. We needed to do it when it was ripe for consideration yesterday.

It does not contain any provision that is being opposed by the other side.

Mr. SANTORUM. I ask the Senator from Mississippi, is there any provision in this bill that is being objected to by anybody, that the Senate is aware of, on either side of the aisle?

Mr. COCHRAN. There is no objection that I have heard from any Senator. There is a disaster provision that was included in this bill. It has now been taken off the Homeland Security appropriations bill. It has been added to the Military Construction appropriations bill. This bill is clean of any provision that any Senator had opposed, to my knowledge.

Mr. SANTORUM. I then will reiterate, if there is no objection to this bill, I ask unanimous consent that—I yield to the Senator from Alaska, since he is the chairman of the committee, and ask if the Senator would like to make a unanimous consent request because I think this is important. Since we have now established beyond a shadow of a doubt that there is no objection by any Senator to this bill on either side of the aisle, I ask the Senator if maybe this would be an opportunity that we could have to pass this bill and get these needed funds for homeland security purposes. At a time of war when our threat has been elevated, where they talk about all the danger that is in front of us as we lead up to this election, not to be able to pass this Homeland Security bill at

this time would be unconscionable, so I would be happy to yield to the Senator from Alaska to ask for the opportunity to pass this bill since nobody is objecting to any of the substantive provisions.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Pennsylvania is correct. We have heard no objection. As a matter of fact, we have a wrap-up procedure, is what we call it—and the Senator is familiar with that—at the end of each legislative day. This Homeland Security bill was in that. We know that absolutely no one objected to the Homeland Security bill in the first instance and later the Senator from Iowa, Mr. HARKIN, came back and objected. So this bill is held up apparently because the Senator from Iowa wanted to have some other thing in the way of getting on Military Construction.

I am happy to renew the request.

Mr. SANTORUM. If the Senator would yield just to clarify, the Senator from Iowa came back and objected not to any particular provision in this bill; there was no objection to the underlying Homeland Security bill?

Mr. STEVENS. I know of no objection any Senator has raised to the Homeland Security bill. The Senator from Pennsylvania is absolutely correct about that.

I renew the request, and that is that we set aside the current cloture procedure and that the Homeland Security bill be laid before the Senate, H.R. 4567; that the conference report be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Pennsylvania.

Mr. SANTORUM. The Senator from Iowa just objected again to this bill, which nobody objects to, being passed. Again, it is 3:30 eastern time on a Sunday and I suspect the viewing audience of this debate is not particularly high, but I would also suspect that those who are viewing are sitting there with furrowed brow asking: What was that all about? No one objects to this bill, yet there is an objection.

Our country is at war. Our country is at war. There are threats to the homeland. We have the Democratic nominee for President, a Member of this body, who I suspect might have some say about what Members on his side of the aisle will do in a few weeks before the election, who complains constantly that we are not spending enough money on homeland security, that we have not defended the homeland as vehemently as we should have. Where is the Senator from Massachusetts today to put those words into action, to get this bill passed so we can get this money spent now?

It is all a bunch of smoke and mirrors: Oh, yes, we are for all this stuff

but a provision having to do with land conservation that is spending four and a half times more money than was originally intended to be spent over a 10-year period of time, the money in the outyears of that program have been reduced to pay for immediate drought assistance in almost the very same area of the country, and it is in a separate bill than the Homeland Security bill and that is why homeland security is not going to pass right now. That is why our homeland will go less defended today than it could be. The furrowed brows are justifiable in this case. This is wrong.

We may be lucky. We may be lucky. The 5 days or 4 days I understand we are talking about, maybe Thursday before we can potentially get the bill passed, the 5 days—we could have passed it yesterday by consent, so Saturday, Sunday, Monday, Tuesday, Wednesday—6 days. The 6-day delay may not cost anybody's life in America. It may not cost a life. We might not have resources that are deployed because 6 days sooner we would have signed this bill and those resources would have been available to maybe protect somebody in America. We will never know that—or maybe we will. But the fact is, to hold up a piece of legislation that is a vital national security interest, for a very small piece of legislation where money was to be taken from it years down the road, I think, reflects the worst of what people see in Washington, DC.

I am hopeful the persistence of the chairman of the Appropriations Committee and the persistence of the chairman of the Homeland Security Subcommittee over the next 24 hours that we will be here, or 27 hours that we will be here, will eventually pay off. I know there are Members on the other side of the aisle who are working diligently to try to convince the Members on that side to move America's business forward. Let me assure everybody—I think we all know this—that the legislation, the homeland security legislation, the drought and disaster relief, the hurricane relief money, and the FSC/ETI bill, the JOBS bill having to do with foreign sales—all three of those are going to pass just as they are. There will be no amendments. They are not allowed under the rules. There will be no separate deals that will allow other provisions to pass to make everybody happy.

They will all pass. They will all pass as if, in fact, we just stood up here and called for the vote on them right now. There will be no difference.

The question is how long are some individuals going to make the Senate wait. But candidly, I complained about not being able to be with my family today. It is Sunday. Usually I take Sundays off and try to be home with my six children. I will tell them, they might be watching, I will be home soon, I hope.

But that is a minor inconvenience. That is meaningless. Our job is to be

here to do the job we have to do to get what we need done for the American people. The reason I am here today and the Senator from Mississippi and the Senator from Missouri and the Senator from Alaska and the Senator from Kentucky and the Senator from Hawaii—we are here because we want to get the people's business done. We want to cut those tariffs. We want to eliminate them. We have a chance to do that today. We want to get that money out for disaster assistance. We have a chance to do that today. We want to get that money to the law enforcement agencies and the transportation agencies to protect people here at home. We can do that today.

But, because of two individuals, we are not. They may stand here and give speeches about how heroic their effort is, and how important their job is to get these provisions they have worked so hard on, but we could all be doing that.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of all of the amendments considered in the Finance and Ways and Means Committee conference report on October 5 and 6.

There is a whole page of them. There are 23 amendments on the first day and another 10 amendments on the next day. We had 33 amendments also considered. I would argue the amendment of the Senator from Louisiana was not offered, except that at the end of the markup all the amendments that no one wanted to offer that were in the Senate bill, that were not offered individually, we threw them all together in one big package and offered them, and her amendment was in the big package that no one thought was important enough to offer individually.

I will not argue her provision is not important. It is, obviously, certainly important to her. But not one member of the Senate Finance Committee, Republican or Democrat, House or Senate, offered it. And we are being held up on the Senate floor. I don't know why. It is not going to become law. At some point you have to say, getting those tariffs off the backs of American business is more important than even the most important provision in your heart. Trust me, I had some of those amendments. It is time for responsible legislating. It is about time we get serious. Let's get our job done. Let's get our job done for the American people. It is decided. Nothing is going to change. It is just a matter of when we are going to do it.

I hope through the good work of the Democratic and Republican leadership—I know Members on both sides are working diligently to try to work through this—that we stop the tariffs that are making us globally uncompetitive; that we start funding homeland security at the levels the President and this body said they wanted; and that we start getting the resources to people all throughout the eastern part of the United States, including the

Commonwealth of Pennsylvania, get the resources into the hands of the small business people and homeowners who have been hurt by the floods and storms of the last couple of months. That is what this is all about, those three things, three vitally important provisions, three bills that could pass in 5 minutes. In 5 minutes we could call those bills up and pass them.

I feel like "Name that Tune." I bet we could do it in 4 minutes, maybe even in 3 minutes we could pass all these bills. And, by the way, they are going to pass. They may not pass tomorrow—well, one of them will pass tomorrow. Maybe Wednesday. Maybe Thursday. They are going to pass. So what are we accomplishing? We are hurting the American public. We are costing jobs. We are adding insult to injury to people who have been devastated by natural disaster, and we are making our country more vulnerable by not having increased homeland security protection at home. That is what we are accomplishing.

Congratulations, Senate. Good job. Keep those tariffs high. Make us uncompetitive. Don't give that money to people who suffered through natural disasters. Let's keep it here in Washington because we have some political points to make.

I have some political points I need to make. You know, you can wait. You can wait, Transportation Security Agency, for that additional funding. You can wait, Coast Guard, for that additional funding. You can wait, because politics here in the Senate comes first. Opportunities to show the folks back home I am fighting for you, that comes first. Amazing. Amazing.

The most amazing thing is it is a futile fight. All three bills will pass without changes. Do you know why? Do you know why I am certain, why the Senator from Mississippi is certain? Because that is the rules of the Senate. They cannot change. They are conference reports. They cannot be amended. So what is this all about? It is about putting personal political interests above the interests of those hurt by natural disasters, those who are being hurt by high tariffs, and those who would like to feel more secure in our country with increased homeland security spending. That is what it is about. Let's tell the story. Let's tell the story about what is going on here on a Sunday afternoon in the Senate. Everyone is safely at home, we hope, watching their football games or the league championship series. What is going on here in the Senate is political demagoguery at its highest level. Let's call it for what it is. We need to stop this. We need to get our job done. We need to go home and talk to our constituents and work on problems.

I ask unanimous consent, again, on the issue of homeland security, that we call up the Homeland Security conference report that has not been objected to on any substantive ground, that we call up the Homeland Security

Subcommittee appropriations conference report and pass that bill by unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the disaster assistance conference report and the Military Construction conference report be called up, and I ask unanimous consent they be passed.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. I ask unanimous consent that the FSC/ETI conference report be called up and passed by unanimous consent to stop the tariffs from being imposed on our workers across the country.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. Mr. President, I say to the Senator from Mississippi that we could have done that in less than a minute. If we had not heard the word "objection" three times, those bills would be passed right now.

By the way, mark my word. All three will be passed just as they are, but we are just going to have to wait a while because while the business of the Senate is done, the talking isn't done. While the business of the American people has been done, the politics isn't over yet.

At this point I yield my time, and let the show begin.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, first of all, I would like to respond to the Senator from Alaska who said this bill would not affect the program because it took funds out of the outyears. That is not true because this is a contractual program. Farmers have to sign 5- to 10-year contracts. If you take money out of the outyears, of course, that affects how the programs operate today, the ability of USDA to sign 5- to 10-year contracts today.

The Senator also said he did not know of any other program like this, which is a mandatory program without a fixed spending limit. I am sorry, but there are a lot of programs like that in our agriculture committee. The programs are like that. I see our chairman sitting here. The commodity programs are exactly like that. Apart from agriculture there are a lot of programs that operate that way.

I will respond to my friend from Pennsylvania. Regarding getting money out, I will point out that my friend from Pennsylvania said there are not too many offices open in Pennsylvania today. I also point out that he may have forgotten that Columbus Day



is a national holiday, and I don't think there will be many offices open in Pennsylvania that day either.

The Senator from Pennsylvania went on with quite inflammatory-type language about getting these bills done. I will point out that the MILCON bill passed the Senate on September 20. I never heard—maybe I missed it—the Senator from Pennsylvania speak so heatedly after September 20 about the necessity of getting this bill done. It has been out of here since September 20. Yet I only heard him talking about the necessity of passing it today. I never heard about it before. This is all politics. That is all it is.

I point out that homeland security passed September 14. I have not heard the Senator from Pennsylvania complaining before about how we need to get the House to act and get that done in a hurry. I had not heard it until today. It is just politics. We all know that.

Again, I am somewhat surprised that the Senator from Pennsylvania is willing to take money out of the pockets of Pennsylvania farmers and use that money to pay for farmers in Texas or Colorado or Wyoming or Montana. He is willing to do that.

I will point out again that the Senator talked about going back to appropriations to get funds for conservation back later. But we passed this conservation program in the farm bill, not in appropriations.

I also point out to the Senator from Pennsylvania that just yesterday, on a resolution that was before this body, 71 Senators voted affirmatively that this disaster money ought to be emergency spending and not offset out of farm programs. Mr. President, 71 Senators voted yes; 14 voted no. I guess it comes as no surprise that the Senator from Pennsylvania was 1 of the 14 who voted no. So he is in favor of taking money out of the farm program to pay for disasters. Surprise, surprise. Maybe it is not a surprise for some.

But I point out that Pennsylvania, the State he represents, is in the hurricane assistance package. They get the hurricane assistance without having an offset, along with Florida, Georgia, Alabama, Virginia, and a few other States.

One can be selfish about things and one can look upon disaster assistance as a national priority.

I note that a number of Senators from other States that were affected by the hurricane voted the other way. The Senators from Virginia, Florida, Georgia, the Carolinas, to cite some, all basically voted to say: Yes, we are happy that the hurricane money comes to us. But you are right, other disaster money ought to be emergency. But not the Senator from Pennsylvania. He voted to take it out of the farm program himself.

I wish he would follow the lead of some other Senators who are affected by hurricanes in other States. They said unselfishly: Yes, we need help. I

believe they do, too, and it ought to be an emergency. But I also believe that farmers who suffered from drought or flooding in Iowa, floods in North Dakota, suffered from tornadoes in Oklahoma, hail in Minnesota, wind damage in Wisconsin, pest infestation in Pennsylvania, they too suffered a disaster.

That ought to be taken out of emergency spending just as we have done for the last 50 years, with one exception 2 years ago. That was corrected right away.

The Senator from Pennsylvania stands in a small minority who believe that disaster money ought to be taken out of the farm program.

The Senator from Pennsylvania went on talking about how much money this conservation program costs. He said it will cost four and one-half times what it was supposed to. That is a guess-timate. We really do not know exactly and for certain what it is going to cost, and I don't think it is going to cost that much. But, nonetheless, he went on about this program. I will check the record. I could be wrong in my interpretation. But I believe he said we should not have programs like that, that we ought to come back and get appropriations for them.

I just wonder. Of course, the Senator from Pennsylvania is no longer in the Chamber, but I am sure someone will tell him what I said. I would like to ask the Senator from Pennsylvania whether he wants the same rules to apply to the milk income loss program. Would the Senator from Pennsylvania like the same rules he is trying to put on the conservation program to apply to the milk income loss program? I bet he wouldn't because that affects his dairy farmers in Pennsylvania.

We put the milk income loss program in the farm bill. It was estimated to cost \$1.7 billion through fiscal 2005. Later, CBO said it would cost more than \$4 billion. Already it has cost \$2 billion. I don't hear the Senator from Pennsylvania griping about that and saying that is not right, that if it was supposed to have cost \$1.7 billion, that is where we should have capped it.

But the milk loss program will be coming back and we will see if the Senator from Pennsylvania would like to apply the same rules to that. In fact, the Senator from Pennsylvania wants to extend the milk loss program. He does not want to just let it expire but wants to extend it. He does not care how much it costs because it is uncapped. It is another one of those uncapped entitlement programs, I point out to the Senator from Alaska, that is paid for by the taxpayers of this country. There is no cap on that program. It is an entitlement program paid for by the taxpayers. Again, I point that out to the Senator from Pennsylvania, maybe he would like to go in there and get some money from that program.

I will talk about the conservation program for a few minutes. The Senator from Pennsylvania said what gives us a bad name around here—I don't re-

member all that he said—is the procedure of the Senate, like this afternoon. What gives us a bad name is when we agree to do something, enact it, and our constituents rely upon that, and then we come back later and a few people, exercising their power, run roughshod over the will of the majority and change the program we had promised to the people. We have enacted this program for you.

In the farm bill, we fought out these issues. We hammered them out and made agreements and we created this Conservation Security Program. Our constituency—farmers, conservationists and environmentalists and others around the country—were told, OK, you can rely on these 5- to 1-year contracts.

Now a few people have come back to thwart the will of the majority. As I pointed out, 71 Senators voted against taking an offset for disaster assistance, not to take it out of conservation. That is overwhelming. The House of Representatives overwhelmingly supported this program, but OMB, under the guidance of the White House, and with the concurrence of a few people in the House leadership and Appropriations Committee, were able to change it. That is what gives us a bad name around here, that a few people can thwart the will of the majority and change those programs.

Again, this is a program that was historic, the whole conservation title of the farm bill. When the President of the United States signed the farm bill in May of 2002, he said one of the main reasons he was signing it was because of the historic increase in conservation, an 80-percent increase. We had a lot of programs in there for conservation, and we had a new program called the Conservation Security Program. Everyone said good things about it, including the President.

Unlike other conservation programs, the Conservation Security Program took a comprehensive approach to conservation. It not only encourages the adoption of new practices, it rewards those who are already implementing important resource-conserving practices. CSP, as it has come to be known, the Conservation Security Program, was designed specifically as an open national program, equivalent to the commodity programs except instead of being paid in relation to farm commodity production, farmers and ranchers are now going to be paid for producing environmental benefits such as cleaner air, cleaner water, saving soil, enhanced wildlife habitat, and the adoption of energy-conserving practices.

The CSP is also clearly a way to provide all producers across the Nation the tools and opportunity to implement conservation practices and to lessen the need for environmental regulations. It also provides incentives for producers to create and adopt innovative conservation practices.

Again, those who would severely restrict this program and kill it, as they

have been trying to do, are opening the door for environmental regulations. The people of this country want cleaner air. They want cleaner water. They want to stop soil erosion. They want to clean up our rivers and our streams and our lakes. They want to stop what is happening in the Gulf of Mexico with sediment and nutrients coming down the Mississippi. That is what this program is designed to do, to encourage farmers on a voluntary basis to implement these practices.

The funding for CSP was like that for a commodity program. We were going to make producing conservation benefits much like a commodity. The commodity programs have no fixed cost limit, no cap, I say to the Senator from Alaska. They are uncapped programs, just like the milk income loss program is an uncapped program. There are a lot of these. We do this in the Agriculture Committee and in other committees, a lot. They are restricted not by an arbitrary cost limit but by the eligibility requirements.

In order to get these payments, a farmer has to carry out substantial practices that will produce real conservation benefits. If you will do those things, you qualify. But you have to save your soil, protect your water, have cleaner air, enhance wildlife or conserve energy and those types of things. Then you qualify.

What a few people did under the guidance of the President was to come in and take a lot of money out of the conservation program. I was surprised at this because two nights ago in the debate in St. Louis the President proclaimed his strong support for conservation. I said, wait a minute, as I was watching this debate. At the very moment the President was saying he supported conservation, he had his people up here on the Hill taking over \$2.8 billion out of conservation, gutting conservation, taking out the money.

The President cannot have it both ways. You cannot on television tell the American people you are for conservation and have your people up here taking the money out of conservation. That is exactly what the President and his people are doing. We all know it. That is what this fight is about.

I say to the Senator from Pennsylvania, I am here to fight for farmers. I am here to fight for a cleaner environment. I am here to fight to help save and improve our nation's soil, clean our water and our air, enhance wildlife. I am here to fight to give our nation's farmers and ranchers the tools they need to be better producers, to be better stewards of their land. I am here to fight for our farmers. I am here to fight for the farmers of Pennsylvania, too. Even if the Senator himself won't fight for them, I will fight for them. I don't want to take money away from the farmers in Pennsylvania to send to Iowa or to send to Wyoming, Oklahoma, or anywhere else there is a disaster.

Just as all taxpayers of this country are giving some of their taxes to help

the victims of the hurricane, so, too, should we all, as we have for the last 50 years, provide assistance for those who suffer from tornados, floods, hailstorms, drought, and everything else. It is a national problem.

The Senator from Pennsylvania may want to take money away from his farmers. I guess he did that yesterday when he was 1 of 14 who voted to take money away from his own farmers to send to those who suffered a disaster.

I point out that Pennsylvania is in the hurricane assistance bill. They are going to get help and it will be emergency spending. Farmers in Wisconsin and Minnesota, farmers in Ohio and Missouri and other places, were not affected by that hurricane. What about them? Why should they be treated differently? Their disaster hurts them as much as the hurricanes hurt people in Florida, Georgia, and Pennsylvania. We ought to care as much about the farmers who were hit by a tornado or a mud slide or hail storms, acts of nature over which they have no control.

Our farmers work hard. They produce the food and the fiber for our country. We have the best, most bountiful, cheapest food supply anywhere in the world, thanks to our farmers. They control a lot of things, but one thing they cannot control is the weather. Yes, there are crop insurance programs, but they do not cover all crops equally or sufficiently in so many situations.

We have always said, when you get hit by a disaster, we will be there to help, just as we are for people in Pennsylvania. But I would hope the people of Pennsylvania—I know the people of Pennsylvania. They are not a selfish people. The people of Pennsylvania would want to help farmers in Iowa or Missouri or Wisconsin or Ohio. They would want to help farmers who lost a crop because of a flood in North Dakota. They would want that. They would want the Nation to do it, just as we are helping them.

I am sorry that the Senator from Pennsylvania does not see it that way. I am sorry he can't be 1 of the 71 who voted to treat disaster assistance as an emergency and not take it out of the pockets of farmers. Our farmers work hard. They do not deserve this kind of treatment.

The dairy farmers in Pennsylvania who got money under the milk income loss program, well, we put that in the farm bill for those dairy farmers in Pennsylvania. It does not affect my State as much as it does Pennsylvania.

Well, I suppose you could say: We got ours. It is almost as if the Senator from Pennsylvania—it is almost as if I hear the words: Well, we got ours. To heck with everybody else.

Well, look, we are all part of this country. We are all part of this Nation. When a disaster strikes someone in Hawaii, we ought to be there for them. Or Alaska, if there is an earthquake in Alaska, you bet we ought to be there for them. We should not take it out of

Alaska's highway money, or we should not take it out of money that goes to Hawaii for medical care, or something like that. We should not do that.

But evidently that is what some people around here are thinking. We should not say to the poor people in Florida: Look, I'm sorry. We'll give you hurricane assistance, but we are going to take it out of your highway money; we are going to take it out of your Medicare; we are going to take it out of other Federal programs that go into your State. That is not a caring kind of country if we do something like that.

So I would hope that we could be a little more caring and considerate of those who have suffered disasters in this country and make sure that they, too, are treated just like we are treating people in Florida and Pennsylvania and the other States that got hit by the hurricanes.

That is why I am here. That is why I am holding this up. That is why I wanted to get this corrected. I will fight—I will use every rule—I am not breaking any rule of the Senate, and I will not break any rules of the Senate—but I will use every rule I can of the Senate to stand up for farmers and for conservation and to stand up for people who were hit by disasters, to stand up for the agreements that we reached in the farm bill.

We voluntarily and knowingly reached all of these agreements in writing the farm bill and we stayed strictly within the budget we were given for it. We signed the conference report on the dotted line. Both the House and Senate passed it by strong bipartisan majorities. The President signed the bill. Now the President and others want to come back and say: Well, everything is OK except this one program. We will take out this one.

I am sorry, that is what gives this place a bad name. You cannot give your word you are going to do something and then you go back on it. You cannot do that around this place. The President has sent his people up here to do that.

If the President really wants to support conservation, he ought to tell his people: Look, put that disaster assistance in the emergency spending package just as you did the hurricanes. That is the fair, the just, the reasonable, and the compassionate way of doing it.

Mr. President, how much time do I have remaining of my hour?

THE PRESIDING OFFICER. The Senator has approximately 38 minutes remaining.

Mr. HARKIN. Mr. President, I thank the Senator from Hawaii for permitting me to go ahead of him.

I yield the floor at this time.

THE PRESIDING OFFICER. The Senator from Iowa yields the floor.

The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I commend the Senator from Iowa for his

stalwart stand for the farmers of America. He has been a strong Member of the Senate for our farmers over the years. I commend him for his statement.

Mr. President, I rise to express my views on the conference report to accompany H.R. 4520, the Jumpstart Our Business Strength Act, to be on record as to why I voted against cloture. On balance, although the package contains a number of helpful provisions, it ultimately falls short of what we owe to the people of my State and the people of this country.

Initially, I would like to thank my colleagues for their hard work on this bill, which contains some good provisions to help American businesses and works toward ending harmful tariffs currently placed on many of our exports. The conference report also contains some much-needed boosts for renewable energy and renewable fuels. It will expand production tax credits to include renewable sources of electricity, such as geothermal and solar energy, landfill gas, trash combustion, and open-loop biomass. It will provide a per-gallon excise tax credit for ethanol blended by refineries and a 50-cent-per-gallon income tax credit for each gallon of biodiesel used or sold as fuel. As a longtime advocate for renewable and alternative energy sources, I believe these incentives are important to help our renewable energy businesses in Hawaii increase the amount of renewable energy used to produce electricity.

However, there is much more that the final conference agreement lacks that leaves me no choice but to oppose the measure. For example, I am disappointed that some of the measures in S. 476, the CARE Act, which passed the Senate by an overwhelming vote of 95 to 5, did not make it into the bill. In particular, section 310 of the Senate's CARE Act bill is important for our teaching hospitals. The provision allows support organizations to utilize debt to improve teaching hospitals' real estate endowment. This would assist charitable teaching hospitals in my State of Hawaii and other States as well. Regrettably, this provision was not incorporated into the conference report.

I supported another provision in an amendment offered by my colleague from Louisiana, Senator LANDRIEU, that the Senate accepted by voice vote. This amendment sought to improve the credit for employers of the men and women in the Ready Reserve or National Guard who have been called to active military duty. In light of large deployments underway in my State of Hawaii and other areas of the U.S.—as the Senator from Louisiana said earlier, about 57 percent of Hawaii's Guard and Reserves have been called up—this was a very significant amendment to show that we honor the commitment that the Reserves and Guard have made to our country. I am very disappointed that this amendment was

stripped in conference, despite a strong show of support by this body.

I understand that there may be efforts to try to rectify this problem, and I hope that we get somewhere, but it should have been remedied during conference on this measure.

I am pleased that the bill includes long-awaited provisions to shut down certain abusive tax shelters. However, as meaningful as some of those tax loophole closers are, the Senate had sought a stronger package to further restore faith in corporate America. Although this represents a missed opportunity, I hope that we will revisit the matter in the next Congress.

In addition, I am pleased that the conferees heeded calls for fiscal responsibility and used provisions such as those ending tax shelters to fully offset the package. However, depending on whether the leadership of our Nation or this body changes next month, we may face tremendous additional costs years from now when tax cut extensions and expansions in the package are further extended or possibly made permanent. I hope that we are able to stick to fiscal prudence when working on future tax cut measures, given important domestic and international priorities that could continue to suffer from further major decreases in Federal revenues.

I also oppose this bill because it represents a missed opportunity related to the U.S. Department of Labor's overtime regulations. Since the Department published its proposed overtime regulations in the Federal Register in March 2003, Members of Congress have been trying to improve the regulations to ensure that all workers are not adversely affected by these changes. However, our concerns have not been heard by this administration. Rather, this administration continues to disregard the wishes of the majority of the Members in this Chamber that believe certain portions of the overtime regulations will take away overtime protections for some workers. On May 4, 2004, the Senate passed an amendment introduced by Senator HARKIN that would allow for full implementation of any regulations that expanded or improved overtime coverage, but would prohibit the Department of Labor from implementing any new rules which would take away overtime protections currently guaranteed. And, once again, in conference, the provision was taken away.

Finally, an extremely important provision has been omitted from the conference report. By an overwhelming vote of 78 to 15, the Senate approved an amendment offered by my colleagues Senators KENNEDY and DEWINE to provide the Food and Drug Administration, FDA, with the authority to regulate tobacco products. I appreciate their leadership on this critical issue.

For too long, the FDA has not been provided with the necessary authority to regulate a substance that causes so many lives to be lost. The Campaign

for Tobacco Free Kids, American Heart Association, American Cancer Society, and American Lung Association sponsored the educational campaign piece behind me. As you can see, it features a young child, likely no older than 8 or 9 years old. Yet, children this age are too often the target audience of cartoon-like tobacco advertising that seeks to exploit them as part of a target market for cigarettes. According to the Campaign for Tobacco Free Kids, smoking is the leading cause of preventable deaths, killing approximately 400,000 people each year. The FDA must be provided with the authority to regulate tobacco products to help prevent children from becoming addicted and to make tobacco products less harmful than they are in their current form.

It is estimated that 2,000 children are hooked on tobacco every day. Flavoring cigarettes is one of the tactics used to entice children and teenagers to start smoking. Right here, you can see an example of the marketing that was employed in this campaign. This summer, R.J. Reynolds Tobacco Company produced flavored cigarettes that used images of my home State of Hawaii and the name of one of our islands in an attempt to make smoking more attractive. One of the cigarettes, which was named Kauai Kolada, is flavored with "Hawaiian hints of pineapple and coconut." I don't know if you can see this, but let me point it out right here. Another lime-flavored cigarette is featured in the same marketing campaign.

I am outraged that a manufacturer of such a deadly product would exploit and, therefore, taint images and names from Hawaii in their attempts to lure children into smoking. It presents a false promise of paradise. The DeWine-Kennedy amendment would have prohibited flavored cigarettes, such as the Kauai Kolada, and restricted tobacco advertising.

Any buyout for tobacco farmers must include FDA regulation. It is outrageous that this current Congress will fail to take necessary and justifiable steps to help protect our children and improve the public health of our country. It appears that certain tobacco companies want to continue to cultivate another generation of smokers so that they can increase their sale and reap more profits at the expense of the health and well-being of our families.

Coming from a State that does not have a large manufacturing base, the bulk of this conference report will not apply. Given that fact, I still find it my duty to help American manufacturers for the good of our country, and I applaud the provisions in this conference report that do so. It is our manufacturers that help us maintain our status as an economic powerhouse in the world.

However, as occurs with other large bills, there are enough things wrong with this final package and enough missed opportunities that I am unable to support it.

I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. TALENT. Mr. President, I rise to speak about a provision in the pending tax bill that will benefit tens of thousands of families, mostly African-American families, a provision based on the Sickle Cell Treatment Act, S. 874, that I introduced last year with my friend and colleague, the Senator from New York, Mr. SCHUMER.

Before I discuss the provision, I thank the leader and also our distinguished majority whip for their hard work in advocating for the inclusion of this provision in the conference report. It is very important legislation. Certainly, it is bipartisan and bicameral legislation, designed to help treat and find a comprehensive cure for sickle-cell disease, a genetic disease that affects primarily, but by no means exclusively, African Americans.

I am very pleased that the provision enjoys the strong support of many prominent children's health groups, African-American groups, union groups, church groups, and medical groups in general.

Why does the bill have such broad-based appeal? Because it would make a real difference in the lives of families who have struggled with this disease, as well as others who are high risk for getting it.

Here are a few statistics about sickle-cell disease: About 1 in 300 newborn African-American infants are born with sickle-cell disease. More than 2,500,000 Americans have the sickle-cell trait. They do not necessarily have the disease but they have the trait and therefore may pass the disease on to their children. Sickle-cell disease is the most common genetic disease that is screened in American newborns. People with the disease have red blood cells that contain abnormal types of hemoglobin and therefore the shape of the cell changes into a sickle-like shape, hence the name of the disease.

Blood cells with that shape have difficulty passing through the blood vessels or carrying the nutrients or oxygen the body needs. Tissue that does not receive a normal blood flow eventually becomes damaged and can cause potentially life-threatening complications.

There are many side effects or complications because of the disease. Stroke is probably the most feared effect of sickle-cell disease, especially for children. It may affect infants as young as 18 months old. The important thing to remember is that sickle cell is a sneaky disease. It can show up in ways one would not normally associate with the disease.

I have spoken, for example, with parents whose kids had periodontal disease that was very difficult to treat because it is treated with antibiotics and the blood does not carry the antibiotics as well to affected areas when the patient has sickle cell.

While some patients live without symptoms for years, many others do not survive infancy or early childhood.

There are often severe episodes of pain for people suffering with the disease.

I became personally involved with the effort because of a doctor from St. Louis—a hero, I may add—Dr. Michael DeBaun, who treats children with sickle-cell disease. When I met him and his patients, I was struck by the hardship the disease places on not only the patients but the families of the patient members as well, and primarily on the children who must receive blood transfusion after transfusion to stay alive.

About one-third of children with sickle-cell disease suffer a stroke before age 18. These children require frequent blood transfusions, sometimes 15 to 25 units a year, in order to prevent subsequent strokes. I think especially of a young man I have come to know in the course of working on this legislation, Isaac Cornell Singleton.

Isaac is about 10 years old. He is from Missouri. He is one of Dr. DeBaun's patients and he attends fifth grade at Gateway Elementary School in St. Louis.

Every 4 weeks Isaac goes for blood transfusions at St. Louis Childrens Hospital with Dr. DeBaun. In fact, he has a permanent port installed in his chest to allow for the transfusions, which is one of the reasons he has to limit playing contact sports like basketball and on the playground with other children. If anyone knows Isaac, they know the limitations on his activity and playing sports is, for him, probably the worst aspect of the disease with which he is afflicted.

Last school year, Isaac missed school for several weeks at a time, including because of three hospitalizations, because he had severe episodes of pain associated with the disease. Sickle cell affects his decisions every day. He takes medication daily. He has to drink a lot of water to lubricate his cells. He is careful not to overexert himself, and he gets plenty of rest.

After spending time with Dr. DeBaun in his clinic and after consulting with him about how Medicaid deals with sickle cell, I knew we could make the system better for kids such as Isaac. So last April Senator SCHUMER and I introduced the Sickle Cell Treatment Act. Our friends and colleagues, Congressman DANNY KAY DAVIS from Chicago and Congressman RICHARD BURR from North Carolina, introduced the companion bill in the House.

I cannot overemphasize the outpouring of support we have received for this bill. I knew this disease had affected communities of people for decades, but I had no idea how deep the

impact was or how great the need was people felt for help in trying to struggle with this disease. In fact, one of the problems is there has been so little visibility with regard to sickle cell, so little attention paid to it, that there is a lot of ignorance even within the African-American community about what the disease does and how to deal with it.

I think one of the greatest aspects of the bill so far has been to raise the level of attention to the disease. I think that already has helped and the legislation itself will help in informing people. I will go into that in a minute.

As an example of the kind of communications I received, Allyce Renee Ford of Blue Springs, MO, wrote, and I am paraphrasing her a little:

I was so pleased to read of your bill to increase Federal funding for treatment of sickle cell disease. My twin sons were born with sickle cell in 1973. They suffered with this debilitating disease for all of their lives. They both lost the battle to painful complications of sickle cell related problems in 2002.

Please believe me, Senator Talent, it is a very painful, life constricting disease, both for the victim and for their families.

Even though I do not have any other children to lose to this disease, I mourn for all the other parents who will lose their children in the future . . . today, tomorrow, some day, they will lose them.

Thank God there will be some help for sickle cell disease victims.

Why are so many people, so many groups, so many medical personnel supporting this bill? Because it is critical to help the historically underserved population, many of whom may not know they carry the trait or have the disease until it has already affected them.

The underlying legislation has the support of dozens of African-American children's groups, health advocates, as well as union and church groups. I am not going to read the whole list but it includes the Congressional Black Caucus and the Sickle Cell Disease Association of America—I thank the Sickle Cell Disease Association for their tremendous help in writing this bill and getting it passed—the American Medical Association, the Catholic Health Association, the National Association of Childrens Hospitals, the National Baptist USA, the NAACP, and many other groups as well.

These advocates know this legislation will make a difference in the lives of sickle-cell-disease children and their families in four key ways. First, the bill increases access to affordable quality health care. The provision that is in this tax bill provides funding to currently eligible Medicaid recipients for physician and laboratory services targeted to sickle-cell disease that either are currently not reimbursed or are underreimbursed by Medicaid. The bill enhances services available to sickle-cell patients. A provision in the bill allows States to receive a Federal 50/50 funding match for nonmedical expenses related to sickle-cell treatments such

as genetic counseling, community outreach, education, and other services. This is crucial because right now to get compensated for counseling, education, or outreach regarding sickle cell, the services have to be provided by the physician.

Unfortunately, there are not very many physicians in this field. They are extremely busy. They do not have the time to sit down and do this kind of counseling with the patients. Many of them heroically make the time, but there are limits to the number of hours they have in the day. So if this counseling can be provided by nonphysicians, other personnel who are thoroughly familiar with the disease in various outreach centers and places, we can reach out and let people know what this disease is, whether they should get screened for it, what the symptoms are, how they can manage their diet and their lives so as to minimize complications, and many other things that are crucial.

This disease management provision allows hospitals and clinics to do outreach with nonmedical personnel to educate high-risk communities about the disease. It also allows nonmedical personnel like counselors to spend time with sickle cell families and spend time discussing how to manage the disease. In particular, I have talked with parents who have this problem. This will help experts in this field assist families in navigating through the health care maze so they can get the services they need.

The bill also creates 40 sickle cell disease treatment centers around the country. It authorizes the Department of Health and Human Services to distribute grants for up to 40 health centers nationwide at a cost of about \$50 million for the next 5 fiscal years so we can have outreach centers in all parts of the country where there are substantial concentrations of people who are at high risk for the disease. It could mean a health center grant in almost every State. The grant money could be used for purposes including education, treatment, continuity of care for sickle cell disease patients, and for training health professionals.

Finally, the bill establishes a sickle cell disease research headquarters. It creates a national coordinating center which will also be operated by the Department of Health and Human Services to coordinate and oversee sickle cell disease funding and research conducted at hospitals, universities, and community-based organizations.

This will focus on efficiency so we can share information about the disease and about outcomes around the country, and accountability to make sure taxpayer dollars are being spent properly in funding good research on sickle cell disease.

Taken together, the components of this bill will make a real and tangible difference in the lives of thousands of American families. I hope this bill is a first step. We have once again Senator

SCHUMER and I and Congressman DAVIS and Congressman BURR and all those who have helped us with this, and we ended up with more than a majority of the Senate sponsoring this bill, divided almost evenly between both sides of the aisle.

We look on this as a first step. This bill is going to begin laying the infrastructure for outreach centers, for advocates, for counselors around the country to help families who are struggling with this disease, and to lay the basis for the next step—whether it is additional funding for research or helping people who are coping with the disease so these families and these patients who are struggling with sickle cell disease know they are not alone.

It is one of the more important things Congress has done this year. I can tell you based on my personal experience that it will encourage the many thousands of people around the country who have felt so alone as they struggle with sickle cell disease.

Today, we have truly done something for the public good in including this in the conference report. I am hopeful at some point we will have a chance to vote on it, and I am confident we will pass it.

Mr. President, I thank you for your personal assistance, and I thank the Senate for indulging me in these comments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak for up to 30 minutes as in morning business.

Mr. TALENT. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. LANDRIEU. Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak in morning business for up to 30 minutes.

The PRESIDING OFFICER. In my capacity as a Senator from Missouri, I have to object.

Ms. LANDRIEU. There are no other Senators wanting to speak.

The PRESIDING OFFICER. That is correct.

Objection is heard.

Ms. LANDRIEU. 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.

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

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

Without objection, it is so ordered.

The Senator is recognized.

Ms. LANDRIEU. Thank you, Mr. President.

I ask unanimous consent to speak for 30 minutes as in morning business.

The PRESIDING OFFICER. Acting in my role as an independent Senator from the State of Kansas, I must object.

Ms. LANDRIEU. Thank you, Mr. President. 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. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. Mr. President, reserving right to object, I just ask the leader—

The PRESIDING OFFICER. The Senator cannot reserve the right to object.

Ms. LANDRIEU. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The assistant legislative clerk continued with the call of the roll.

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

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. No objection.

The PRESIDING OFFICER. The distinguished majority leader.

#### THE 108TH CONGRESS

Mr. FRIST. Mr. President, over the next few minutes I would like to take a pause—in the sense that we have a lot going on as we finish much of the work of the 108th Congress—and sort of look back as to what we have faced and what we, indeed, have accomplished over this period of the 108th Congress.

I want to thank my colleagues for their tremendous hard work over the past 2 years. People have shown dedication to the people's business, and indeed we have made real progress with regard to the Nation's business. It is an honor to serve in this body alongside such talented men and women.

The events of 9/11 changed all of our lives. It transformed the world, and a transformed world cried out for reform. And reform this Congress has delivered. One often hears the word "historic" to describe legislative achievements. In some cases, it is true. In the case of the 108th Congress, it is no understatement to say we have made truly historic progress for the American people. During the 108th Congress, the Senate passed sweeping reforms of not one but two major programs that ultimately affect every American's life.

We passed the most far-reaching reforms of Medicare, our second largest entitlement program, since its inception almost 40 years ago. This week, we passed the most comprehensive reforms

of the intelligence community in 50 years. We were able to do all of this while also enacting in this Nation's history the third largest tax relief package for hard-working women and men.

Now, because of the President's jobs and growth package, the economy has generated nearly 1.9 million jobs since April 2003. Every month for the past 13 months, we have seen job gains. The unemployment rate has hit historic lows—lower than the average of the 1970s, 1980s, and 1990s. Home ownership is at an alltime high. America's standard of living is on the rise. Our economy is strong and growing.

I want to underscore that passing one major reform bill in a congressional period is remarkable; passing two makes this Congress truly unique. In both cases, efforts at reform had been stymied for decades. In this Congress, we finally broke through. For the first time in its 40-year history, Medicare will offer voluntary, comprehensive coverage for lifesaving prescription drugs. Until we acted, seniors were denied coverage under Medicare for outpatient prescription drugs, the most powerful tools in the arsenal of modern medicine to prevent illness and to fight disease. Because we acted, over 40 million seniors and individuals with disabilities will soon enjoy true health security. This worthy program, because of our actions, will finally be able to keep pace with modern medicine.

In the nearly four decades since Medicare was created, the American medical system has transformed from one focus on treating episodic, acute illnesses in hospitals to one characterized by increasing emphasis on managing and preventing chronic disease. In contrast to long hospital stays, patients are increasingly treated in outpatient settings with advanced medical technologies and prescription drugs. Our medical and scientific knowledge, along with it our ability to treat illness and disease, have improved dramatically over the past four decades, and now, because of our reforms, Medicare will be able to keep up.

All seniors will have the opportunity to get prescription drug coverage and improved benefits. Already real help is in place. Over 4 million seniors are getting substantial savings right now. Over 100,000 people every week are signing up for the new prescription drug cards. Through this new Medicare prescription drug discount program, seniors are saving, right now, an average of 10, 15, 20, 25, or even 30 percent off of the cost of their prescription drugs. Millions of low-income seniors, in addition to that 25-percent discount, get \$1,200 over the next 15 months in prescription drugs.

On Tuesday, my staff and I will spread across Tennessee to engage in a six-city effort to enroll eligible seniors in the prescription drug discount card. Our focus, in particular, will be to enroll as many low-income Tennessee seniors as possible in this new savings

program. We will be partnering with local public health officials, doctors, hospitals, and patient advocacy groups to help register patients, to help seniors who need the help the most get those prescription drug cards. I encourage seniors who might be listening as I speak to call that number, 1-800-MEDICARE, right now to obtain your drug card and get immediate discounts on your medicines.

I am deeply grateful for the cooperation and hard work and dedication of my colleagues to overcome years of partisan gridlock and finally offer America's seniors the security they need and the choices they deserve through the Medicare Program. There is much more to do, but all of this is a strong start.

The Medicare law created health savings accounts. These health savings accounts allow Americans to have more control over their health decisions, over their health care choices, and over their hard-earned dollars. Tax deductible health savings accounts put patients and consumers in charge of their own health care. They own it. They own their health care. They own their accounts. They control these accounts. They invest it. They can take it from job to job. It is portable, wherever they might go. In these health savings accounts, you have choice, you have that freedom of choice. You choose your doctor, you choose your hospital, and you choose your health care plan. And this reform, again, had alluded us for years and years, but the 108th Congress delivered.

I am proud of President Bush's leadership on health savings accounts and Medicare. I am proud of our health care accomplishments in this body, and I am proud that these accomplishments provide a strong platform for the next steps to making health care more affordable, more available, and more dependable for all Americans.

In addition to passing major reform of Medicare in the 108th, we undertook the urgent task of reforming our Nation's intelligence community. We delivered. The reforms we passed through the executive branch are the most comprehensive and the most far-reaching and sweeping since the National Security Act of 1947. Under the leadership of President Bush, we have worked to meet the greatest challenge of our time: fighting the war on terror.

I commend the President for his bold and steady leadership and his commitment to making America safe. After the 9/11 attacks, he recognized immediately that we were at war. The President made tough decisions. He made the right decisions. Every day, he is following through on those decisions to use the full range of our resources to combat the enemy, to find them where they live and to defeat them. In the 3 years since the 9/11 attack, we have learned much about our Nation's vulnerabilities, about our strengths, and the steps we must take to protect ourselves.

In July, the Democratic leader and I set the process in motion for the Senate to respond legislatively to the 9/11 Commission Report on our intelligence community. The report identified a number of serious failings that required immediate action. We asked the Governmental Affairs Committee, in close consultation with the other relevant committees, to carefully evaluate the Commission's proposals regarding reorganization of the executive branch and determine how best to accomplish those reforms.

Over the August recess, the committee held two dozen hearings, and the Senate committees heard testimony from multiple witnesses. We had hearings in the Governmental Affairs Committee, the Intelligence Committee, the Commerce Committee, and the Armed Services Committee. Each carefully examined the recommendations of the 9/11 Commission's report. That work came to fruition this past Wednesday night in a historic, near unanimous vote to overhaul the intelligence community. The Senate voted 96 to 2, with 2 Senators absent, to coordinate the efforts of our 15 military and civilian intelligence agencies.

Critically, this legislation seeks to establish a new national intelligence director to set and carry out intelligence priorities. It also calls for the creation of the National counterterrorism Center and National Counterproliferation Center to improve our ability to gather, coordinate, and analyze the intelligence data.

We know the intelligence community generates massive amounts of information. In the aftermath of 9/11, this point became tragically clear. There had been clues, there had been arrests, analyses, and warnings, but these pieces of information were scattered across the agencies; they were not properly shared. They became missed opportunities.

This legislation will reform the system from one that focused on a need to know to one focused on a need to share.

Also in the bill are initiatives to strengthen our safeguards at home, including national standards for issuance of drivers licenses, ramped-up no-fly and other terrorist watchlists, and improved screening at ports and borders. We have seen over and over again that the enemy is willing to commit any barbarity to achieve its twisted aims. The enemy is capable of shooting toddlers, of lacing a schoolhouse with bombs, beheading innocent hostages and, as we all saw on 9/11, rejoices in the devastation of these attacks.

The steps we are now taking to strengthen our intelligence community and homeland security will help America defeat the enemy and make America safer and more secure. Strengthening America at home and abroad, moving America forward in pursuit of freedom and prosperity, these have been the driving motivations of the 108th Congress.

When the 108th Congress began, we faced some enormous challenges. First,



the previous Democrat-led Congress had failed to pass a budget, so we got to work immediately passing 12 of the 13 spending bills left undone by the previous Congress. We passed 11 of those bills in only 3 weeks. We also passed a budget to establish a blueprint for creating jobs, investing in homeland security, investing in education, providing Medicare prescription drug coverage, and offering health insurance for America's children.

With that unfinished business of the last Congress complete, we turned our attention to the President's jobs and growth agenda. Under the President's leadership, we passed \$350 billion in tax relief, the third largest tax cut in history. We cut taxes across the board for 136 million hard-working Americans. For America's families we increased the child tax credit from \$600 per child to \$1,000 per child and we made sure those rebate checks were sent out immediately. Last year we returned \$13.7 billion in taxes to families across the country, and we cut these taxes because we believe taxes are the people's money, not the Government's money. We think Americans pay simply too much. Our goal was to put more money back into the pockets of hard-working Americans for them to save, to invest, and to spend.

Small business owners got a major boost from the tax package. Twenty-three million small business owners who pay taxes at the individual rate saw their taxes fall. We quadrupled the expense deduction for small business investment to spur growth and development.

Small business owners are the engine of the American marketplace. These innovators create 60 to 80 percent of new jobs nationwide and they generate more than 50 percent of the gross domestic product. By cutting taxes and encouraging investment, we help to unleash their tremendous economic power.

Taken together, the 2001 and 2003 tax cuts are providing an astonishing \$1.7 trillion in tax relief over the next decade. We acted and we are seeing the results.

In the midst of the fastest economic growth since Ronald Reagan was President, consumers have more money in their pockets and businesses are optimistic about the direction of the economy. In more good news, the national home ownership rate has hit all-time highs. Minority home ownership, too, is setting new records. This is great for families, and it is great for the economy.

When a family buys a home, it not only benefits the community, but it sets off a whole chain of purchases that help fuel the economy. Folks buy living room furniture, bedding, kitchen appliances, curtains, washers and dryers. Homeowners have a greater stake in their communities, in how they live and in how those around them live, and building equity across lines opens doors to broader financial opportunities.

We believe in the American dream, and we believe the American dream should be accessible to all Americans. That is why in this Congress we passed the American Dream Downpayment Act. This particular act provides \$200 million a year in downpayment assistance for low-income, first-time home buyers. It also increases the value of loans which the Federal Housing Administration may guarantee in disadvantaged areas.

We are committed to helping the American family achieve their aspirations, and home ownership is an integral part of achieving the American dream.

Meanwhile, this month we voted to extend key parts of the President's tax relief plan for middle-class families. We extended the marriage penalty tax relief. We extended the full \$1,000 per child tax credit through the year 2010. We made sure low-income Americans will continue to benefit from the 10-percent tax bracket, and we also made strides in simplifying the Tax Code. This is all just the beginning.

In the next Congress, we will be looking at fundamental tax reform, including major simplification of the Tax Code and making tax cuts permanent. This will save families time. It will save them money. It will save them stress. We are determined to make the tax system more straightforward so families can count on keeping more of their tax dollars for years to come.

We are committed to a strong, profamily agenda. It is reflected in our home ownership plan and our tax relief plan. It is also reflected in our legislation to protect the family and its most vulnerable members.

In the 108th Congress, we passed the partial-birth abortion ban, which the President signed into law. We also passed the Unborn Victims of Violence Act, the Laci and Conner Peterson law. We passed the PROTECT Act to strengthen laws against child pornography. This law also expands the President's initiative to provide national coordination for the AMBER Alert.

Yesterday, we passed landmark legislation under the leadership of Chairman HATCH that expanded the rights of crime victims. It helps clear the backlog of more than 300,000 rape cases and other crime scene evidence awaiting analysis, and expands access to DNA testing for rape victims and prison inmates.

We authorized the child nutrition and school lunch programs in the last Congress so kids can get healthy meals at school, particularly children from economically disadvantaged families.

In an act of true vision and compassion, we passed a historic school voucher plan for students right in the Nation's capital. The DC Choice Program is the first school choice program to receive Federal dollars. The DC school system is receiving 40 million new dollars to launch this program. DC schools were in crisis. Mayor Anthony Williams came to this Senate floor, the

first time a mayor had been on the Senate floor in a quarter of a century, to ask specifically of this body for help. We responded and we acted for the service and to the service of DC schoolchildren. There was a bitter debate and some tried to block this progress. Some argued vociferously to maintain the status quo and to not change, but in the end the District of Columbia schoolchildren won out. Principle trumped politics, and today DC's kids are climbing the first rungs of the academic ladder.

In this Congress, we extended unemployment benefits and welfare reform to help families through tough times and challenging transitions. We believe the proper role of Government is to protect the safety and well-being of families, give them the tools they need to meet their responsibilities and to move their families forward. We believe hard work should be rewarded and we worked hard in this 108th Congress to help America's families succeed.

The 108th Congress saw big reforms and bold action on the domestic front. We also saw major action on foreign policy, starting with Operation Iraqi Freedom. In the spring of 2003, America, under the leadership of President Bush, took the extraordinary action of toppling Saddam Hussein and his terrorist-sponsoring regime. In 3 short weeks, the men and women of the U.S. military, with the support of 49 nations, swept into Baghdad, ending three decades of ruthless Baath Party rule.

In the months since, our soldiers have worked tirelessly under dangerous conditions to help the Iraqi people build a democracy. Our soldiers have rebuilt schools, hospitals, electrical grids, pipelines, and roads. They are training Iraqi police forces to patrol the streets and hunt down terrorists. Every day our troops are helping the people of Iraq and Afghanistan move toward becoming free and open societies. Afghanistan had its first Presidential election in history just yesterday, without incidents. And that is democracy.

To support our military efforts, we passed the President's \$87 billion for reconstruction and equipment for our troops. America's security depends on fully supporting our Nation's defense. The appropriations bill for 2005 grants the Defense Department over \$416 billion in new spending authority to keep America safe. Military personnel will also receive a 3.5-percent pay raise.

We are taking the battle to the enemy, but we must remain vigilant at home. That is why we passed the Homeland Security appropriations bill and added \$1.6 billion in funding for increased security, enforcement, and investigations.

This spring the Senate also passed, and the President signed into law, Project Bioshield. This far-reaching legislation will improve our ability to develop cutting-edge countermeasures

against biological and chemical and radiological threats, those 21st century weapons of mass destruction.

We also passed the Law Enforcement Officer Safety Act. This new law will allow current and retired police officers to carry a concealed weapon in any of the 50 States. America will now have throughout the added security of tens of thousands of trained and certified law enforcement officers serving and protecting us all across the country and even into their retirement.

These precautions are absolutely crucial to the security of our country, but, as the President has said, ultimately our greatest defense against terror is the spread of democracy.

In the 108th Congress, we have worked to promote freedom around the world. In this session, we passed the Burmese Freedom Act and the Clean Diamond Act to promote peace and freedom around the world.

We also took that historic action of dedicating \$15 billion to drive back that HIV/AIDS virus, arguably one of the most moral, humanitarian, and public health challenges of our time. As a Senator and as a doctor and as one who participates frequently on medical mission trips, I am especially gratified by the Senate's demonstration of compassion on this issue to fight the HIV/AIDS virus, both here at home and around the world. Our work in passing this critical legislation demonstrates we are a country that, indeed, places a high value on life. History will judge how we chose to respond. We can proudly say that, under President Bush's leadership, we made the right choice and took the necessary actions to put an end to one of the worst plagues in recorded history. But our work against this virus has just begun.

Free trade is another way we project our values and promote freedom and democracy around the world. We passed, and the President signed, the African Growth and Opportunity Act. Not only has this legislation created new investment opportunities for American businesses, but it has helped create 150,000 new African jobs. It has helped pump more than \$340 million into African economies. It has helped forge a place for Africa in the global trade market. A stable and growing Africa is in everyone's interest.

In addition, this Congress passed the Morocco and Australia Free Trade Agreement, which will open markets for U.S. goods and create jobs for American workers.

We made great strides in the 108th Congress, but there have also been disappointments, the biggest of them being the unprecedented obstruction of the President's judicial nominees. A partisan minority is attempting to change 225 years of congressional history and undermine the constitutional process. They are subverting the clear meaning of the Constitution and preventing the Senate from carrying out its basic duty, to give advice and consent under the Constitution. Advice

and consent for the Senate simply means an up-or-down vote on the President's judicial nominees, and that has been denied.

Prior to this Congress, with the exception of Abe Fortas, who did not have majority support and withdrew his own nomination, no judicial nominee brought to the floor failed to get an up-or-down vote as a result of a filibuster. Two centuries of precedent upheld the separation of powers and protected the constitutional process. During the 108th Congress, however, we have seen precedent replaced with partisanship and respect for the separation of powers tossed aside. In this Congress, the other side has filibustered not 1 but 10 of the President's judicial nominees. Janice Rogers Brown, Richard Griffin—filibustered; Carolyn Kuhl—filibustered; David McKeague—filibustered; William Meyers—filibustered; Priscilla Owen—filibustered; Charles Pickering—filibustered; William Pryor—filibustered; Henry Saad—filibustered; Miguel Estrada—who, by the way, finally withdrew his nomination after more than 2 years of partisan wrangling and seven cloture votes—filibustered.

All 10 of these honorable, hard-working people enjoyed the support of a bipartisan majority in the Senate and would have been confirmed if allowed a simple up-or-down vote. But they were denied this basic right. That cannot be tolerated.

In total, the President has nominated 34 circuit court nominees, nearly a third, 1 out of 3, have been denied on this floor a simple up-or-down vote. They didn't all have to be approved. They didn't have to get an "up" vote or a yes vote, but they have been denied the opportunity of even having that vote. That is wrong.

In addition to blocking these nominations, the other side has engaged in an unprecedented campaign to obstruct dozens and dozens of nominations to our Federal agencies. We are talking about noncontroversial agencies such as the Coast Guard or Amtrak or the Harry S Truman Scholarship Foundation. These nominations are being obstructed.

What should be a smooth, bipartisan process has become politicized and caught in these jaws of obstruction. It is unprecedented and unfair to the men and women who are caught in limbo. These individuals, all of whom are willing to put themselves up for public service, are being denied that opportunity to serve. These individuals deserve fair and timely consideration. In the next Congress, we will keep pressing to end the obstruction. All we ask for is simple fairness.

Today, as we have seen over the course of the day here on a Sunday almost evening—it is 6 o'clock, historical in the sense that we very rarely meet on Sunday and very rarely vote on Sunday, but here we are, today, once again being filibustered, being obstructed. Today it is on legislation im-

portant to 290 million Americans. Everyone listening to me has a vested interest in the legislation that is being filibustered, obstructed on the floor of the Senate. We wouldn't have been here all day yesterday, or be here today or tomorrow, if this legislation weren't critical to Americans. Yet we have the other side saying, No; delay; filibuster. Obstruction—more of the same.

What is interesting to me is the issues that are being filibustered today, on this Sunday and Saturday and over the last several days, are issues such as homeland security. We are talking about money being invested in our communities to secure our safety being filibustered and blocked on the floor of the Senate. We are talking about disaster assistance, whether it is for droughts, which are occurring throughout the West and areas of the South—that money, it is here. It is ready to flow now, but it is being obstructed on the floor of the Senate by the other side.

We saw the devastating hurricanes. Many of us have been to Florida and seen the wrath which these hurricanes have created. And right now that money is being stopped on the Senate floor because of filibuster and obstruction by the Democrats.

On the military construction bill, which is critically important to the country, we are ready to move. We were ready to move yesterday—or today and as soon as possible. Yet it is being blocked for no reason we can see. That has nothing to do with drought, or homeland security, or hurricane relief, but military construction. We see the delay and we see the obstruction.

We have seen obstruction in this country in the area of lawsuits and on lawsuit abuse reform, something we have attempted again and again. Time and time again, the other side has blocked consideration of things such as medical liability reform and class action reform, despite the fact it has been made clear—at least it has on this floor—that out-of-control litigation is costing this country dearly, not only in health care but in class action. We see it in asbestos; we see it where broad reform of our tort system is being cried out for. Countless jobs are being destroyed, companies are going bankrupt, and doctors in my own profession are fleeing the profession because of the out-of-control litigation and the frivolous lawsuits.

In the field of class action lawsuits, we have seen the number of the class action lawsuits explode. State court class action filings have skyrocketed. They have increased by 1,300 percent in 10 years. The result of this glut of claims is to clog the State courts, to inject inefficiencies and waste into the system, to clearly waste taxpayer dollars, and ultimately inhibit the innovation and the entrepreneurship which is so crucial to job growth. Money is wasted. The cost of all consumer goods with these class action lawsuits goes

up. It touches everybody. Every consumer ends up paying the price. When it comes to medical liability and frivolous lawsuits, it pushes everyone's premiums higher and higher needlessly because of the waste.

I receive letters from doctors all over America, in part because I am a doctor, I guess. But as I go around and do town meetings and travel around the country, this problem has surfaced to be one of the major problems facing our health care system today and indirectly our economy as the cost of these premiums which people are having to pay goes up and up.

I think people understand the medical liability crisis. It is real, it is spreading, and it is increasing. Thus, we have the responsibility on this floor to act. Yet, three times over the past Congress we have attempted to bring medical liability reform to the Senate, but we were obstructed in each and every case.

The medical liability challenge and the lawsuit abuse as it applies to the medical field is having a direct impact not only on costs but now on the availability of health care. It drives doctors out of the practice of medicine. It is sending a signal to the next generation of potential physicians that I am not going to be going into that field given the obstruction it is causing to the profession. It is not only a matter of cost, but now people are realizing it hurts quality of care and access to care. It is threatening the fundamentals of our health care system at the same time it is costing this country billions of dollars.

As you travel around the country, women are telling us again and again they are losing their obstetrician who, because of the skyrocketing cost of premiums, is having to stop delivering babies. They may continue in medicine, but maybe not continue in medicine. Pregnant women have to switch to another obstetrician. Women living in the country are having a hard time finding obstetricians because they have stopped delivering babies.

Trauma centers are threatening to close down. And still, three times trying to bring reform to this body or trying to bring a bill that engages medical liability reform, we have been thwarted.

If you look at the cost, the numbers are always hard to calculate specifically. But if you put the well-researched reports together, they predict that if we reform the medical liability system with commonsense reform, we will save the economy \$70 billion to \$126 billion per year. If you look at the Federal Government alone, savings would be approximately \$14.9 billion over 10 years, if you only look at savings in Medicare and Medicaid.

What that means is if we had appropriate reform, that \$70 billion to \$126 billion—which everyone is paying because that is what forces in part the cost of health care to go up—would be saved, and with that premiums could

come down and the rate of growth costs would diminish over time. This is wasted money. It does absolutely nothing in that doctor-patient interaction to improve health care of the patient. It is totally wasted money. But at the same time, it makes the cost of all of our premiums—everybody listening to me—it makes their premiums go up, up, up, waste, abuse of the system. I would say it is almost fraud within the system that can be eliminated to lower your health care costs.

When it comes to out-of-control litigation, another field that is important for us to address, asbestos litigation, the torrent of litigation in this field is wreaking havoc on victims and jobs, and all of that gets reflected into devastation in sectors of our economy. The approximately 600,000 claims that have been filed have already cost \$54 billion in settlements and judgments and litigation costs. The current asbestos tort system has become almost nothing more than a litigation lottery.

I say that because some of the people with mesothelioma of the lungs, or lung cancer, are receiving adequate compensation but with a huge delay. But money is not going only to those who deserve it, it is once again being wasted on far more people than the few who are getting the money who deserve it. There are many more who are suffering long delays of unpredictable compensation, of inequitable awards, if they are lucky enough to receive anything at all.

The only real winner in this whole asbestos system, I think, are the plaintiffs' trial lawyers. They take anywhere from 30 percent, 40 percent, sometimes 50 percent of every dollar that should be going to the victims, the patient, the person who might get cancer, the person who has cancer because of this asbestos fiber. That is where the money should be going. And yet, 30, 40, 50 of these billions of dollars are going into the pockets of the trial lawyers. While they collect their fees, at the same time asbestos-related bankruptcies have already led to more than 60,000 Americans losing their jobs. As you can see, this asbestos litigation lottery must be fixed.

Also costing Americans jobs and money are rising energy prices. This week we saw in the news that oil prices have hit \$52 a barrel. Winter heating costs are expected to rise as a result, and it is critical that we have in response to this need an energy plan so vital to America's families who are facing higher bills because of delay. It is vital to our national security which is threatened by this overdependence on foreign oil.

Again, the Energy bill was filibustered and blocked on the Senate floor.

By passing the Energy bill, not only will we lower energy costs but we will save jobs and create thousands more. It is estimated that the Energy bill will create at least a half million jobs.

Reforming the litigation system and passing the comprehensive energy plan

will lower consumer costs. It will stimulate the economy. It will create jobs. It will improve our health care system and it will grow the economy.

I urge my colleagues to set aside obstruction tactics and help America move forward.

When we return in the 109th we will clearly have a full agenda, from strengthening the safety net to helping Americans secure their future. We will have a number of major themes emerge in the 109th Congress. We will continue to bring programs up to date through today's challenges and to face those challenges. We will continue to press for reforms and grow the economy, reforms that will create jobs, and we will continue to support the creativity, ingenuity, and productivity of the American people who are, after all, what make this country great.

I am sure we will have an opportunity to talk more in the coming days, or hopefully coming hours if we are not here too long, to look back over the last 2 years of this Congress. It has been a pleasure to be able to help move America forward by advancing the agenda that we set out initially with many accomplishments of which we can all be proud.

I yield the floor.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I had not intended to come to the Senate to respond to the distinguished majority leader, but I feel compelled to do so.

He had mentioned the disagreements that are currently pending with regard to completion of our work on Homeland Security and the Military Construction bill, the so-called FSC bill, and I think my response to his lament, publicly, is to say that really is the metaphor for the whole Congress. Our situation today involving these particular bills is no different than the situation we faced on so many other pieces of incomplete action. In those instances when we have been able to work together, legislation has passed. That is the essence of good legislative achievement, coming together, finding common ground, resolving the differences, and enacting the law.

But on so many pieces of legislation, in spite of the fact we would move in a bipartisan way, with overwhelming votes in the Senate, we get to conference, and for various reasons—in large measure because of the Republican leadership in the House—those bills that passed with overwhelming bipartisan consensus in the Senate were made impossible to pass once they got through conference.

That is true of the highway bill. It is true of the energy bill. It has been true of countless legislative experiences over the last 2 years.

That is in essence why we find ourselves here today. I am confident, in fact, we are very close, perhaps, to reaching an agreement that will break the impasse on the pending bills.

I understand completely the anger, the frustration expressed by both my

colleagues, Senator LANDRIEU and Senator HARKIN, when the conferees took the actions they have to make it as unfair to segments of our society that they believe very strongly ought to be defended.

In Senator HARKIN's case, it is the double standard we are forcing farmers and ranchers to endure as a result of a decision made by the conferees to make farmers take the very assistance they are going to get for disaster out of their other pocket.

Many have talked about this already, and I don't think it needs elaboration, but that double standard, that unfairness, simply cannot go without an objection. In the case of the distinguished Senator from Louisiana, her concern, rightly so, has been fair tax treatment for members of the National Guard.

If we can find ways with which to address the marriage penalties—and we should and did—find ways to address the childcare tax credit—we should and we did—her view is that those brave fighting men and women in Iraq today ought to have the same consideration, the same appreciation for a recognition of their sacrifice. It is not enough to simply say “thank you.” We ought to find a way to say “thank you” with more meaning. That is all she is suggesting.

On those two issues, even though I am increasingly optimistic we may be able to break this impasse, it could have been avoided if simple fairness would have been reflected as we face our responsibilities in the conference committee.

As to other issues involving our Senate experience over these last 2 years, the distinguished majority leader again went back to the frequent criticism, unfair criticism, of the way judges have been handled in this Congress. I have to say, for the life of me, I cannot understand how anyone could not be satisfied with a 95-percent success rate.

Mr. President, 201 judges have been confirmed. That is more than in the Bush 1 administration in the early 1990s; more than in the Reagan administration in their first term in the 1980s; it is more, by far, than the Clinton administration in the second term when the Republicans controlled the Senate. Ninety-five percent.

In baseball, in almost any other walk of life, 95 percent is an A. Yet we hear the constant criticisms and totally erroneous assertions that this has never been done before. It has been done on many occasions before. Most troubling is it was done during the Clinton administration prior to the time their nominees even came to the floor. We had over 65 judges who never even got a vote in the committee. Every single one of these judges got a vote. In some cases, it was a cloture vote. In some cases it was up or down, but it was a vote in the Senate. That is a lot more judges than the previous experience in the Clinton administration.

The majority leader mentioned the liability reform matter, and we can de-

bate that over and over. I have said from the beginning and continue to believe that federalization of our tort system does not make sense, but there are ways with which to address improvements and changes in the way the system works. We all oppose frivolous lawsuits, and we ought to get rid of them and find ways in which to address that. Instead of working with us, instead of finding common ground, their insistence was, “our way or the highway.” They lay a bill down, fill up the tree, and say: You either vote for it or against it, but you will have no choice.

Regarding the majority leader's assertion that this is somehow going to control costs in health care, virtually every single objective analysis has said the limits they are proposing would mean less than one-half of 1 percent reduction in health costs overall. We all recognize there are serious issues involving malpractice insurance premiums we have to address. We want to do that. We have ways with which to do that, including reinsurance, including tax credits and tax relief for those who are paying those premiums, including dealing with medical reviews and finding ways to bring down the costs. But, again, our colleagues on the other side simply refused to work with us to make that happen.

There are also many illustrations of their lack of ability to accomplish a legislative agenda in large measure because of huge disagreements on their side. Their lack of ability to address the budget was a disagreement on their side having to do with taxes and appropriations. Their inability to pass appropriations was because of disagreement on their side because of that budget problem. Their inability to deal with energy and transportation and reimportation, in large measure, was as a result of disagreements on their side.

The Energy bill is another classic example, as I said a moment ago, of putting the Senate in a position where failure was the only option because of their insistence—their insistence—on special interest provisions that the Republicans opposed.

So there is a lot to be said about the ongoing debate about achievements and about obstruction, about the lack of ability to find common ground. But, again, I go back to examples where it has happened.

As the majority leader noted, he and I reached an agreement in July on how to deal with the reaction and legislative response to the 9/11 Commission recommendations. We delegated the Governmental Affairs Committee with the responsibility, and it worked. We established a task force to ensure we have a legislative reorganizational response, and it worked, thanks in part to the effort of our distinguished assistant Republican and Democratic leaders.

So we can work together. We have demonstrated that. My only disappointment is that on so many occasions, when we could have found com-

mon ground, the majority chose to take the political course. It is for that reason, and only for that reason, we have not been a more accomplished Congress in the 108th.

There is still time to address a number of issues: asbestos, energy, mental health parity—again, a commitment made by the Republican leader, by others, that we would take up this legislation and pass it. That has not happened, in large part, almost exclusively, because of disagreements, again, on the Republican side.

So there is still hope we can reach some common ground. I hope that will be the case.

I yield additional time to the Senator from Louisiana.

Ms. LANDRIEU. I thank the leader.

The PRESIDING OFFICER (Mr. DEWINE). The Chair will inquire, how much time is the Senator yielding?

Mr. DASCHLE. I yield the distinguished Senator from Louisiana an additional 15 minutes.

The PRESIDING OFFICER. The Senator is yielded an additional 15 minutes.

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank the leader, Senator DASCHLE, for his comments and for the respectful way in which he has addressed the situation we find ourselves in now, because the Members of this body have been working very hard the last couple of days on very important matters. As you know, each and every one of these matters is extremely important to our constituents from our own States, but some of these matters transcend our own States and our districts. Some of these matters transcend individual industries.

Actually, the matter that is before the Senate, and the main reason for the filibuster—or one of the reasons; there are two or three—but the one I have been coming to the floor and speaking about, with several of my colleagues, is the fact we are in the process of passing a bill—if I can pick it up; it is quite heavy—a bill with about 600 pages in it of tax cuts, \$137 billion that includes almost every industry you can imagine, large and small, in every part of the country, but the one group of people that is not in here, even if you read from the first page to the last, and even the small print, the one group of people who you will not find in this bill is the 643,000 men and women of the Guard and Reserve and the families they represent. There is not one sentence of tax relief for them.

So I took the floor on Wednesday and said there must have been some mistake, because when it left the Senate 100 Members of this body—all the Republicans and all the Democrats—had supported a provision. It went over to the House, but something happened on the way back from the House. It was omitted. I did not read every page, and I trusted the summary. But when I scanned the 500 items in here and did not find it, I came to the floor.

I went to the Republican leaders, I went to the Democratic leaders, and I said: Please know that I cannot accept passing a \$137 billion tax bill that fattens the paychecks of many people in America, some of whom are, I am sure, deserving, but keeps the paychecks of the Guard and Reserve—the men and women who are taking 100 percent of the risk today, the families who are making almost all the sacrifice, and the men and women who are actually losing pay—I cannot for the life of me understand, and no one in my State can understand, how they were left out.

So I have made it clear that I am prepared to stay here until the very end, whether that end is Wednesday, Thursday, Friday, or Saturday. I know I cannot keep this whole Senate here forever, but I can keep the Senate here for the better part of this week. It is not my intention. I am respectful of all the Senators' schedules. I am respectful of their other commitments. I am very respectful that a third of them are in reelections. I am not up for reelection, and I understand the tenseness of this election time. And we actually have a national election.

But my leader knows I do not come here with any small request. I do not come here with a LANDRIEU request. This is not even a Louisiana request. This is a national plea on behalf of the 645,000 men and women who have been called up to serve, to support us in Iraq, Afghanistan, and all places in between. How do we have the nerve to pass a tax bill and leave them out? So that is what the filibuster is about.

Let me be clear, I enjoy working with many Members on the Republican side. I see my good friend from Alabama here, Senator SESSIONS. He and I have worked together on coastal erosion issues. We have worked together on Armed Services before. I think he is going to have some comments about the work he has done which has been tremendous on the part of the Guard and the Reserve.

I say to the Presiding Officer, you and I just passed one of the few appropriations bills. People said it would never happen; it cannot happen; the DC appropriations bill will not pass; it will be contentious. If I may say, pat myself on the head, and you, too, we did a pretty good job of getting our bill through under a lot of odds that were against us. That bill is already gone, on the President's desk to sign. It strengthens schools, strengthens child welfare agencies in the District, for which the Presiding Officer deserves a lot of credit.

So please, I am not here to obstruct. I am not here to slow things down for no good reason. There are other provisions I did not get in this bill that I asked for. Fine, they are not in there. But I cannot, in good conscience, not speak and not stand on this floor for as long as it takes to get something done for them. I am representing many people, not myself, in this Chamber.

Let me say the good news in the 5 minutes I have left. We made some progress today. Several Members who had questions about the amendment in question have been working with their staffs. We may be coming up with a way that we could together get this amendment intact as much as I have already described it and get it connected to another bill that we can send back to the House.

I wish I could control what the House of Representatives does. I would like to go over there and give them a piece of my mind on their floor. But I am not allowed to do that. I am not. All I can do is stand here in the Senate, urge the Senators to stay strong and firm—we all voted for this amendment—and get it on a bill and send it back to them.

And when the leadership over there decides—because they can control their floor action. Our leadership cannot really control us that much. They can put a lot of pressure on us, but we are Senators and we can speak; and I intend to. The Members over there cannot speak freely because of the Constitution and the rules of the Congress, but the leadership will get this bill and they can decide, in October, November, December, or January, in this Congress or the next Congress, what they want to do about it. But what we can do is get this amendment negotiated.

I thank the Senators today who have been working on this. I feel not confident, but I feel encouraged. I feel encouraged that some parts of the amendment I have talked about that will help our Guard and Reserve to be a part of tax relief that we pass out of the Senate could be included. So I thank my leader.

Mr. President, I inquire, how much time of the 15 minutes do I have left?

The PRESIDING OFFICER. The Senator has 15 minutes 20 seconds left of her total time.

Ms. LANDRIEU. So I have about 6 minutes, because I had 7 under my previous order.

The PRESIDING OFFICER. The Senator is correct. That is the total time the Senator has left.

Ms. LANDRIEU. I have 8 minutes left. I would like to take those 8 minutes, and then I will reserve the last 7 minutes I have because that is all I have. Would the Chair inform me, please, at 7 minutes?

The PRESIDING OFFICER. Yes.

Ms. LANDRIEU. I will take the 8 minutes I have left to read a couple of e-mails I have received from people all over the country to give courage and support to the colleagues that are negotiating this. I think they can see this is important to a lot of people.

This is from "Nobody." That is how they signed it. The name is Janice.

I have three Nephews and two Nieces that are in our National Guard, and they are being sent over to Iraq. I am so angry at the Congress and the Senate today but I pray they never have to see their Sons or Daughters go to this war. Let alone their Grandchildren. My Nephews and Nieces have left behind 11 children without any health cov-

erage, let alone monies needed to survive. Yes, survive! Today my Husband and I . . . are taking care of three children of our loving Niece. It is hard on us as we are retired and living on a fixed income.

Might I add that I do not have health coverage any longer as the monthly payments became too much for us.

Please continue your fight for our Soldiers! We love you Senator for your Grace . . .

Another e-mail:

Thank you for standing there bravely for all of our Americans who are becoming more powerless with each passing day.

I am a disabled person barely able to stand on my own two legs, so I really appreciate that you are standing there for me and all of our National Guard troops.

I am watching you on CSpanII today. I know you are fighting for us and I am moved to thank you [for trying].

I will be watching. I will be waiting, and I appreciate it. Your desire to assist those individuals points to a bigger problem—military pay. Service members deserve better, all servicemen deserve better. Your efforts to help will create a situation in which reservists and National Guardsmen receive higher compensation than that of the full-time personnel.

The resolution to this problem is not providing a way to help reservists and National Guard make up income. It is helping them make up income and increasing the compensation for all service personnel.

He goes on to say that he supports our efforts.

Again, I will just share that in the last 14 years since 1990, we have called up 690,000 troops. In the previous 30 years, from the Berlin crisis to the Cuban missile crisis, the Vietnam war, we only called up 100,000. Our policies have put more pressure on the Guard and Reserve to stand shoulder to shoulder with the Active members. I agree, we need to improve the pay and compensation across the board, but I can't provide tax relief for the Active Reserve in the same way I can do it for the Guard and Reserve in this bill.

There are other benefits that are being provided. If we can explore the possibilities in the amendment I am supporting, I will be happy to do that. But it is for all of our troops that we stand here and try to work on an amendment that will give a tax credit to the companies that are being patriotic, doing the right thing, trying to keep the pay their reservists were making when they were homeside and now are losing sometimes 40 percent of that pay when they go to the front line. Many of our employers are picking up the difference.

The tax credit we have argued for will help those small companies—some of them struggling—to continue to pay their guardsmen and reservists. It is clear. It is convenient for the accounting systems of our companies, and we most certainly can afford it.

Again, \$137 billion of tax relief getting ready to be voted on. I said I can't vote for this bill, but a majority of the Members will. I am not faulting them for that vote, but I am going to stay as long as it takes to get this amendment into this bill or at least get it attached to another bill so that we can say, as

Senators, that we did our job and we did the best.

I am happy to say the negotiations are going on, and they look promising. I thank my colleagues for being so open and for working through this today. I know it is unusual that we are in on a Sunday, but I thank them for their patience, and I retain the balance of my time.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Louisiana. I respect her commitment to this issue. It is something I have been giving a lot of thought to. I was a reservist for over 10 years in Alabama. I worked closely with the National Guard in the last month. I spent 2½ hours with the entire leadership team of the Alabama National Guard to discuss with them how best we could make the lives of our Guard and Reserve more meaningful, make it better, to help them and their families. I came away with a list of 11 things that I believe were good. I tried to get them in the Defense authorization bill—some of which we did, some of which we got positive, at least, reference in the bill. That is the right way to go about it.

The tax benefit for employers is a matter worthy of very serious discussion. It could indeed be a good way to help our Guard and Reserve. I don't dispute that. I don't dispute at all the sincerity of Senator LANDRIEU and her commitment to this issue.

I will just say this: What we need and what I have personally told the Secretary of Defense and Dr. Chu, the personnel director there, Chairman WARNER and Senator LEVIN, chairman of Armed Services and our ranking member, what we really need is to look at our Guard and Reserve carefully, to analyze what problems they are facing and help them.

As I told the leadership in the Defense Department, and I talked to the generals in charge of the Army National Guard, the Air Force National Guard, I have asked them also to think about how we can best help their members because we want to be generous to those citizen-soldiers who are in harm's way and have been in harm's way to help us carry out what I believe to be the national interest of the United States of America. Sometimes, unfortunately, that requires people to put their lives at risk.

I will note that the unit I used to be a member of, the 1184th Transportation Terminal, not long after I got out of it—about 10 years in that unit—a couple of years later they were activated and spent 9 months in Kuwait during the first gulf war. They came home, and under their new commander, COL Janet Cobb—she was at least at that time the commander—they were recalled to Kuwait to operate the port there in support of Operation Iraqi Freedom. I know those people. I was there when they went away. I have been at National Guard units when they went away.

I have friends in the Guard and Reserve in Alabama. When I was in Iraq in July, we came through Kuwait, and there was the 375th transportation unit—"motor transport" I believe is the appropriate name. The 375th was a superior unit to mine. They evaluated us and were headquartered also in Alabama in the same Reserve center which I attended.

I saw in Kuwait John Cherry, an assistant U.S. attorney in the office I used to be a U.S. attorney in; Charles Coat, who used to work for me as an assistant U.S. attorney and now is assistant inspector general for TBA. I saw Randy Spier, who is an attorney in Mobile, AL, who I know and respect. I know how stressful it is for them and their families. I know and appreciate them very deeply. I had a lot of different ideas I wanted to get passed. I wished we could have gotten them in this bill. And some tax credit also was not a bad idea to help them in whatever appropriate way we do it. We have a limited amount of money and we have to make sure it goes out not in an aberrational or unprincipled way, but in a way that is best designed for fairness and to help the most members of the Guard and Reserve we can.

I believe that strongly. I think we are bouncing about here with people coming in with this idea and that idea, and I have my ideas. We need to get together seriously and think about what we can do to make lives better for our Guard and Reserve. They are critical to the defense of America. So I am putting a great deal of hope in section 513 of the Defense Authorization bill we passed yesterday, or today, called the Commission on National Guard and Reserves. It will be a 13-member commission, a bipartisan commission. It will do a number of things. Their duties are listed as follows:

To carry out a study of the following matters:

A, the roles and missions of the National Guard and other Reserve components of the armed services.

B, the compensation and other benefits, including tax benefits—I inserted a tax benefit, but it goes on to say: Including health care benefits that are provided for members of the Reserve components under the laws of the United States.

Subparagraph 2: In carrying out the study, the commission shall do the following:

A, assess the current roles and missions of the Reserve components and identify appropriate potential future roles and missions for the Reserve components; assess the capabilities of the Reserve components and determine how the units may be best used to support military operations.

C, assess the Department of Defense plan for implementation of section 115(b) of title X, United States Code.

D, assess the current organizational structure of the Guard and Reserve.

E, assess the manner in which the National Guard and other Reserve com-

ponents are currently organized and funded for training, and identify an organizational and funding structure for training that best supports the achievement of training objectives and operational readiness.

Skipping F.

G, assess the adequacy and appropriateness of the compensation and benefits currently provided for the members of the National Guard and other Reserve components, including the availability of health care benefits and health insurance, and the effects of proposed changes in compensation and benefits on military careers in both Regular and Reserve components of the United States.

H, identify various feasible options for improving compensation and other benefits available to members of the National Guard and members of the other Reserve components, and assess the cost effectiveness of such options—that is a good idea—and the foreseeable effects of such options on readiness, recruitment, retention of personnel for careers in the Regular and Reserve components of the armed services.

I, assess the traditional military career paths for members of the Guard and the other Reserve components and identify alternative career paths that could enhance professional development; and assess the adequacy of the funding provided for the National Guard and other Reserve components.

And it says further on, at the conclusion, that the Secretary of Defense shall annually review the Reserve components of the Armed Forces with regard to the roles and mission.

B, the compensation and other benefits, including health care benefits, that are provided for members of the Reserve components under the laws of the United States; and the Secretary shall submit a report of an annual review, together with comments and recommendations that the Secretary considers appropriate to the Committee on Armed Services of the Senate and the Armed Services Committee in the House of Representatives.

Well, this is not certainly what I would like in the sense that I have a number of ideas I want to see put in this. So they didn't adopt in this bill the ideas I specifically suggested, although it did comment favorably on some. But it does put in a mechanism, I say to the Senator from Louisiana, and maybe together we can beat on some of these folks and maybe we can continue to press the issue hard, because I believe this Congress wants to, and will, increase benefits for the Guard and Reserve.

We obviously have a certain limited amount of money, but I think we will be generous about it. We ought to be. And then what we do spend, however, does need to be carefully studied. We should get the best insight from the most people and then we make those expenditures in a way that gets maximum impact on the members of our Guard and Reserve, who serve our country so very well.



I yield for a question.

Ms. LANDRIEU. If the Senator will yield for a question, I appreciate the Senator's comments. I look forward to working with him. He has been one of the leaders in supporting the Guard and Reserve. The question is, is he familiar with—if he is not, we can send it over—a letter from Secretary Bill Cohen on March 17, 1998, that says to the then-chairman of the Committee on National Security in the House—and this was in 1998—is the Senator aware that back in 1998, the former Secretary of Defense sent a letter noting:

With the increased use of the Guard and Reserve, particularly for unplanned contingency operations, employers of the Guard and Reserve members are often faced with the unplanned absences of their Reservist employees. They may incur additional business expenses associated with the unplanned absences.

Does the Senator from Alabama know this report that was sent to us in 1998—3 years before September 11, 2001, and 3 years before 643,000 Guard and Reserve were called up, and that the Department of Defense has been petitioning Congress to provide some tax credit for employers who are picking up 100 percent of the expense? Does the Senator know that, and would he like to comment about our ongoing efforts?

Mr. SESSIONS. There is a great deal to be said for that. I know the Senator has that letter from the Secretary of Defense in 1998. It does conclude by saying:

Tax or other incentives for employers might help to ameliorate some of their problems. Any such plan, of course, must compete for resources. . . .

We simply have to figure out how we can best utilize it. A tax credit is, in a sense, an expenditure of our money. It is a reduction in the amount of money that would come into the Treasury. If this is the best way to do it, as I know the Senator believes deeply, I will be supportive of it, too.

Ms. LANDRIEU. If the Senator will yield, the Senator is correct. It will compete for resources, and that is why those of us who have worked on this will be careful to request it at the appropriate time. We understand there is competition among resources. That is why I have taken the opportunity of talking, when we were about ready to pass this bill—\$137 billion in tax credits. Surely, we could have found \$2 billion out of this as we spread out the scarce resources. I would not call \$137 billion scarce, but it is \$137 billion out of which we could have found \$2 billion.

We cannot amend that bill, but did the Senator know there might be another bill that already passed the House of Representatives, which is over here, that we could amend and send back to the House? It would not become law on this, and I know he knows that. But we could send it to the House, and if they pass it and send it to the President's desk, it could become law on a different bill?

Mr. SESSIONS. I was not aware of that. I would be surprised if that were the case. I would simply say I thank the Senator for pushing this issue. I have my list of 11 other issues I want to see. We did pass additional tax deductions several years ago for the Guard and Reserve that they can claim themselves when they have to travel extended distances. Many people, to be promoted or stay in the Guard and Reserve, often have to go to Reserve centers 200 or 300 miles away, and this is so they won't be forced out and they will be able to stay in and retire.

I think we ought to be helpful to them in that regard also. I would just again say that it is a tough question. Here is an example I have thought of—it makes me think we need to be careful—I think of an executive in a business with 30 or 40 people on the shop floor. The executive is making \$100,000 a year. The guys on the shop floor are maybe making \$30,000 or so. They are all activated, three or four of the shop floor people and the executive. For the lower income salaried workers, they may well be receiving just as much on active duty as they were in the Guard and Reserve, and we would be therefore helping pay a guy more money than we are the lower income people. In other words, maybe there is unfairness there, I do not know, but I do think it is great that so many of these businesses are willing to pay this compensation. I salute them for it. If we can assist them and encourage them to do more, I would.

(Mrs. DOLE assumed the Chair.)

Ms. LANDRIEU. Would the Senator yield for just one more question? He is so patient.

Mr. SESSIONS. I would yield for one more question.

Ms. LANDRIEU. I thank the Senator for yielding. Did the Senator know—because he raises an excellent point. We would not want to create a tax credit that basically allowed a \$100,000 or \$150,000 salaried worker to continue on the front line because it would inadvertently benefit the higher end. So did the Senator know that we crafted our amendment with a cap which we thought was reasonable so in the example that he gave, in the amendment that is being discussed now, that the \$100,000 salaried worker who went over to Iraq would receive \$30,000 in Reserve pay, according to our amendment, if his employer wanted to pay him up to \$45,000 only, and they would get a \$15,000 credit. So he would receive, on the front line, \$45,000 instead of the \$30,000, but he would still be losing \$55,000 in income. So the family back home would still be losing \$55,000 in income, which is a tough thing for these families.

I am not trying to help people who could otherwise help themselves, but that is still a pretty significant loss of income, as the Senator knows. But we do have a cap because of that purpose. We did not want to unfairly benefit those at the top end.

I will say that many employers are covering that gap now, and they are absorbing that difference now. We would only be subsidizing the first basically \$15,000 of that. I would, frankly, be open to subsidizing more, but too many Members objected to that. So as a compromise, we sort of settled on this cap.

I understand what the Senator is saying. I just wanted to ask him if he was aware that we did have a cap on this amendment.

Mr. SESSIONS. I did understand that. I do think that the Senator is correct to say that this was not a thrown-together amendment, that the Senator thought about a lot of these tough issues that are in here. As I say, it may work for a rather small amount of compensation. We could encourage a lot more businesses to step forward and make this match or make up the difference, which would be good.

#### HISTORIC ELECTIONS IN AFGHANISTAN

Speaking of what our military does, the United Nations does a lot of things, as well as NGOs, Americans, and other countries do a lot to help around the world. But I do think our military deserve great credit for a lot of the things they do that help in a humanitarian way and help in ways that could not be accomplished otherwise.

Yesterday was a great day for the good people of Afghanistan. After decades of war, disruption, destruction, starvation, millions of people fleeing their homeland as refugees to Pakistan and other places, these wonderful people came together by the millions to cast their ballots for the first free nationwide election in Afghanistan's history.

The U.N. appointed joint electoral management body, Vice Chairman Ray Kennedy said this: The JEMB—that is his entity—is encouraged that the voters of Afghanistan have turned out in large numbers and the process overall has been safe and orderly.

That is a good fact. Many people predicted that we could not have elections, that elections could not be held on time in Afghanistan, that they could not be held effectively, and that is not what was said there. In fact, I think most people worried there would be a great deal of violence in Afghanistan. We thought the elections would go forward anyway, that the people were motivated to go out and vote, that they cared about it.

But I thought and was afraid that we would have bombings at polling places and things like that, which scared us. I am sure a lot of the Afghan people were somewhat afraid that if they went they might be attacked by the radical Taliban remnants that still desire to wrest control back of that country.

Another U.N. spokesman, Manual de Almeida de Silva said this: Overall, there was massive participation in the election.

It is especially gratifying that there was a large number of women voters who cast their ballots. They made up 40

percent. The distinguished Presiding Officer, Senator DOLE, who was the chairman of the Red Cross, traveled the whole world on a regular basis and knows the difficulties women have had around the world at various times and certainly had in Afghanistan under the Taliban when they could not even go to school and they had to, by law, wear these burqas and were beaten if they did not, and they could not work.

Forty percent of the 10 million people who registered to vote in Afghanistan were women, and they cast ballots all over that country.

An article in today's Washington Times quotes a Kabul shopkeeper as saying this: For the first time, Afghans are able to choose their own leader.

He added: From today, things will only get better in our country.

And can we not hope so for those people who suffered so much over 20 years of destruction, war, warlords, religious hostility and violence?

Things are going so much better. I do not know what the figure now is of the number of refugees who returned, but within not too many months after the conclusion of this operation in Afghanistan a million refugees returned home to Afghanistan. They were voting with their feet. They believed that life was going to be better, safer. Yes, we have had dangers, we have had bombings, we have had resistance from many of these groups that are determined to hold onto their power, but the people are voting in these elections, and it is something that we should celebrate.

The people took the election seriously. I am sure many of them had to consider that they were at risk when they went to vote. They took seriously the hanging chad foul-ups—maybe I will call it that—that occurred. They apparently did not ink the right finger in the right way or caused a disturbance and some of them protested and their protests were taken seriously, but the people voted.

Some say, well, you should not even vote. We ought not to vote because they did not ink the finger right. But the people voted, and they voted in record numbers. It is going to be a healthy thing for the future, and they are going to be heard. Their complaints will be listened to and I believe they are unlikely to ever occur again.

It is particularly dicey, in these first election times. Some people want to boycott the election. They realize they are losing. If they just go and vote and cast their ballots and only get 5 percent or 10 percent, then what do they tell their supporters, that we were rejected? That is what happens in the United States. Everybody in the whole world sees you get whacked. But what often happens in developing countries that do not have experience with democracy, they will say: I am going to pull out. I will ask my people not to participate. So when the votes are counted they can try to say to their supporters: See, we would have gotten a lot of votes except we pulled out. So

you had some of that in this election, I am afraid.

But the numbers are so strong, the number of women are so strong, it can only be asserted, as the U.N. did, that it was a tremendous success as an election.

Yesterday was a historic and peaceful demonstration of democracy in Afghanistan. It is a day of great significance for them and the world because the world participated with American leadership in bringing this about. Yes, people were killed in the hostilities that occurred in Afghanistan. But I want you to know there were millions—well over a million, maybe several million Afghan people living in refugee camps around the world, over a million in Pakistan—they are able to come home because we moved militarily, decisively, and effectively. The country is going to now have a democracy. Their economy has a chance to develop. I could not be more proud for them.

When I was in Afghanistan in July, I had the honor to meet, for my second time in Afghanistan, President Hamid Karzai. He has to be considered, in my opinion, one of the world's great leaders. Under this tremendous stress and difficulty, where his life is in jeopardy, he seems to have captured the spirit of the Afghan people. He told us the Afghan people are ahead of the politicians. They know they need to have a good government for their entire country. They know that warlords threaten their stability. They know that warlords will hold back their progress. They want progress. They want freedom. They want prosperity. They want democracy. And President Karzai, in his address to the joint session of Congress, was so eloquent on that point. Speaking in beautiful English, he described his goals and visions for the people.

I don't know how the election will come out. Most people are predicting he will do very well in the election. We will see. The votes have not been counted yet. But I have been so impressed with his personal courage, his personal understanding of the historical moment of which he is a part. He is putting his life on the line for his people. Indeed, if this thing continues and he continues his successful role, he could certainly be considered the George Washington of Afghanistan.

One Afghan citizen, Mr. Amari, said: What is important is that we are on our way to becoming a democracy.

Aren't those great words? "We are on our way to becoming a democracy." I think President Bush was correct the other day to say democracy is on the march around the world.

We have had a very difficult time in Iraq. We are going to have other difficult days in the future in Iraq. The circumstances there are just difficult. We have determined adversaries, various groups of them. They are together sometimes, and sometimes they are independent. You get one to agree, and

there is another one unhappy. So it is difficult to make as much progress as rapidly as we would like there. But we are seeing the electoral process go forward in Iraq, and we are going to see it continue to progress, I believe.

I would like to share what was in today's paper. This was Mariam Karouny of the Reuters News Agency who wrote an article about what has happened in Iraq today. This is today's paper. People are so negative about everything, saying everything is wrong. They see only the bad. They only see the difficulties. We had difficulties after World War II. We had difficulties in trying to help South Korea. Now they have 500,000 troops and they build an automobile. A Hyundai automobile plant is in Alabama. I was pleased to see in USA Today that complaints against their automobile is the lowest of any automobile except Lexus. That was a country that had a lot of difficulties 50 years ago. We have 37,000 troops in South Korea today. They have 650,000. But they are a booming, progressive democracy. So things don't happen overnight.

Let me read to you what was in today's newspaper, Reuters News Agency, about Iraq. The lead paragraph.

Baghdad—Iraq's plan to hold elections in January gained traction yesterday after a Shi'ite militia agreed to disarm in Baghdad and delegates from the rebel-held Falluja [the center of resistance] said the Sunni Muslim city wanted to vote in the elections.

It goes on.

The progress came in separate sets of talks with the Iraqi interim government and U.S. officials.

The Mahdi's Army militia, led by radical Shi'ite cleric Sheik Muqtada al-Sadr, agreed to hand over weapons to Iraqi police beginning tomorrow under a deal that could defuse the Baghdad flash point of Sadr City.

That is the core of the Baghdad danger area, the area where the violence is occurring. This is really rather remarkable. Will it all come to pass? I don't know. But just the fact that the Mahdi Army's militia has agreed to hand over their weapons, even if they all don't do it, that is something new. And they announced they wanted to do that. They announced they will participate in elections. Those are dramatic steps, I believe, and leaves them far less able to generate continuing violence against the interim Government of Iraq, the provisional Government of Iraq, if they already are admitting that they are prepared to turn in their weapons. That is a tremendous event.

The article goes on:

Karim al-Bakhati, a tribal leader negotiating for people in Sadr City, said U.S. forces had promised to stop bombarding the vast Shi'ite slum area with immediate effect.

"We have agreed that starting from Monday, the Sadr movement will hand over its weapons to the Iraqi police," he said, adding that collection points would be chosen in the next day or two.

Al-Sadr aides—this Muqtada al-Sadr, the most prominent leader of the militias that have conducted violence against the central government and

the United States—this is what it says about him:

Al-Sadr aides said the agreement would apply initially only to Sadr City, not to other restive Shi'ite areas of Iraq.

Falluja delegates—

This is the delegates from the center of resistance, the Sunni area of Falluja—

Falluja delegates said the city wanted to take part in the elections and could accept the return of Iraqi security forces.

"A delegation from Fallujah is now discussing the entry of Iraqi national guards to the city with the Defense Ministry," chief Fallujah negotiator Khaled al-Jumaili said.

He goes on to say:

The people of Fallujah support the elections and want to vote in them.

Isn't that great news? The people of Fallujah support the election. They believe that a new government can be formed in Iraq. Otherwise, they will not support elections. They support them and want to participate in them. This is the core of the resistance. Some people are under some doubt about how we should handle Fallujah. Some have said we need to send in troops and some say we should negotiate, maybe a combination of the two that was chosen, and a lot of people want to complain. But maybe just a little restraint, maybe a wise application of power here, the combination of that, has brought their town around. So we have a much better chance than we would have thought.

It goes on to say:

"The people of Fallujah support the elections and want to vote in them," said Mr. Al-Jumaili, a mosque preacher who is a member of the lawless city's Mujahideen shura, or council.

I don't know whether all of that will come, but I believe that any people in the world given the opportunity to choose democracy and freedom over totalitarianism and oppression will choose good government over a corrupt and abusive government.

We have undertaken by a vote of three-fourths-plus Members of this Senate, after weeks and indeed months of debate and discussion, a war to overthrow Saddam Hussein, and we committed to work to help them establish a good government. We cast that vote, and we have some people who cast that vote who now want to complain about this and that and see nothing but the negative and comment inadvertently, which I believe can make progress more dire. Some of them have been negative. But we made a commitment. We voted.

We had the same basic intelligence which the Presiding Officer also had when she attended the secret briefings, which we all had and which the President had. The fundamental thing they told us was the same as was told to the President of the United States by former CIA Director Tenet, who was appointed to that position by President Clinton. According to Mr. Woodward's book, he raised his hands when the President of the United States asked if

we would find weapons of mass destruction and with clarity said, "a slam dunk." That is what we were told. That is what the President was told.

We had every reason to believe there would be weapons of mass destruction in Iraq. Why? Because he had them before. He had used them on his own people. He had used them on the Iranian people in that horrible war he started that resulted in the deaths of 1 million Iranians.

I talked to a man from Iran just the other day. He drove that number home to me. He said the people of Iran never supported Saddam Hussein. He said: We supported his overthrow. He said: He killed 1 million of our people in a stupid war that had no justification whatsoever as well as that stupid war he undertook against Kuwait, which former President Bush had to send in troops and boot him out of Kuwait.

It was a difficult time, I remember, after that war. What happened was Saddam Hussein essentially sued for peace. He asked us to stop moving into Baghdad, and if we did so he would cease to be a threat to his region, he would renounce his weapons of mass destruction, demonstrate that he did not have them and was not pursuing them, would make his country open to United Nations inspections, and he would not oppress the different ethnic groups in his country.

He didn't adhere to any of that. After the war, he was in violation of 16 United Nations resolutions. He was counting on the embargo in the Oil for Food Program. Many of the countries that voted against the war were corruptly involved in that Oil for Food Program. The United Nations' hands are not clean with regard to the Oil for Food Program for sure. It was good in concept, but it was being abused greatly. He was determined, as Mr. Duelfer told us the other day in his testimony, to break that embargo and recommence the building of his weapons of mass destruction. That was his goal, of which there can be little doubt.

This country is better off with him gone. We are making progress, as I just read, in establishing a more decent government in that country, helping them to overcome this violence. I believe as time goes by we will continue to make progress. It is not going to be easy, unfortunately. There are resistance groups that are tough and tenacious. But it is great to see leaders of the more radical groups like Al-Sadr's militia talking about turning in their weapons and cooperating.

It is great to see the people of Fallujah and their representatives saying they want elections and they want to participate in them and make us believe those soldiers we sent there, our Guard and Reserve who have been sent there, have served our country well. They placed their lives at risk for us in a policy we adopted, and they have successfully carried it out in a way that has given us an opportunity to do something good now in Iraq. Certainly

we are seeing great progress in Afghanistan.

I thank the Chair. I 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. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### STEM CELL RESEARCH

Mr. FRIST. Madam President, we are currently in conversations about the schedule for tonight and tomorrow, and as that discussion continues, I will spend the next few minutes talking about an entirely different topic, and it concerns stem cell research.

I bring to the floor this whole discussion of stem cell research because it has been so much of the news of late in part in the Presidential debate and in part comments made by scientists and patients who look to the future promise of stem cell research. I really wanted to take the opportunity before we departed to clarify remarks that have been made by certain constituencies and also to reflect on where I think we are today, in part to restate what the President's policy is.

Senator KERRY, our distinguished colleague from Massachusetts, has made some remarks earlier this week on the issue. As in the past, the Senator from Massachusetts was not completely accurate in his comments to my mind, and I would like to explain why I feel that way.

There were some key facts about the science of stem cells that were deliberately excluded from those comments, and I think there have been some deliberate mischaracterizations made by the Senator from Massachusetts about President Bush's record on this issue. It is a critically important issue, a hugely promising field that we are going to be hearing a lot more about as the rapid advances in medical science are made.

It is important for the American people to be fully informed and to be accurately informed about stem cells and the President's stem cell policy, about the facts of the science so we can together participate in this debate.

There are several points I would like to make. First, what does the science entail, what are the basics?

First, scientists today are engaged in two basic types of stem cell research. One is adult stem cell research with cells taken from fully mature cells, for the most part. It might be cartilage or it might be bone marrow. The other type of research is embryonic, and that is where the cells are taken from human embryos. Embryonic stem cell—and this is really everything else—or adult or nonembryonic research. We think of it as embryonic and adult.

The adult stem cell research, which really doesn't have any real ethical

problems with it at all, has already led to successful human treatment. Embryonic stem cell research has not. Adult human stem cell research has promising but real treatments today.

Some examples. Researchers have treated diabetic patients with islet cells from the pancreas of deceased human donors. More than 80 percent of those treated were able to stop their insulin shots for more than a year. That is an adult stem cell type of research.

Adult bone marrow cells have been used successfully to heal chronic skin blemishes in patients.

Adult bone marrow stem cells also have shown promise in my own field of heart disease. In the journal "Circulation" this past March, patients showed significant improvement in heart function for several months after receiving injections of their own bone marrow stem cells. Again, these are all adult stem cells. Bone marrow stem cells, blood stem cells, and immature thigh muscle cells, all of which are adult stem cells, have been used to grow new heart tissue in both human subjects, as well as, of course, animal subjects. All of these human treatments are with adult stem cells. None are with embryonic stem cells.

Two, as policymakers and as scientists, we absolutely must be careful not to oversell the science of embryonic stem cell research. The tendency out there, and it is cruel to patients, is to overpromise and say with embryonic stem cell research you can be cured. We should not overpromise. As a physician, you never give a patient a false sense of hope. You want to give them real hope, but you do not want to give them a false sense of hope. That is wrong. Doctors should not do it. Scientists need to be very careful in making these promises to patients. Policymakers should not do it.

Both adult stem cell and embryonic stem cell research do hold potential promise. Yet the embryonic stem cell is still in its infancy, where adult stem cell is much further along. That is why we see these human treatments today. Embryonic stem cell research science offers hope. That is the hope for potential future advances that can be made in treating debilitating and life-threatening diseases, chronic diseases, and disabilities.

However, politicians and scientists have to be careful about overselling this science, about manipulating that hope that is out there way off in the future into hype or political gain. That is wrong. It is unfair to patients. It is unfair to humankind. We have to avoid this hyperbolic rhetoric. Giving false hope is wrong. It is wrong for a doctor to do it. It is wrong for a politician to do. Neither should cruelly exploit the hopes of patients and their families.

I have to give one example because it is one that is most commonly used. When President Ronald Reagan died earlier this year from complications probably associated with Alzheimer's

disease, some who support unlimited embryonic stem cell experimentation rushed to suggest Alzheimer's could be cured with embryonic stem cells.

As a scientist, as a policymaker, as a physician, I have to say that is wrong. It is disingenuous. It is untrue. It gives people a false sense of hope. The science is not there today.

Today, there are far more promising avenues of research for the discoveries of treatment and cure for Alzheimer's disease. Alzheimer's disease is a plaque on top of cells and therefore the study formation and manipulation is not where the most promising areas of research are today. If you ask any scientist working in the field of Alzheimer's disease, they will tell you treatments involving embryonic stem cells are among the least likely fields of research to yield cures. They will also tell you even the most promising developments, none of which involve any type of stem cells, will not yield a cure for years, and maybe even a decade or more.

I mention Alzheimer's because it is the one most commonly used to give this false hope. As a physician, it hurts me to see that because it is wrong.

Stem cell research, both embryonic and adult, does hold real promise for a whole range of diseases, including certain types of diabetes, spinal cord injuries, Parkinson's disease. We should aggressively pursue both embryonic stem cell research and adult stem cell research. We need to do so vigorously, and we are, both embryonic and adult. However, we have to do so in a framework that respects ethical considerations and moral considerations. It does not matter what you call it, but put a framework around human research as we have done in every other field of human experimentation.

In my own field of heart transplantation, where you define brain death for the first time and you are removing living tissue from a body and transporting it to another body to give this body life, that whole field of experimentation has a framework of ethical and moral concerns that has to be defined with certain guidelines that are not crossed, no matter how promising that moving of tissue or transplantation might be. We call that human subjects protections. It is not unusual and thus doing so in the field of stem cell research is nothing new for a scientist or for a physician or for someone interested in medical research. There are ethical guidelines that we as a society must, should, and actually do establish for any type of human research.

The third point, President Bush's stem cell policy, what is it? President Bush's stem cell policy supports and encourages scientific discovery. It does so within an ethical framework. First, President Bush's policy funds all types of stem cell research, both embryonic and adult. He is the first President in history to fund embryonic stem cell research. All embryonic stem cell lines created before August 2001 are eligible for unlimited Federal funding.

Two, there are no funding limits on adult stem cell research whatever. That is the type of stem cell research, as I mentioned, that has yielded real results in human patients. Adult stem cell research is the type that is free of any sort of ethical concern. I will come back to the embryonic stem cell concern, what are the ethical concerns, in a moment.

The National Institutes of Health is spending record amounts for both embryonic stem cell research this year as well as adult stem cell research.

Four, the President has placed no limits or restrictions whatever on the private funding of embryonic and adult stem cell research. Private funding is legal and totally unrestricted.

Fifth, because this whole field of embryonic stem cell research is young, it is emerging, it is a relatively new science, and because it takes very specialized skill, highly trained skill and expertise, the Department of Health and Human Services has engaged in a number of activities. It has developed a stem cell clearinghouse or a stem cell bank of eligible lines. It has devoted substantial efforts to sharing that technical, specialized expertise with researchers around the world so the stem cell science will advance as rapidly as possible. The National Institutes of Health is establishing three stem cell, what we call centers of excellence. It has created a stem cell task force.

While we are vigorously searching for cures with stem cell research, under the President's policies, we are also showing respect for the moral significance of human embryos. The President has reached a careful balance. Pursue promising medical research, devote unprecedented Federal resources to health care breakthroughs with stem cells, allow unlimited private funding, but do not use Federal taxpayer dollars to destroy human life or create human embryos solely for the purpose of experimentation.

Fourth, there is no ban on stem cell research. I say that directly because our distinguished Senator from Massachusetts, Senator KERRY, claims the President has put, in his words, a "sweeping ban" on stem cell research. Those are his words, sweeping ban.

Last Monday he accused the President of "sacrificing science for ideology and playing politics with people who need cures." Then he added that treatments "could be right at our fingertips" were it not for the—these are his words—"stem cell ban."

Now, I just have to ask the Senator—I know he is not here now—but "at our fingertips"? That is not right. "Stem cell ban"? Wrong again, Senator KERRY. There is no ban.

President Bush is the first President, as I mentioned, in history, to fund embryonic stem cell research. The President is funding stem cell research, as I mentioned, at record levels. There is no limit on stem cell research or funding in the private sector.

These are the facts. Senator KERRY is playing politics with the truth. Even

worse, he is playing politics with the hope of those today who are suffering and their loved ones and their families. That, I believe, is irresponsible. It is cruel to play politics with people who need cures.

My fifth point, and last point, has to do with the moral significance of embryonic—of really the human embryo and why this ethical framework is so important and why this balance that the President achieved is so critically important.

It boils down to the fact that embryos do have moral significance, and they do deserve moral respect. The President believes we should conduct this research with the highest moral and ethical standards. The President has struck a balance. We must carefully weigh the potential, as far off as it might be, but the potential for saving lives against the reality of destroying life.

I say that because an embryo is biologically human, it is living, and it is genetically distinct. Thus, it deserves moral respect. Thus destruction of living human embryos for experimentation is not a morally neutral act.

In closing, these times are extraordinary for many reasons. In part it is because, as a physician, I see the tremendous advances that are being made in science, in my own field of heart disease and lung disease, but for arthritis and for spinal cord injuries, and a whole range of illnesses, really every illness. But the times are extraordinary, probably most profoundly because of the pace of change in our own lives.

Nothing is changing our lives quicker and with greater sweep than science today, and in particular, the scientific discovery within the field of medicine. It gives hope. It gives cures. It gives treatment. Science is moving more rapidly than ever, and the race will quicken. Every day it will quicken in the future.

I believe we have an obligation to vigorously support this progress, but we must do so in an ethically appropriate framework. No doubt, stem cell research shows great progress; it shows great promise. The President's policy harnesses that promise, and it also strikes a balance with the values of our people.

Mr. SESSIONS. Madam President, will the Senator yield?

Mr. FRIST. I am happy to yield.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank Dr. FRIST for his comments. It has just clarified, for me, this issue. It was, as he explained it, basically as I thought the situation was. But the Senator refreshed our recollection. So the statement Senator KERRY made the other night criticizing a "sweeping ban" on stem cell research is not correct because there is no ban at all on stem cell research; is that correct?

Mr. FRIST. Madam President, indeed, in response, through the Chair, to

the distinguished Senator from Alabama, there is no ban. There is certainly no "sweeping ban." Yet you see in the headlines of newspapers references made to this ban, which reflects the words of someone who is running to be President of the United States, which I find unconscionable because of the impact it has on patients, people who do deserve real hope, and not a cruel hope of rhetoric which now has become hyperbole.

Mr. SESSIONS. Well, I thank the Senator and would ask one more question. I agree with you, that an embryo has all the characteristics that result in an adult human being. They deserve moral respect. I think that was an appropriate phrase you used.

I want to ask again, now: There is Federal funding for certain ongoing embryonic research; is that correct?

Mr. FRIST. Madam President, in response, there is Federal funding for embryonic stem cell research and adult stem cell research, embryonic stem cell research at record high levels, and adult stem cell research at record high levels, by the President of the United States using Federal taxpayer funds.

Mr. SESSIONS. Did I understand you to say that, to date, the embryonic stem cell research has produced no medical treatments that are proven efficacious, but the adult stem cell research, which is fully supported in every way by our Government, is showing some medical progress?

Mr. FRIST. Madam President, that is exactly right. Again, both have promise. Embryonic stem cell research is in its infancy and today has yielded no treatments for human disease. Adult stem cell research, there are numerous, I would say probably about 150 or 160 different areas of treatment using adult stem cells.

Mr. SESSIONS. Madam President, I thank the distinguished Senator from Tennessee.

As we all know, he is not just a Senator; he has been a physician, and not just a physician but one of America's finest physicians, a heart/lung transplant surgeon at the great Vanderbilt University School of Medicine. I think we ought to listen to his comments on this important issue. I thank him for sharing those comments with us.

Mr. FRIST. Madam President, let me just close with that comment, that the importance of the human subject type protections and having this ethical framework is because that human embryo is living, it is embryologically distinct in terms of a genetic formulation, and it is biologically human, and therefore deserves the respect that the President has given it.

I yield the floor.

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. SESSIONS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WORKING ON THE SABBATH

Mr. SESSIONS. Madam President, earlier today, I was pleased to hear Senator ROBERT BYRD suggest we ought not to work on Sunday, on the Sabbath, lightly. He expressed his concerns about us having a session on a Sunday and quoted the Ten Commandments and Scripture, as he noted from the distinguished King James version of the Bible, telling us we ought to avoid this basically.

I think as a country we would be a lot better off if we were more scrupulous about that. I thank him for sharing that. I think since I have been in the Senate there have been very few days that we have worked on a Sunday. I know Senator FRIST is a man of faith, and he would not call on us to do so did he not think it was important and had justification consistent with the faith of most Americans and Christians. I know he is a Christian. We have other faiths here in the Senate, also.

I would just quote another part of the King James version that refers to the story of Jesus going through the cornfields on the Sabbath day. I am looking at Mark, Second Chapter, 23rd Verse:

... and his disciples began, as they went, to pluck the ears of corn.

And the Pharisees said unto him, Behold, why do they on the sabbath day that which is not lawful?

Jesus answered unto them, Have ye never read what David did when he had need, and was an hungered, he, and they that were with him?

How he went into the House of God in the days of Abiathar, the high priest, and did eat the shewbread, which it is not lawful to eat but for the priests, and gave also to them which were with him?

And he said unto them, The sabbath was made for man, and not man for the sabbath:

Therefore, the Son of man is Lord also of the sabbath.

Then it goes on, chapter 3, continues right on:

And he entered again into the synagogue; and there was a man there which had a withered hand.

And they watched him, whether he would heal him on the sabbath day; that they might accuse him.

And he said unto the man which had the withered hand, Stand forth.

And he said unto them, Is it lawful to do good on the sabbath days, or to do evil? to save life, or to kill? But they held their peace.

And when he had looked round about on them with anger, being grieved for the hardness of their hearts, he said unto the man, Stretch forth thine hand. And he stretched it out; and his hand was restored whole as the other.

I think that is authority for us also. We have a hurricane relief bill and other challenges facing America today. I don't think we need to make this a habit. I think we ought to be careful about what we do. I think under the circumstances, this is a justified day today. I wanted to share those thoughts.

I yield the floor.

The PRESIDING OFFICER. The majority leader.