

bench and she will make an excellent addition to the Northern District of Texas.

I am not alone in believing that Ms. Boyle will make an outstanding Federal district judge. The Texas Employment Lawyers Association, TELA, calls Ms. Boyle "considerate, concerned, and well-read," in addition to possessing "a great deal of knowledge about employment law" and an excellent judicial demeanor that is reflected in her "even-handed and fair" approach to adjudication. Ms. Boyle also has strong bipartisan support. The current chair of the Dallas County Democratic Party has written a letter expressing her "enthusiastic support of the nomination of Jane J. Boyle," and a former chair of the same organization wrote a letter stating that "in the case of this nominee, partisan considerations are unwise and should evaporate."

Ms. Boyle's experience both as a U.S. attorney and as a Federal magistrate judge will serve her well on the Federal district court. I urge my colleagues to join me in strong support of Ms. Boyle's nomination.

Mr. CORNYN. Mr. President, I am proud today to cast my vote in the affirmative for Jane J. Boyle who has been nominated to the U.S. District Court for the Northern District of Texas. She presently serves as United States Attorney for the Northern District of Texas. Judge Boyle has a long and distinguished career of public service and is well qualified to return to the bench having served as United States Magistrate Judge for the Northern District of Texas from 1990 to 2002.

In addition, she served a previous term as United States Attorney, Northern District of Texas from 1987 to 1990, and was an Assistant District Attorney in the Dallas County District Attorney's Office from 1981 to 1987.

Judge Boyle is imminently well qualified, as the ABA has rated her. More importantly, there is bipartisan consensus of those who know her and work with her. Moreover, she has garnered the respect of her colleagues and those who work for her. Most notably, she has gained the respect of the Dallas community, including folks from the entire political spectrum.

I ask unanimous consent to have a related article printed in the RECORD.

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

(For immediate release, June 17, 2004)  
 SENATE CONFIRMS JANE BOYLE FOR  
 JUDGESHIP  
 WILL FILL VACANT SEAT IN NORTHERN  
 DISTRICT, BASED IN DALLAS

WASHINGTON.—The U.S. Senate on Thursday unanimously approved the federal judicial nomination of current U.S. Attorney Jane Boyle to be the U.S. District Judge for the Northern District of Texas. Boyle, 49, will be based in Dallas, and replaces retired Judge Jerry L. Buchmeyer. The Northern District's jurisdiction includes 100 counties.

"Jane Boyle has remarkable experience and knowledge of the law. She has done an outstanding job as U.S. Attorney in Dallas,

and I'm confident that she will continue to serve Texas and the nation with excellence," Cornyn said. "She has garnered the respect of her colleagues, those who work for her, and most notably, she has gained the respect of folks from across the political spectrum."

U.S. Sen. John Cornyn, a member of the Judiciary Committee, along with Sen. Kay Bailey Hutchison, recommended Boyle to President Bush on September 9, 2003. The President nominated Boyle on November 24, 2003, and she was confirmed by the Judiciary Committee on April 1, 2004.

Boyle was appointed by President George W. Bush in 2002 to be U.S. Attorney for the Northern District after a long and distinguished legal career in Texas. Prior to that selection, she served as U.S. Magistrate Judge for the Northern District for twelve years, earning significant judicial experience in the region.

Boyle also worked for a number of years as an Assistant U.S. Attorney and an Assistant District Attorney for Dallas County. She earned a J.D. degree from Southern Methodist University School of Law in 1981 and graduated with honors from The University of Texas at Austin in 1977. She has been published in numerous legal periodicals, including the Texas Bar Journal.

Sen. Cornyn chairs the subcommittee on the Constitution, Civil Rights & Property Rights, and is the only former judge on the committee. He also serves on the Armed Services, Environment and Public Works, and Budget Committees. He served previously as Texas Attorney General, Texas Supreme Court Justice, and Bexar County District Judge.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Texas, Mr. CORNYN, is recognized.

Mr. CORNYN. Mr. President, in the interest of time, I will not belabor the point. I wanted to add my voice to that of Senator HUTCHISON commending this fine nominee, Jane Boyle, to the U.S. Senate.

The PRESIDING OFFICER. The question is, Shall the Senate advise and consent to the nomination of Jane J. Boyle, of Texas, to be United States District Judge for the Northern District of Texas?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 128 Ex.]  
 YEAS—99

Akaka	Brownback	Collins
Alexander	Bunning	Conrad
Allard	Burns	Cornyn
Allen	Byrd	Corzine
Baucus	Campbell	Craig
Bayh	Cantwell	Crapo
Bennett	Carper	Daschle
Biden	Chafee	Dayton
Bingaman	Chambliss	DeWine
Bond	Clinton	Dodd
Boxer	Cochran	Dole
Breaux	Coleman	Domenici

Dorgan	Johnson	Pryor
Durbin	Kennedy	Reed
Edwards	Kohl	Reid
Ensign	Kyl	Roberts
Enzi	Landrieu	Rockefeller
Feingold	Lautenberg	Santorum
Feinstein	Leahy	Sarbanes
Fitzgerald	Levin	Schumer
Frist	Lieberman	Sessions
Graham (FL)	Lincoln	Shelby
Graham (SC)	Lott	Smith
Grassley	Lugar	Snowe
Gregg	McCain	Specter
Hagel	McConnell	Stabenow
Harkin	Mikulski	Stevens
Hatch	Miller	Sununu
Hollings	Murkowski	Talent
Hutchison	Murray	Thomas
Inhofe	Nelson (FL)	Voivovich
Inouye	Nelson (NE)	Warner
Jeffords	Nickles	Wyden

NOT VOTING—1

Kerry

The nomination was confirmed. The PRESIDING OFFICER. The President will be immediately notified of the Senate's action on this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that Senator WARNER and Senator REED have worked out an arrangement whereby the missile defense amendment will not be offered, but the end strength amendment will be offered at this time.

The chairman has arrived. What I have said is that the chairman and Senator REED have agreed that his missile defense amendment will be offered at a subsequent time and that now the end strength amendment that has been around for several days would be debated at this time and voted upon.

Mr. WARNER. Mr. President, that was a suggestion I made to the Senator from Rhode Island. I think he will perhaps reflect on the need to go forward with his second missile defense amendment, and he had asked for that need to be reconsidered. Therefore, in its place we can put the end strength amendment, which would be a matter of convenience and great interest to our membership on this side, given it is a bipartisan amendment.

Mr. REID. Following that, the amendment of Senator SESSIONS will be offered, and following that the amendment of Senator BIDEN will be offered.

Mr. WARNER. Could we put time agreements on this now?

Mr. REID. We certainly should be able to.

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

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

Mr. WARNER. Mr. President, the distinguished leadership on the other side and myself and the leadership on this side have worked out the following time agreements: On the amendment from the Senator from Rhode Island, which has a second degree from the Senator from Virginia, Mr. WARNER—

Mr. REID. No. 3352.

Mr. WARNER. Correct—we would need 40 minutes equally divided on those amendments.

Mr. REID. A total of 40 minutes?

Mr. WARNER. A total of 40 minutes equally divided. We would then proceed to lay that aside and proceed to an amendment by the Senator from Alabama.

Mr. REID. No. 3371.

Mr. WARNER. Correct. That will take 20 minutes.

Mr. REID. Twenty minutes equally divided?

Mr. WARNER. Fifteen on this side, and I think the other side only needed 5 on that amendment.

Mr. REID. We will take the 15 and probably would not use it.

Mr. WARNER. Then 30 minutes equally divided. That amendment will not require other than a voice vote which we will do. We will then immediately proceed to the Biden amendment.

Mr. REID. No. 3379.

Mr. WARNER. Correct. At the moment, that would require 2 hours equally divided, with the expectation that can be reduced in time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent, as the chairman has indicated, that on amendment No. 3352 there be 40 minutes equally divided, with no second-degree amendments in order except for the one that Senator WARNER has indicated that he will offer, and Senator REED knows about that; No. 3371, there be no second-degree amendments in order; and No. 3379, there be no second-degree amendments in order, with the time as stated previously. There would be no second-degree amendments then prior to the vote.

Mr. WARNER. That is correct.

Mr. REID. As indicated, 40 minutes, 30 minutes, and 2 hours.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. I concur in the request.

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

The Senator from Rhode Island.

AMENDMENT NO. 3450 TO AMENDMENT NO. 3352

Mr. REED. Mr. President, I ask for regular order for No. 3352.

The PRESIDING OFFICER. That amendment is now pending.

Mr. REED. Mr. President, I understand that Senator WARNER has a second-degree amendment which I will accept.

Mr. WARNER. That is correct, and I seek now to modify it, and I will send a modification to the desk and add to the modified amendment.

It is a very minor modification. I simply strike one word, and it is the word "the." I send the modification to the desk and ask for its immediate consideration.

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

The amendment (No. 3450), as modified, is as follows:

(Purpose: To provide for funding the increased number of Army active-duty personnel out of fiscal year 2005 supplemental funding)

Strike line 2 and insert the following: "502,400, subject to the condition that costs of active duty personnel of the Army in excess of 482,400 shall be paid out of funds authorized to be appropriated for fiscal year 2005 for a contingent emergency reserve fund or as an emergency supplemental appropriation".

Mr. WARNER. I am ready to indicate to my colleague we have worked on this amendment in the second degree. It is my understanding that the Senator from Rhode Island is prepared to take the Warner amendment as modified.

Mr. REED. That is correct.

Mr. WARNER. Fine.

Mr. REED. I want to thank the chairman for his instructive work on this amendment. He recognizes, as I recognize, along with my colleagues and principal cosponsors Senators HAGEL, MCCAIN, CORZINE, AKAKA, and BIDEN, that our Army is stretched very thin across the globe with numerous missions, and in order to fulfill these missions we have to raise the end strength of the Army.

The amendment before us today would put within the authorized end strength a 20,000 increase in the number of soldiers in the U.S. Army. These are the number of troops the Army has indicated that they can absorb this year, and that they can train and utilize this year. It represents the recognition that we cannot simply depend upon emergency powers through supplementals to increase the end strength of the Army. We have to, as we do in this amendment, put in the actual end strength number to reflect a larger Army and also to reflect the fact that this is not a temporary occurrence.

Our commitments in Iraq, Afghanistan, and around the globe are going to require a substantially larger Army for an indefinite period of time.

As a result, working together with the chairman, we have placed in the Defense authorization bill the precise number of soldiers, this precise increase of 20,000 troops.

What the chairman has added, though, is the fact that these troops have to be paid for. There is a strong argument that we should pay for them in terms of regular budget authority, but he has suggested that we again go the emergency supplemental route to

pay for these troops, which are now fully authorized in law. What I wanted to accomplish in the amendment first is to make sure we do incorporate a suitable end strength number. That has been accomplished.

Second, I wanted to avoid a situation where the Army had to go within its existing programs to search high and low for dollars to pay for these extra troops. That has been accomplished by the chairman's suggestion that we move some funds already identified in the emergency supplemental and designate those to pay for these additional troops.

So we have avoided a situation where the Army this year is going to be forced to come up with funds by going through and ransacking their existing programs, and we have set it in the authorization bill, the appropriate forum for such a decision. We have set in the precise number of end strength that is appropriate this year for the U.S. Army.

The question still arises, What happens in succeeding years? The argument myself, Senator MCCAIN, Senator HAGEL, and others have made is we cannot continue to depend upon supplemental and emergency funding. This is not an emergency. This is a fact of life in the world today. We need a larger Army.

We are accomplishing our objectives today for this fiscal year in this authorization, but I think the chairman and we all recognize we will eventually confront a situation where we have to raise the bottom line of the Army in terms of the funds they have. We do not want to see a situation a year from now or 2 years from now when the supplementals are inadequate but the needs of these troops are still persistent.

Senator LEVIN has language in this authorization bill that indicates in succeeding years, after this fiscal year and after this authorization bill, any increase in end strength will have to be put in the Army budget. I think that is an appropriate response. I think the Reed amendment as modified by Senator WARNER will, in effect, accomplish that.

This is the thrust of the amendment. I have had an opportunity to explain it. At this point I reserve the remainder of my time to allow the Senator from Virginia to comment.

Mr. WARNER. I thank my colleague. This is one of those situations. Senator REED is a very valued member of the committee and the amendment has strong cosponsorship; namely, Senators MCCAIN and HAGEL and others on our side. I think all along the committee has recognized the need to work with the Department of Defense, most specifically the Department of Army, to resolve this situation. I thought it necessary to second degree the amendment which would authorize the Department of Defense to pay the cost of the additional Active-Duty soldiers for fiscal year 2005 from supplemental or

contingent emergency reserve funds because the sponsors of the amendment had not identified the considerable sum, some \$2 billion plus, that their amendment would generate in the need for the Army budget.

The Army needs this Active-Duty strength. I think we are in agreement on this point.

Senator, I indicate now I am going to urge my colleagues to accept the amendment.

I note that in the bill we are considering there is a specific authorization which the committee worked out in section 402 for temporary increases of up to 30,000 active duty soldiers above the currently authorized level. This goes 10,000 active-duty soldiers beyond the end strength level proposed in Senators REED and HAGEL's amendment.

My second degree amendment, however, addresses the real issue stemming from these increases—how to pay for them. The Reed/Hagel amendment provides no offsets for the \$2.4 billion cost of these extra troops. I submit that this is not a cost for the Department to take "out of hide," or that the Department of the Army should absorb out of the FY 2005 budget.

The approach in my second degree amendment reflects the recommendation of the Army Chief of Staff, General Schoomaker, who testified that using supplemental appropriations gives necessary flexibility and is, in fact, essential to preserve the Army's ability to plan for operational readiness in the present and modernization for the future.

The Reed/Hagel amendment would have the effect of directing the Army to increase its end strength by 20,000 in FY 2005 at a cost of \$2.4 billion. The amendment identifies no offset, it identifies no means to pay for these additional troops. Consider the potential effect of that proposal on the Army. The \$2.4 billion represents a 15 percent reduction of funding for direct costs of operating forces for home station training, exercises and operations; in other words—fuel, spare parts, maintenance, food, and other consumables. Alternatively, this reduction would eliminate almost all funding for Army individual and unit training—such as basic training, flight training, and combat training center rotations. The \$2.4 billion represents a 42 percent reduction of funding for Army command and control, logistics, weapons and ammunition transportation and storage. It could reduce resources to key readiness and modernization accounts, as indicated above, and divert money needed to train and retain more experienced personnel because of the imperative to satisfy an end strength number.

My amendment would afford the Army the opportunity to flexibly execute its budget while increasing its manpower. I would ask you to keep this in mind and also keep in mind that the conferees will have the task of finding \$2.4 billion in offsets if this amendment becomes a law.

Mr. HAGEL. Mr. President, I rise today to join my colleague Senator JACK REED in introducing an amendment to the fiscal year 2005 Defense authorization bill to increase the size of the United States Army by 20,000 additional troops.

Over the last year the Congress has expressed grave concern that our Armed Forces are too small to meet the extraordinary demands being placed on them today. These demands will be with us well into the future.

Senator REED and I are proposing this amendment to formally increase the size of the United States Army by 20,000 troops in the coming year.

The additional troops are urgently required to give the Chief of Staff of the U.S. Army the tools he needs to fight the war on terrorism, stabilize Iraq and Afghanistan, and meet the global demands being placed on the total force today.

Under emergency authority, the U.S. Army has already exceeded its authorized end strength by around 15,000 soldiers. This amendment provides straightforward congressional approval for these additional troops. It also puts the future funding of these troops on the record, not masked in the emergency supplemental appropriations process.

The size and cost of the Army must be transparent to the American people, our allies, and to those that would oppose us in the war on terrorism.

This amendment gives General Schoomaker, the Chief of Staff of the United States Army, the additional manpower he has told us he needs to transform the total force . . . the active duty Army, the Army Reserve, and the Army National Guard.

The amendment recognizes the fact that the Army needs 20,000 more troops now. In the future the Army must also be authorized to add 10,000 more soldiers.

The amendment increases the approved Army end strength personnel floor from 482,400 to 502,400 troops. It tells the soldiers in the Army that we strongly support increasing the size of the Army to meet the increased demands being placed on the service.

I commend Chairman WARNER and ranking member LEVIN for their outstanding work on this Defense authorization bill. Members of our Armed Forces are currently engaged in combat operations in Iraq and Afghanistan.

Hundreds of thousands of American men and women in uniform are serving around the world defending the freedoms we hold dear.

Chairman WARNER and ranking member LEVIN are tireless supporters of our men and women in these dangerous times. Our Nation owes them both, and their staffs, a debt of gratitude for their service.

I also appreciate the Chairman's contribution to this effort with his second degree amendment.

And finally, I wish the U.S. Army a happy 229th birthday.

Mr. BIDEN. Mr. President, I am very pleased to be a cosponsor of this amendment with Senators REED, MCCAIN, HAGEL, CORZINE, and AKAKA.

I understand that we have accepted the Senator from Virginia's amendment paying for these additional 20,000 soldiers in the supplemental.

While I think the Army would be better served by an end strength increase that is not subject to repeated supplementals, I am pleased that we are all in agreement that we need more troops today.

I think it is very simple. Soldiers provide stability. Without adequate numbers of boots on the ground, you can't get security and stability.

That is true in Iraq, Afghanistan, Korea, and the Balkans.

As Senator MCCAIN and I have both said repeatedly, we need more troops in Iraq to achieve stability. If we had put more troops into Iraq after major combat operations, the situation might be very different. I don't believe it is too late. I still think that additional troops are needed.

I also believe that it is my obligation to back that up with some relief for those soldiers serving today. We shouldn't have to keep issuing "stop-loss" orders, forcing soldiers to stay in the Army.

Let's give the Army what it needs.

What my colleagues and I hoped to accomplish was to reassure today's soldiers and their families that they will not have to keep looking at extended deployments and stop-loss orders. Instead, we want them to know that we are committed to making the Army large enough to do the missions America is asking it to do.

Some of our colleagues believe that the need for additional soldiers is temporary. I disagree.

It is true that the Army is planning a major restructuring. This may mean future efficiencies, but we don't know that yet. Like any other major change, more resources are needed during the change. In this case, more soldiers are needed as the Army moves to a more capable brigade structure.

I would rather plan for the clear needs of the next decade in the regular budget. I don't think we should be relying on supplementals to provide the right sized Army.

If I and my colleagues are wrong, then we can revisit these numbers and cut end strength like we did in the beginning of the last decade. I would rather take the cautious approach and err on the side of our soldiers and their families.

I urge my colleagues to adopt this amendment which takes us closer to that goal.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, with the series of votes that we have, first on REED and then on BIDEN—we have received word there may be a couple of other Senators who may want to speak on this amendment. I ask unanimous

consent of the Chair, in the form of a unanimous consent request, that prior to the Reed amendment being voted on, as amended by WARNER, there be 10 minutes set aside to talk about that prior to this vote.

Mr. WARNER. I think that is an accommodating gesture. In fact, the amount of time I reserved on this side, portions of it perhaps could be yielded back, and then absorbed by the proposal of the distinguished leader.

Mr. REID. The time may not be necessary.

Mr. WARNER. It may not be necessary. But so many of our colleagues are doing a lot of work all over the system right now. They didn't recognize that this would be brought up at this time. We want to accommodate them.

Mr. REID. Mr. President, I ask unanimous consent that prior to the vote on the Reed amendment, Senator REED control 10 minutes, Senator REED of Rhode Island.

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

Mr. REED. Mr. President, I yield such time as remained.

Mr. WARNER. Mr. President, would the distinguished Democratic leader allow the time to be managed on this side by either Senators HAGEL or MCCAIN, the time we have on this side? That would sort of divide it between yourself and the two colleagues on this side?

Mr. REID. That would be appropriate because those were the two Senators we were worried about.

Mr. WARNER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I thank the chairman for his constructive participation in this process and also to emphasize what he has emphasized and that is the extraordinary stress our Army is withstanding at this point. They are doing it magnificently, performing with great skill and professionalism.

We have 126,000 soldiers in Iraq; we have 13,000 soldiers in Afghanistan; we have soldiers still in the Balkans, 2,500; we have forces in Kuwait, about 17,000; we still have our mission in the Sinai; we have 1,700 soldiers in Guantanamo maintaining the detention facilities there; we have 16,000 soldiers, Noble Eagle, which is the heart of our defense of our homeland; we have soldiers in the Philippines; 31,600 soldiers in South Korea. We have them all over the world doing an extraordinary task and job for our company. Frankly, they need more help and that is the heart of the Reed amendment.

In addition to that, we have seen troubling signs that this operational tempo is putting great stress and duress on our soldiers. Recently, there was a stop-loss order announced by the G-1 of the U.S. Army that said essentially any soldier who is scheduled to depart within 90 days for deployment cannot leave the service, even if that soldier's time in service has expired.

Essentially what they have said is: You can't get out of the service. The Volunteer Army is no longer completely volunteer. That is just one example.

We are withdrawing troops from Korea at a time when there is a huge crisis on the peninsula. The North Koreans indicated they have plutonium; they are intending to process it. They may have already constructed eight nuclear devices. We don't know for sure. Yet at this time when we need maximum military force to complement our diplomacy, we are withdrawing troops, which is perhaps sending a signal to the North Koreans that they can wait us out or that we are not able or ready to match our diplomacy appropriately with military force.

That is another prime example, I believe. In fact, frankly, I think that if North Korea 2 or 3 years ago brazenly declared they had nuclear weapons, our response would not have been to withdraw troops. The calls in this Chamber would have been for more troops in Korea. But now because of Iraq that is difficult; we are pulling them out to send them to Iraq.

Then we have a situation in our training centers, the infrastructure of the Army. This is one of the major reasons why we have such extraordinarily skilled soldiers.

First, they are men and women of courage and character, but second they received the greatest, most realistic training in the world. They are individuals who can and will do any job, but they do that so well because they are the best trained.

We are taking soldiers from our training centers—those trainers who are preparing the troops to go overseas—and we are deploying them.

As a result, these are indications that we have a military force which is significantly stretched. That is why it is so important to raise the number of troops that we have entering the Army.

Today, the Army has 495,374 soldiers serving on active duty. The end strength has to increase. The Reed amendment increases it by 20,000 troops.

There are those who have predicted we would get in this predicament. General Shalikashvili's predictions and other predictions are coming true. Our responsibility is now to give the military, particularly the Army, sufficient resources and sufficient personnel to do the job which we are asking them to do.

Last December, in 2003, the Army's Strategic Studies Institute published a report which stated that the ground force requirements in Iraq have forced the U.S. Army to the breaking point.

We have to prevent that breaking point from being reached, and that means putting more troops into the force structure.

Last year, during the appropriations debate, Senator HAGEL and I sponsored an amendment that would have raised the end strength by 10,000 in the sup-

plemental appropriations. It passed the Senate. I thank my colleagues on both sides who were very supportive of that. But, unfortunately, at that point the administration thought it was unnecessary and they were able to successfully defeat that proposal in conference. At least now they recognize the need for additional troops. But what they are still adhering to is this notion that the emergency is temporary.

I hope by putting the actual number of the end strength increase in this bill we are sending a signal to everyone that we will, in fact, stay the course—not just rhetorically but with actual resources and actual troops.

Senator WARNER explained the funding mechanism was one where some of us would have preferred, frankly, if we could have, to increase just the bottom line of the Army. But given these other demands on resources and this authorization bill, it was his suggestion that we, once again, use emergency funding to fund this now authorized end strength. That gets us through this year. But the concern I have and the concern others have is that we will reach a point within a year or two where the Army is going to have these troops in uniform but their baseline is not going to be sufficient if a supplemental or emergency funding is not made readily available. That is a real crisis and we have to start thinking about that now.

Senator LEVIN has been very thoughtful on this topic. He has language in the bill that says any increases in the next fiscal year of the end strength have to be budgeted through regular budget processes. Again, I hope that takes place. But that means giving more resources to our Army, and we will work—I think I can speak for Senator WARNER—to make sure the Army has those resources.

I am very pleased we are able to make this adjustment—overdue adjustment—in the end strength of the U.S. Army.

I retain the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be charged equally to both sides.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, in regard to the Reed amendment—and that discussion has been had so far—I am pleased that the chairman and Senator REED have worked out an agreement. I hope that will be satisfactory.

I haven't had time to fully study the details of it, but I expect to be supportive of the agreement which they have reached. We know the Army is stretched today. We definitely need to consider what we can do to alleviate that.

I would like to add a few thoughts in general on the subject of the Army, its restructuring which is ongoing, and how we best can deal with it and what our policy about it should be.

We are in the process of a major restructuring within all of the Department of Defense, but particularly the Army. In dealing with that, they are in the middle of it right now.

General Schoomaker, who spent his career as a combat officer and a special forces officer, is a man of decisive leadership skills. He is working very hard to determine how to get the Army in the posture we want it to be.

With Guard and Reserve, we have over 2 million personnel in uniform, but we are finding it extremely difficult to maintain 150,000 or less soldiers in Iraq.

General Schoomaker has a story which he tells. It is about a rain barrel. He says the way he sees the military, the Army's rain barrel has a spigot and the spigot is about two-thirds of the way up. Whenever we have a demand, we draw down the water, but we are only drawing the top third of the barrel. In large part, the barrel is not accessible and readily deployable for purposes that we are likely to face in the future. He believes we can work on that.

He knows something we all know—that we have a finite defense budget. I am as strong a person as there is in this Senate on expanding spending for defense and making our defense capabilities second to none. We are that today. We have the greatest army the world has ever known. The professional soldiers who serve us so well are doing incredible things. We are proud of them. People just say that. I say to you that every military in the world knows the American military is unsurpassed. They respect us. That is why they want to train with us. They want to learn our tactics. They want to see what equipment we are using. It is something in which we should take pride. He is working with that and how to better utilize our resources.

There was an article recently which a radio reporter in Alabama asked me about. People are transferring from the Air Force to the Army. I said I didn't know that. I did some checking on it.

The Air Force has concluded they are 17,000 above their needs, that these 17,000 soldiers are excess for the mission they have. So they are giving an opportunity to change their MOS, or transfer to the Army, which needs more.

The Navy has discovered it has 7,000 excess.

I chaired an Armed Services Committee, the Sea Powers Subcommittee, and all the new ships that we are building today are using half—maybe less than half—the number of sailors to operate them as we used to use because of technology, better equipment, and science. We can operate a combat warship with half the people he used to have.

So the Navy is downsizing. They do not want to spend any more money than they have to for personnel who aren't critical for their mission because they have technological ad-

vances they would like, and new ships they need to bring on. The Air Force is thinking the same way.

The Army, of course, is more personnel driven. Although it is quite technologically advanced today, all of our soldiers have to be highly trained to be able to utilize the technology they have.

We are already at an increased end strength posture for the Army. The numbers I have are around 19,000 above the authorized end strength, but that is flexible.

General Schoomaker says he is not asking for legislation that mandates a permanent increase in his end strength. He stated in committee, in answers to questions as part of his formal testimony, he would prefer not to be mandated to have this end strength increase, but because we are in combat today he has done it and can maintain it. He would like to be able to utilize funding from the supplemental to maintain that strength. He has said he would prefer we allow him to continue to work on his restructuring and see if we cannot create more combat brigades that are ready to be deployed, fully equipped, and highly trained.

Frankly, in years past, we have had more soldiers than we have had equipment and training. The Europeans are being criticized by the United States, and in their own self-evaluations, for bringing on large numbers of draftees and others who stay just for a short period of time. They are not highly trained and not highly equipped and are spending a lot of money, but the soldiers are not deployable to serious combat situations. Their ability to deploy and actively participate in combat is far less than it should be.

If we think about the rain barrel analogy of General Schoomaker, we think about the ability to move personnel numbers from the other services, which can be an important part of our restructuring and improvement in our defense forces, we may find that we can make more progress than we think. That is certainly my goal.

Our Guard and Reserve are performing exceedingly well. I visited them in Iraq. I know some military police and the Guard unit have been criticized for unacceptable behavior in the Abu Ghraib prison. I visited an Alabama National Guard MP unit in Baghdad. Every day our soldiers were going to a local MP unit. They were working with the local Iraqis. They told me they bonded with them. They walked out on patrol with them. They taught them how to investigate crimes. They taught them all they knew about law enforcement. Forty percent of those guardsmen—many of them 40 years of age—were State troopers and police officers in Alabama. They are well trained in how to handle people, how to deal with crowds, how to maintain order, how to handle traffic tickets, and investigate crimes.

Our Guard and Reserve are important. They can absolutely supplement

our Active-Duty forces, and should. We should not create a system or expect we have to do all our work with only Active-Duty soldiers. They certainly can do that. I don't think anyone is suggesting to the contrary.

So we have one national defense system. We have one Army, Guard, and Reserve today. We need to continue to transform and restructure that entity so we have a structure that is sufficient to meet the demands. But we also are lean and well paid and well trained. It does no good to add a bunch of soldiers to the military if we are not going to add training capability, if we are not going to add equipment, if they are not trained on the best helicopters, if they are not trained with the best missiles, or trained with the best computer systems and do not know how to access our global hawk and other satellite systems that provide intelligence. If we do not do that, we are not as successful as we should be.

At a NATO conference not long ago, a year or so ago after the Iraq war, a French rapporteur reported on it. He said the conclusion that one would draw from the war in Iraq is that a smaller, technologically advanced, well-trained military can defeat a much larger military not well-trained and not technologically advanced.

As we work to make sure we do everything possible for our Army, everything possible for our Guard and Reserve, we must make sure they have the best pay possible, make sure they have the best benefits possible. I will offer an amendment in a few minutes on that. We must make sure they are trained with the best equipment possible, so when they are on the battlefield, they have the ability to inflict the greatest military force on the enemy and be as protected as is possible.

That is where we are. Hopefully, on this amendment, we have reached an accord we can all live with. Many people want to do something for our Army because they are so proud of them and they know how tough the duty is in Iraq. They have seen their neighbors go off in the Guard and Reserve to serve in Iraq or Afghanistan. They want to do something for them. It does sound like maybe one of the best things we could do is increase the numbers. I am not sure we ought to rush too fast. We need to be thoughtful and cautious as we go that way. We need to listen to General Schoomaker. He has not asked for permanent increases in end strength, although he is up now pushing 20,000, as I understand it, above the authorized end strength.

If we do all that is necessary to bring efficiency to bear and we reward our soldiers for their terrific performance, we will have met our challenge.

I see Senator REED, a West Point graduate. He understands the military. It is a pleasure to serve with him on the Armed Services Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I thank the Senator from Alabama for his kind words also.

We are all in agreement that there is tremendous stress on our Army. Let me suggest this chart shows the deployments in Operations Iraqi Freedom and Enduring Freedom projected not just over the next several months but actually into 2007. The dark green demonstrates the actual planned deployment today, the projection of February 2004. On July 19, 2003, last year, these are the force projected, brigades equivalents.

It was projected for July of 2004 we would be roughly at about 8 brigade equivalents. Today in Iraq and Afghanistan there are 18 brigades, more than twice as many soldiers, or about 130,000-plus soldiers in these two operations.

This is not just a spike. This is, as you can see on the chart, a plateau. We are expected, under the projections today, to have 17 brigades all the way out to the end of 2005, the beginning of January of 2006. They come down a little bit if things stabilize a bit in March of 2006, to around 13 or 14 brigades.

This is a long way out to project. So far, if we look at the projections, we have ended up with more troops needed than what we thought we could entertain.

My point is that this is not a temporary spike in requirements for soldiers in the U.S. Army. This stretches out to 2007, 3 years from now. It is entirely appropriate we put this number into the Defense bill, that we do not simply give some emergency powers to the Secretary of Defense.

The challenge we have going forward—we have met the challenge this year by tapping into that emergency fund, but the challenge going forward is giving the Army the resources in succeeding budgets in their own bottom line so they can continue to field these forces. That is what we are projecting today. It is not as if in 6 months we will be fine, Iraq will be resolved, Afghanistan will be resolved, we will be back to a low level of participation.

Our planners' best thoughts today are for 17 brigades for a long time. So that is what is at the heart of the amendment I have proposed, along with Senator MCCAIN, Senator HAGEL, Senator CORZINE, Senator AKAKA, and Senator BIDEN. I believe we are taking a very important step by putting the end strength number in our authorization bill, not as an emergency but as a reality, as a near- and medium-term reality. That is what this chart says. Three years from now we are going to have to still find troops to put in about 14 or 15 brigades in these 2 operations.

But the issue that is still outstanding—not this year because we have bridged it with the emergency funding—is, how do we build up the resources within the Army budget to carry these soldiers forward 2 and 3 years hence? We will be working on that, obviously, over the next few weeks into conference and beyond.

I know there are other colleagues—Senator MCCAIN, Senator HAGEL, and others—who might want to talk. We have made arrangements prior to the vote for 10 minutes, which I would gladly offer to them for their comments.

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

The PRESIDING OFFICER. The Senator has 4 minutes 38 seconds.

Mr. REED. Thank you, Mr. President. I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 3 minutes 40 seconds.

Mr. SESSIONS. Three minutes.

Mr. President, I would just share for our colleagues some other things that are happening. There is a serious effort to restructure our forces that also includes looking at our troop strength deployed abroad in a number of different areas. I think we have 37,000 soldiers in South Korea. I believe that number is larger than it needs to be. The military is looking at what they can do to reorganize those forces there and bring some of them home.

I believe, having visited 12 military installations in Europe just within the last 2 months, we can bring home substantial numbers of our troops from there. In fact, I think it would be a mistake if we do not bring home two divisions. Probably 40,000 Army soldiers and their dependents could be brought home from Europe. It is not necessary to maintain that kind of strength abroad.

So there are a lot of things we can do to make life easier for our soldiers. General Schoomaker would like to see a soldier be able to go to a military base with his family and stay there 7 years, and be promoted and stay with a unit and improve his technical skills and his unit cohesion before being moved again. Those are goals we need to seek so we will be even better in capability, and it will also be good for the soldiers and their families.

I reserve the remainder of the time and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I rise in strong support of the Reed amendment. Yesterday, in USA Today: "Army division sees its war tour extended and its casualties rise," a very interesting front-page story in USA Today, entitled: "13 months on the ground in Iraq." It says: "After more than a year of combat, soldiers of the 1st Armored Division wonder when they'll go home."

There are some interesting comments in this article from individuals:

"The option left to the nation, the Army, was to keep 1st Armored here or pretty much concede defeat," says Lt. Col. T.C. Williams, the battalion commander. Soldiers were disappointed, he says, but they also knew that

after a year in Iraq, they were prepared for anything. "Nobody does this better than we do," he says.

I am sure he is correct.

There are other quotes:

"We still have a mission we have to accomplish, for the good of the Iraqi people and the future," says Staff Sgt. Brad Watson. . . .

But these soldiers don't hide their concern that their extension has been violent, hard on their families, and left them wondering how things could have been.

"Gosh, we could have got out of here in 12 months with little or no casualties, and all of a sudden 17 people in your platoon become a casualty?" Watson says, "It's something I never dreamed could happen."

The point of the story is there are some very brave young Americans who have had to remain in Iraq. There are also stories about the so-called stop-loss rule, which has been imposed, which prohibits people from leaving the military at the time when they are supposed to, which I think some could argue is some form of conscription, of a draft.

What we are doing is we are stopping men and women in the Army and in the Marine Corps from leaving the service at the time of the expiration of their contract. So we are involuntarily keeping people in the military. And instead of the draft applying to all Americans—conscription—we are basically penalizing those people who volunteered to serve, which, in my view, is the worst of all worlds.

The reason why we are in trouble in Iraq and in as much trouble as we are in today and having the difficulties we are having today is because after the conclusion of the combat phase of the war we had too few boots on the ground in Iraq. Anyone outside of the Pentagon, with rare exception—any retired general will tell you that we did not have enough people on the ground to pacify the situation, stop the looting, stop the resurrection of the Baathists, stop the beginning of an insurgency. We had a window of opportunity to do so. We did not have enough people on the ground. And now we are paying a very heavy price for that incredible mistake on the part of the civilian leadership in the Pentagon.

And why were they so reluctant to send additional troops? The dirty little secret is, they did not have them. Do you think we are taking troops out of Korea to deploy to Iraq because the situation has gotten better in Korea? The last time I checked, the North Koreans posed an even greater threat and are acting in a more intransigent fashion than ever before. But we are having to take thousands of people out of deployment in Korea and move them to Iraq.

Meanwhile, we see people who are guardsmen and reservists who are going back and back and back. Now, I have had the opportunity of meeting and talking to many. In fact, 40 percent or 55,000 of the soldiers currently serving in Iraq and Afghanistan are guardsmen and reservists. They are wonderful. They are magnificent people. But they did not join the Guard

and Reserves to be deployed every other year to Afghanistan or Iraq.

When we look at the training of the soldiers who were assigned to the prison in Abu Ghraib, they were people who were involuntarily extended and had no real training in carrying out the functions they were supposed to at that prison—again, a very heavy price, a very heavy price.

Mistakes happen in conflicts. That is why we try to avoid them. But a fundamental error that is still not corrected—still not corrected—is the shortage of the military on the ground with the kinds of specialties and skills that are so badly needed: special forces, military police, linguists, civil affairs, and others who simply are not there today. And we see in some cases a chaotic situation in some parts around Baghdad and in the Sunni Triangle.

So I regret that we are here on the floor of the Senate having to force an increase in the size of the Army on the Department of Defense. As I say, literally every retired military officer I have talked to has said—and every military expert says—you do not have a large enough Army. I recently talked to one retired general who said: I have a fear of not enough people in Iraq and that we are not able to do the job.

But my far greater fear and nightmare is that we have something in Korea, something between China and Taiwan, something in our own hemisphere like significant unrest in Venezuela or a significant commitment we might have to make on the continent of Africa. We don't have the people to do it.

I hope we will support the Reed amendment. I hope the Pentagon and the civilian leadership there will come to their senses and recognize that there are not enough men and women in the military today. They are magnificent, but there are not enough of them. They are stretched too thin. They are badly overworked, and we have paid a very heavy price for these failings from the beginning of the Iraqi conflict.

I still believe we can win and must win, but long ago we should have repaired this deficiency in the size of the Army and the Marine Corps.

I yield the floor.

THE PRESIDING OFFICER (Mr. CORNYN). All time has expired.

Mr. WARNER. Have we pretty well resolved this? The Senator from Arizona and the Senator from Alabama, have we taken adequate time over here for our colleagues who have been in strong support? I think we have reached a conclusion on this matter. We will not need that extra tranche of time.

Mr. REED. If the Senator will yield, I believe we were waiting for Senator HAGEL, another cosponsor.

Mr. WARNER. I think we should allow some time for Senator HAGEL. We will make that time available.

Mr. REED. I thank the Senator.

THE PRESIDING OFFICER. There are 10 minutes available prior to the vote.

Mr. WARNER. Then let's hope Mr. HAGEL can make it.

Mr. REID. Under the order, the Sessions amendment is now in order.

THE PRESIDING OFFICER. That is correct.

Mr. BIDEN. May I have 10 seconds on the Reed amendment?

THE PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I can't think of a more important amendment we are going to vote on than the Reed amendment. I am a principal cosponsor. I believe it is overdue. I hope to the Lord we go ahead and do the right thing here and support this amendment.

THE PRESIDING OFFICER. Under the previous order the Senator from Alabama is recognized.

Mr. REID. Mr. President, after the amendment is reported, I wonder if I could speak first. I am going to use 15 minutes on another subject. It will take a few minutes. I would like to go do something else.

Mr. WARNER. Absolutely, Mr. President.

Mr. REID. Is that OK with Senator SESSIONS?

Mr. SESSIONS. It is all right with me. I know Senator CHAMBLISS wanted to speak also.

Mr. WARNER. Mr. President, I think this might be an appropriate time that I would like to urge adoption of my amendment in the second degree to the Reed amendment.

Mr. REID. I think that is totally appropriate.

Mr. WARNER. Let's have that.

THE PRESIDING OFFICER. The question is on agreeing to the second-degree amendment No. 3450, as modified.

The amendment (No. 3450) was agreed to.

Mr. WARNER. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. This amendment has the strong support of the Senator from Virginia.

I thank the Chair.

AMENDMENT NO. 3371

THE PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, does the Senator from Nevada want 15 minutes right now?

Mr. REID. I am going to use 15 minutes. It has nothing to do with your amendment. We have 15 minutes, but we weren't going to oppose your amendment anyway. I would like to take my few minutes now.

Mr. SESSIONS. All right. So you want the full 15 minutes?

Mr. REID. I don't know how much time I will use. I don't think I will use near that amount.

Mr. WARNER. If the Senator will yield, I am advised by the parliamentarians that we may need to put in on the Reed amendment now that there

are no further amendments, second degree or otherwise, in order on that amendment. The desk asked me to check that.

Mr. REID. That was part of the original order. Would the Chair ask that the Sessions amendment be called up now.

THE PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 3371.

Mr. REID. Mr. President, I ask unanimous consent that reading of amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for increased support of survivors of deceased members of the uniformed services)

On page 130, between lines 9 and 10, insert the following:

**SEC. 642. DEATH BENEFITS ENHANCEMENT.**

(a) FINAL ACTIONS ON FISCAL YEAR 2004 DEATH BENEFITS STUDY.—(1) Congress finds that the study of the Federal death benefits for survivors of deceased members of the Armed Forces under section 647 of the National Defense Authorization Act for Fiscal Year 2004 has given Congress sufficient insight to initiate action to provide for the enhancement of the current set of death benefits that are provided under law for the survivors.

(2) The Secretary of Defense shall expedite the completion and submission of the final report, which was due on March 1, 2004, under section 647 of the National Defense Authorization Act for Fiscal Year 2004.

(3) It is the sense of Congress that the President should promptly submit to Congress any recommendation for legislation, together with a request for appropriations, that the President determines necessary to implement the death benefits enhancements that are recommended in the final report under section 647 of the National Defense Authorization Act for Fiscal Year 2004.

(b) FISCAL YEAR 2005 ACTIONS.—At the same time that the President submits to Congress the budget for fiscal year 2006 under section 1105(a) of title 31, United States Code, the President, in consultation with the Secretary of Defense, shall submit to Congress a draft of legislation to provide enhanced death benefits for survivors of deceased members of the uniformed services. The draft legislation shall include provisions for the following:

(1) Revision of the Servicemembers' Group Life Insurance program to provide for—

(A) an increase of the maximum benefit provided under Servicemembers' Group Life Insurance to \$350,000, together with an increase, each fiscal year, by the same overall average percentage increase that takes effect during such fiscal year in the rates of basic pay under section 204 of title 37, United States Code; and

(B) a minimum benefit of \$100,000 at no cost to the insured members of the uniformed services who elect the maximum coverage, together with an increase in such minimum benefit each fiscal year by the same percentage increase as is described in subparagraph (A).

(2) An increase, each fiscal year, of the amount of the death gratuity provided under section 1478 of title 10, United States Code, by the same overall average percentage increase that takes effect during such fiscal year in the rates of basic pay under section 204 of title 37, United States Code.

(3) An additional set of death benefits for each member of the uniformed services who dies in the line of duty while on active duty that includes, at a minimum, an additional death gratuity in the amount that—

(A) in the case of a member not described in subparagraph (B), is equal to the sum of—

(i) the total amount of the basic pay to which the deceased member would have been entitled under section 204 of title 37, United States Code, if the member had not died and had continued to serve on active duty for an additional year; and

(ii) the total amount of all allowances and special pays that the member would have been entitled to receive under title 37, United States Code, over the one-year period beginning on the member's date of death if the member had not died and had continued to serve on active duty for an additional year with the unit to which the member was assigned or detailed on such date; and

(B) in the case of a member who dies as a result of an injury caused by or incurred while exposed to hostile action (including any hostile fire or explosion and any hostile action from a terrorist source), is equal to twice the amount calculated under subparagraph (A).

(4) Any other new death benefits or enhancement of existing death benefits that the President recommends.

(5) Retroactive applicability of the benefits referred to in paragraphs (1) through (4) so as to provide the benefits—

(A) for members of the uniformed services who die in line of duty on or after October 7, 2001, of a cause incurred or aggravated while deployed in support of Operation Enduring Freedom; and

(B) for members of the uniformed services who die in line of duty on or after March 19, 2003, of a cause incurred or aggravated while deployed in support of Operation Iraqi Freedom.

(C) FISCAL YEAR 2006 BUDGET SUBMISSION.—The budget for fiscal year 2006 that is submitted to Congress under section 1105(a) of title 31, United States Code, shall include the following:

(1) The amounts that would be necessary for funding the benefits covered by the draft legislation required to be submitted under subsection (b).

(2) The amounts that would be necessary for funding the organizational and administrative enhancements, including increased personnel, that are necessary to ensure efficient and effective administration and timely payment of the benefits provided for in the draft legislation.

(D) EARLY SUBMISSION OF PROPOSAL FOR ADDITIONAL DEATH BENEFITS.—Congress urges the President to submit the draft of legislation for the additional set of death benefits under paragraph (3) of subsection (b) before the time for submission required under that subsection and as soon as is practicable after the date of the enactment of this Act.

ENRON DEJA VU

Mr. REID. Mr. President, I appreciate the courtesy of my two friends. I have been here all day, and I have to leave the floor for a few minutes.

"You have seen that before." That is what *deja vu* means, so I am told. We have seen it before. We in Nevada have the second highest gas prices in the whole country. They have soared to record levels. The oil companies say these price increases are a matter of supply and demand. I have heard that before. I remember now that is the same excuse we heard 4 years ago during the western electricity crisis when

Nevada consumers were being ripped off by one of the most ravenous corporate swindlers in history—Enron.

While Enron reaped windfall profits, it told consumers the record high prices were the result of supply and demand. But it turned out Enron was rigging the market to rob consumers. Over the last few weeks, bit by bit, audiotape recordings of Enron traders have come to light in various ways, chiefly through CBS News.

I am reminded of Senator Jesse Helms. I was a new Senator, and Jesse Helms sat back here. He stood and said: I don't want to be here. It was the pornography issue. He said: I hate to talk about this kind of stuff, but I have to. And the stuff he proceeded to talk about was pretty gross, to be honest with you.

Well, I hate to point to this chart, this audiotape today that CBS played last night on the news, but I am going to because it fully outlines what Enron did to the people of the State of Nevada and people in other parts of the Western United States.

Here is a direct quote from one of the Enron traders, one of the people who caused these prices to go up. He worked for Enron:

I want to see what pain and heartache this is going to cause Nevada Power Company.

This Enron trader goes on to say:

I want to . . .

Everyone can see as well as I can the next word. I am not going to repeat it. It starts with "f" and ends with a "k."

I want to . . . with Nevada for a while.

Second trader says:

What do you mean?

And the first trader says:

I just, I'm still in the mood to screw with people, OK?

Enron traders had all kinds of ways to cheat customers. They shipped power from California to Oregon, masked the original source of the power, and then sold it back to California at inflated rates. This little scheme, this one right here, made Enron a profit of \$222,678 in 3 hours. Enron traders also boast on the tapes that Enron CEO Ken Lay will wield a lot of influence in the Bush administration. They were right about that.

A few weeks ago the Washington Post reported on the influence of the people who raised large amounts of money for the President's campaign. One of those big fundraisers was Ken Lay—the President gave him a nickname of Kenny Boy—who served on the administration's Energy Department transition team, if you can believe that, and recommended two of the members of the Federal Energy Regulatory Commission, known as FERC.

After Enron gouged western consumers, utilities in Nevada and other States turned to FERC for help. Remember, two of them came from Kenny Boy. But FERC ruled in favor of Enron and against providing relief to Nevada utilities and taxpayers.

Adding injury to insult, last fall the bankruptcy court ruled that Nevada

taxpayers owe Enron an additional \$330 million for power Enron never even delivered. Our utilities have asked FERC to hear the case. Senator ENSIGN and I have submitted a brief in support of their complaint. Now I am also joining with western Senators and requesting that FERC vacate the exorbitant contracts that were signed during the manipulated energy crisis.

The parallel between the western electricity crisis and today's gasoline market is troubling, to say the least. The big oil companies are making record profits of up to 75 cents a gallon for a fill-up of a car in Nevada. For 10 gallons, that is a profit of \$7.50. The big oil companies are making these record profits, which come out of the pockets of working families in Nevada.

I am afraid I am not the only one feeling, as we stated earlier, that I have seen this before, *deja vu*. Nevada consumers know they are getting gouged again and it is not a good feeling.

I appreciate the courtesy of the Senator from Georgia and the Senator from Alabama.

THE PRESIDING OFFICER. Who yields time?

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I yield time to the Senator from Georgia, who chairs the Subcommittee on Personnel of the Armed Services Committee, on which the Presiding Officer also serves. I value his judgment on this issue and appreciate his support for this amendment.

THE PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I thank my colleague from our neighboring State of Alabama for his terrific interest in our brave men and women who serve in every branch of our military. At this time, when we have so many men and women in harm's way, it is very appropriate that leadership come from this body. Senator SESSIONS has provided the kind of leadership that our men and women have come to expect.

Today, I rise in support of the amendment Senator SESSIONS has proposed. This amendment will provide a much needed revision of the Department of Defense's current policies related to providing benefits to the families of service members who make the ultimate sacrifice for their country.

The DOD's current death benefit policies have been in place, without any substantial revision, for some time now. These benefits have not kept pace with the times and, in particular, the needs of military families in the event the primary provider dies in the line of duty.

Obviously, these events are extremely difficult for any family. They are painful times for military families. I agree that we need to expand the benefits these families receive under those circumstances.

Specifically, this amendment directs the administration to expedite the

final death benefits study that is currently working its way through the DOD. This study was due to Congress on March 1 of this year but has still not been delivered.

The amendment also indexes increases in the current death gratuity benefit of \$12,000 to the same rate as the basic pay increase, which is 3.5 percent, beginning in fiscal year 2005. Beginning in fiscal year 2006, the amendment increases the maximum coverage under the Serviceman's Group Life Insurance program by \$100,000, from \$250,000 to \$350,000, and indexing future indexes in the SGLI at the same rate as the basic pay increase; and it provides that the Government shall pay the premium on the first \$100,000 of this life insurance.

The amendment creates two new benefits, which I believe are much deserved. First, it allows for the payment of one year's salary and benefits to soldiers who die while on active duty, 2 year's pay in salary and benefits to soldiers killed in action or in a hostile or terrorist event.

The amendment, as drafted, does not violate any budget points of order and allows the Department of Defense necessary time to incorporate the costs and implementation of this program in the fiscal year 2006 budget.

We have just had a thorough discussion by Senator REED and Senator SESSIONS regarding the increase of troop strength. I am so respectful to folks such as Senator REED, Senator MCCAIN, as well as Senator SESSIONS on that particular issue. I agree with them on that issue. We do need to increase the size of the force structure. We need to be able to continue to do that under the current all-volunteer system that we have. If we are going to have that all-volunteer system compete with forces in the outside world, we are going to have to continue to look at the benefits we provide to our brave men and women. This amendment does that.

It adds an additional benefit to our men and women that they don't have today, and it certainly will be of help to our recruiters from the standpoint of continuing to allow them to recruit our finest men and women in America into the military.

Secondly, we will be able to retain the men and women that we invest so much money in, from the standpoint of making sure they have the equipment and training necessary to continue to defend freedom and democracy around the world.

So I commend very highly my friend from Alabama, and I thank him for his great leadership. I am pleased to join in this amendment. I ask my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Senator from Georgia and also my cosponsors, Senators JOE LIEBERMAN and JIM INHOFE.

When we ask American soldiers to leave our shores to go abroad in a combat environment to execute the policies of the people of the United States of America, we need them to know, and Americans want them to know, that if their life is lost in that effort, their families are going to be well taken care of. We have a lot of private groups that work at this, but it is most important that the Federal Government have in place policies that would allow their loved ones to be fully and adequately compensated.

Last year we increased the basic death gratuity from \$6,000 to \$12,000. That was an improvement. It doubled. It is important that we have indexed that to inflation, and it is still not nearly enough for a family today. So we looked at the Serviceman's Group Life Insurance policy, which is somewhat subsidized by the Government, but it is paid for by the soldiers. They take out up to \$250,000 in life insurance. Many young soldiers don't like that \$16 a month or so that comes out of their paycheck. They sometimes don't choose to take it out. We want to encourage more people to take on that benefit—take out the maximum life insurance so the military will now, under this amendment, if approved, have an additional \$100,000 in life insurance fully paid for by the Government, if the soldier takes out his life insurance part. I think that will encourage more people to sign up and provide a much larger benefit package for them. Those are some of the issues that we were concerned about.

Years ago, soldiers got a year's salary if they lost their life. That was changed as part of the life insurance package a number of years ago. I think the Senate believed that we needed to guarantee a person's salary for the year they worked if they are hurt during an Active-Duty accident—not in combat. For 1 year, they will get their salary and benefits paid. Those killed in combat, because they were serving their country in a hostile environment, would have 2 years of salary paid for them.

Those are the kinds of things that can make a real difference in the life of a family. Families will not need to worry about where their next meal is going to come from if they have enough money to take on new housing and move, and maybe for expenses in putting children in school, and all those things that go with the tragic loss of a loved one. We need to make sure they are fully taken care of in that regard, and this amendment would do that.

I cannot say again how strongly I believe we should do the right thing by those soldiers who give their lives for their country. In my State of Alabama, I have talked to over 20 families who have lost a loved one since the war on terrorism began. I have talked to husbands, wives, fathers, and mothers. We have talked to them about the loved ones they have lost—their children. I

have been to funerals. Those are things that are very meaningful to anybody who has had that experience.

I feel a special responsibility, as I think every Senator does, to those soldiers who went because we voted to send them there; we asked them to go for us.

I think this is a good first step toward achieving the compensation that families need. There are other compensation benefits they receive, such as benefits for children, income for spouses that are in law, but this is a lump sum that can help a family adjust and establish a life under new and different circumstances and help them get through the tragic period of pain and loss they inevitably will have to go through.

We asked that the Defense Department do a study for us on their ideas and evaluate the current system for fairness and workability. They did not complete that report. We have seen a draft of that report. It was supposed to have come in March. It has not officially been completed.

I will say this: I think it is quite likely that after we evaluate that report, we may want to come back again next year to do some other things to bring more fairness and more support to the families who lost a loved one in the service of their country. There is no higher service that one can render than to give their life for their country.

We have lost a good number of soldiers. We have lost them in the past, and we are losing them in this war on terrorism. I feel strongly that our obligation includes making sure those families left behind are well taken care of.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be charged equally to both sides.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, there is one point I want to make clear. The act provides for retroactivity of the salary benefits. With regard to soldiers who lost their life in combat since the beginning of the Afghan war or in terrorist acts, their families will receive 2-year's salary and benefits retroactive to the loss, as well as being a part of future benefits for those soldiers who lose their lives in the future.

To reiterate, I ask my colleagues in the Senate to consider that we have before us an opportunity to correct what has been for many a longstanding inequity for our military, the paucity of our death benefits programs for our soldiers killed in combat.

We began to make a difference when in the fiscal year 2004 Defense Authorization Act, this Senate offered and the Congress passed the provision to improve the death gratuity from \$6,000 to \$12,000. This was an important improvement, but more can be and needs to be done. To that end, I offer this amendment that begins the process of enhancing our death benefits program

to bring it more in line with the significance I believe we all attach to the sacrifices made by our military and their families.

This amendment asks the President and the Secretary of Defense, working with the Secretary of Veterans Affairs, to submit enhanced death benefits for our military and their families as part of the fiscal year 2006 budget request. We expect the next budget in just 8 months. This will give the Department time to deliver the final report on the death benefits from the study we directed in the fiscal year 2004 Authorization Act.

There are specific areas where the death benefits provisions are in need of improvement. The Veterans Administration reached similar conclusions in a 2001 study, and I am confident that the compensation teams working on these issues in the Defense Department are equally convinced that we need changes.

Among the changes is an increase to the Servicemen's Group Life Insurance maximum benefit to \$350,000. The Department of Defense would also provide a minimum floor of Servicemen's Group Life Insurance of \$100,000 for every servicemember at no cost provided that members selected the maximum amount of \$350,000.

I felt great anguish that some of our troops were not selecting the insurance due to the cost or perhaps a lack of understanding about the risks of serving in our military and or the benefits of this program. It may seem hard to believe, but saving \$16.25 per month, the current fee to receive the current maximum \$250,000 benefit, may appear to be an important financial decision for some, especially our more junior troops. This change makes the insurance a more attractive option.

The amendment will direct in fiscal year 2005 indexing the current death gratuity to the same rate as the basic pay increase. It further asks the Defense Department, beginning in fiscal year 2006, to index Servicemen's Group Life Insurance to the same percentages to which basic pay increases. This is important to ensuring that the benefit does not erode over time like the death gratuity benefit clearly did.

Further, this amendment makes possible for the first time a benefit to ease the transition as well as to clearly recognize the sacrifice of military members killed due to hostile or terrorist actions. For the family left behind, there is no greater tragedy than loved ones lost in combat.

It is clear that service aboard our ships, in our aircraft and around our mechanized equipment is a hazardous vocation. Our troops work with live ammunition and in environments so very different and inherently dangerous when compared to many other occupations. When troops are lost in training accidents or in service-connected events, we should recognize that risk and provide benefits accordingly.

The amendment would authorize one full year of salary and benefits to those lost in the service of their country to recognize the hazardous nature of the work performed by the military.

Similar in intent to procedures in other militaries, such as Canada and the UK, and in many U.S. States and cities, this amendment provides an increased benefit for members killed in hostile acts. I have recommended 2 years salary and allowances for those lost in hostile situations. The Defense Department, by a DoD instruction, already makes a determination if a casualty resulted from hostile actions for every member of the military who is lost on active duty.

By comparison, the surviving dependents of a police officer or firefighter killed in the line of duty receive \$267,494 under the Public Safety Officers Benefits Act. This benefit has been indexed to correct for inflation and sends a clear signal to our Nation about the value of these leaders of our citizenry. The military is no less valued and this benefit, along with the other provisions in existence and the enhancements in this amendment reflect our Nation's appreciation.

These provisions are similar in intent to the Public Safety Officers Benefits Act of 1976 which acknowledges the risks faced by our police officers and firemen. This amendment acknowledges the risks of military service and helps those left behind with transition assistance.

Anyone who witnessed the bravery of our police and fire personnel on 9/11 and who saw the memorable pictures from that day was profoundly struck by how wonderful these heroes were and how willing they were to go into harm's way. Our soldiers are no less brave. I have visited our wounded heroes at Walter Reed Hospital recently and, like our police and fire personnel, our military is extraordinary for their bravery. This is especially the case for those who pay the ultimate price and die in the service of their country.

I would add that in 1908, the 60th Congress saw fit to authorize 6 months of pay as a death gratuity, and in 1917, the 65th Congress repealed this law in favor of a Government life insurance program. In retrospect, I think the 60th Congress had it correct.

A key feature of this amendment is that the recognition benefits—the one year or two year salary compensation—are to be retroactive for those who were lost in Operation Iraqi Freedom, and Operation Enduring Freedom. We owe this recognition to those troops who went abroad to defend our freedoms.

This amendment also provides an opportunity for the President to recommend any other benefits he deems appropriate. The amendment does not impact the plan for fiscal year 2005, except for beginning to index the \$12,000 death gratuity. This will, I believe, give the Defense Department some

time to finalize its approach to these changes. The intent of this legislation is to ensure that as part of the fiscal year 2006 budget request, which is due to us in 8 months, that the budget request we receive will incorporate these measures. This gives the administration time to expedite the final report, gather the appropriate accounts together, and to provide to the Congress the legislative initiatives and supporting regulations to substantially improve our death benefits programs. We owe our brave men and women no less.

I yield the floor. Mr. President, I believe no one else is seeking to speak on this subject, so I yield back all the time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 3371.

The amendment (No. 3371) was agreed to.

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

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

Mr. BIDEN. Parliamentary inquiry, Mr. President. Is the Biden amendment in order at this moment?

The PRESIDING OFFICER. It is.

Mr. BIDEN. Further parliamentary inquiry: Is there a copy of the amendment at the desk?

The PRESIDING OFFICER. There is.

AMENDMENT NO. 3379

Mr. BIDEN. Mr. President, I ask that we proceed to amendment No. 3379.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] for himself, Mrs. CLINTON, Mr. CARPER, Mr. CORZINE, and Mrs. FEINSTEIN, proposes an amendment numbered 3379.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide funds for the security and stabilization of Iraq by suspending a portion of the reduction in the highest income tax rate for individual taxpayers)

At the end of subtitle A of title X, add the following:

SEC. \_\_\_\_ (a) PROVISION OF FUNDS FOR SECURITY AND STABILIZATION OF IRAQ THROUGH PARTIAL SUSPENSION OF REDUCTION IN HIGHEST INCOME TAX RATE FOR INDIVIDUAL TAXPAYERS.—The table contained in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 (relating to reductions in rates after June 30, 2001) is amended to read as follows:

**“In the case of taxable years beginning during calendar year:**

**The corresponding percentages shall be substituted for the following percentages:**

	28%	31%	36%	39.6%
2001 .....	27.5%	30.5%	35.5%	39.1%
2002 .....	27.0%	30.0%	35.0%	38.6%
2003 and 2004 .....	25.0%	28.0%	33.0%	35.0%
2005 and thereafter .....	25.0%	28.0%	33.0%	36.0%”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

(c) APPLICATION OF EGTRRA SUNSET TO THIS SECTION.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. BIDEN. Mr. President, with regard to amendment No. 3379, I ask unanimous consent that Senators CARPER, CLINTON, CORZINE, and FEINSTEIN be listed as cosponsors.

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

Mr. BIDEN. Mr. President, my amendment is quite simple and straightforward. It is no different in its intent than the amendment I offered when the President some months ago requested \$87 billion for the reconstruction of Iraq, as well as the support of American forces.

The bottom line is it says we should stop borrowing to cover the cost of our mission in Iraq and Afghanistan. If this mission is as important as the President says it is—and I believe it is—then we should pay for it. We should not make my kids pay for it. We should not make my grandchildren pay for it. We should pay for it.

Before I get into the details of the amendment, because it relates to my finding the money to pay for the \$25 billion asked for in this authorization by the President, let me remind people what the state of the Tax Code is now relative to the highest bracket.

In the year 2001, the highest bracket of individual taxpayers was 39.6 percent.

With President Bush’s tax cut that was passed, that bracket, along with others, was reduced from 39.6 percent to what it will be and what it is in 2004, 35 percent. So it has come down from 39.6 percent to 35 percent.

The way the Bush tax cut proposal works, when it became law—and I see the chairman of the Finance Committee here who, as the old joke goes, has forgotten more about the Tax Code than I am going to know—is that top bracket will stay at 35 percent in 2005, 2006, 2007, 2008, 2009, and 2010. In the taxable year of 2011, under the present status of the Tax Code, it will go back to 39.6 percent.

I realize there is a move in the House and among many here to “make the tax cut permanent” so the 35-percent tax bracket would remain in 2011, 2012, 2015, 2018, and so on, but right now, unless it is made permanent in the taxable year 2011, it will go back to what it was in 2001, 39.6 percent.

One other statistic, to be in this top tax bracket, the people in the 35-percent tax bracket, which used to be 39.6, have on average a taxable income of a million dollars a year. Now, obviously, there are people in there making a billion dollars a year, but no one is in that bracket unless their taxable income is \$319,000.

That means after all of the deductions are taken, after all of the things one is able under the law to deduct, so one is likely to have an income of closer to \$450,000 or \$500,000, they end up with a taxable income of \$319,000. OK? So it is taxable income.

That is after one deducts for medical costs they are able to deduct, deduct for their children, for all the things one is entitled to deduct, and people in that category can deduct for a lot of things that average folks do not get to deduct.

So what does my amendment do? How do we have \$25 billion so that these bright young pages—and I am not being solicitous; I am not joking—sitting down at the base of the podium there, whose average age is probably 16 or 17 years old, how do we act responsibly enough to say that they should not be paying for this war, that those of us who voted for it, my generation, those who are paying taxes now, should pay for it?

What happens with this \$25 billion? It is essentially paid for by the deficit. This all goes to the deficit. This is going to be paid for. It is going to be added. I predict before the year is over—and I do not claim to be an expert on our budget, but I have been around long enough that I think I am pretty knowledgeable—this year’s deficit will end up being closer to \$600 billion than \$500 billion. Everybody knows it is going to be over \$500 billion. So why are we going to ask them, why are we going to ask my granddaughters, who range from age 3 to 10, to pay for this war, when we are fully capable of doing it?

One might say: OK, BIDEN, how are you going to pay for this war? Are you going to take money away from education? Are you going to take money away from things that affect these kids? No.

I am going to ask my colleagues shortly to do what I think every patriotic American is fully prepared to do. At the United Way they talk about, this guy gave at the office, but what do we give at the office in this war? What are any of you people, and what am I, giving at the office?

None of us are in Iraq. We are not in the military. We are not getting shot

at. We are not away from our families. We are not that National Guardsman or Guardswoman who is taking a pay cut of 30, 40, sometimes 50 percent to serve their country right now.

I mean, this is never a healthy thing for a nation. We are in the midst of a war when the bulk of America is not asked to do anything about it. There are very few people sacrificing for this war. Like our grandparents or our parents, no one has asked us to put tape over our headlights when we drive at night or use ration cards or have to pay higher taxes to support the war. There is no draft.

So what happens? Well, there are a lot of patriotic, young women and men—and some not so young, meaning in their thirties and forties—who are over in Iraq right now. What are we doing?

The idea that if we ask the wealthiest Americans among us to contribute to the war effort, that they are unwilling to do that is preposterous.

I sometimes get mad at some in my party—not those on the Senate floor but some in my party—and some liberal commentators. What frustrates me sometimes is they assume that only poor, middle-class people are patriotic; that they are the only ones willing to make sacrifices for their country. I am here to say that wealthy Americans, the wealthiest among us, the wealthiest 1 percent, are as patriotic as the lowest 1 percent.

In the last time out, when I tried to do this—and I will get to the detail in a minute—to pay for the \$87 million, I happened to be with a group at an exclusive country club in Wilmington, DE. We are a wealthy little State. We have some very wealthy people in our State. All States do, but as a percentage we have some very wealthy people. I happened to be with a group of them for an outing. We got to the time that we had the buffet, and it was outside. A couple started asking me about the war. The next thing I know, as every Senator knows and as every staffer has observed their Senators being engaged, all of a sudden it was like a roving press conference. It went from 1 press person to 2, to 5 to 10 to 15, and all of a sudden there was a group of people standing around. Before I knew it, literally, standing outside on this beautiful evening, on this patio of this magnificent club, there were no fewer than 40, mostly men, who are among the wealthiest—not literally the wealthiest, but some were probably in the top 20 or so in my State—some of the wealthiest people in my State, and they are asking about the war.

I said: Let me ask you all a question—and in fairness I want to acknowledge, maybe they were intimidated because no one wanted to be the one to say, no, do not count me in, but I said I am going to go down to the Senate, and I am going to offer an amendment that would require you people right here on this outside patio to give up 1 year of the 10 years of your tax cut to pay for this war. Does anybody here think that is unfair?

I give my word, my honor as Biden, not one person raised their hand. Then people started to chime in. They said, no, it is fair. They started talking about what other people are doing.

When have we ever gone to war when we simultaneously have suggested, as we have gone, to say this is going to be a long, tortuous undertaking to fight terror, and at the same time any President in the past, some 200-plus years, has said: And by the way, as we go, I am going to give you the biggest tax cut in the history of the United States of America?

Now, again, try to be objective about this. Let's assume—I do not, but let us assume for the sake of argument that we badly needed this tax cut in order to spur on the economy. Let me accept that as a given for the sake of this debate.

I asked these people: Does anyone here think if the top 1 percent of the people paying taxes in America were to forego 1 year of the tax cut that, in fact, that would slow the economy? The economy would stall? Sputter? Assuming they were the reason it was growing. I didn't hear anybody tell me that. I have not heard any reputable economists tell me that.

So here I am, back on the floor again, finding it fascinating, absolutely fascinating—and I expect this will be voted on party lines again—why the overwhelming number of my colleagues, for whom most of these wealthy people likely vote, are unwilling to do what the wealthiest among us are fully willing to do.

This time around what I am suggesting is even less "painful." In order to come up with \$25 billion to pay for this piece of the war in Iraq and in Afghanistan, you know the only thing you have to do? You have to say: In the year 2005, the tax cut for the wealthiest 1 percent of Americans, who in fact cannot have a taxable income less than \$319,000, will go back up from 35 percent to 36 percent. The 1-percent solution.

I can't fathom any wealthy person in America, even at the low end—and, by the way, the average income of this top 1 percent is over \$1 million. I can't fathom a single one of these people not having enough patriotic instinct to say: No, no, no, no, I am unwilling. I am unwilling to pay, in the year 2005, 2006, 2007, 2008, 2009, and 2010, 1 percent more than I would otherwise have to pay.

What does that mean? Does it mean 1 percent less investment in their port-

folio? Does it mean they buy a Lexus instead of a Mercedes? What does it mean? What does it mean?

While we are now saying, as I think the President probably has no choice, to the people who signed up volunteering in the military: No, no, you are staying another year because your patriotic responsibility is we need you. The President is probably right about that.

Or he is saying to what will be approaching 40 percent of the forces on the ground being shot at or subjected to car bombs in Iraq and Afghanistan who are reservists and National Guard: You have to go twice.

He is saying to the physician who is in the Guard, whose income may have been \$150,000 or \$200,000 whose pay as a colonel may be \$80,000 but he still has the same mortgage payment, the same tuition payment, the same "nut" to pay, as they say: It's your patriotic responsibility.

How can we in this country at this moment say we can ask that of those people and we can't say to people whose average income is \$1 million: Do us a favor, pay 1 percent more to pay for this installment on the war?

What have we become? Can you imagine that being said in 1943? No, no, no, no, don't ask it of them.

Can you imagine that being said if the income tax had been in place in 1915 or 1916?

Can you imagine that being the case in the Korean war? Can you imagine that?

What is the second logical argument as to why this is a bad idea? If you all agree with me that these Americans are as patriotic as anyone else and that it could not possibly hurt them in any material way, then you have to say: Here is the deal. This will slow economic recovery. This is bad for the economy.

I got a letter from the Chamber of Commerce saying this is going to hurt small business.

My friend from Iowa is here, the chairman of the committee. As the old thing goes—in this case, it is true—he is my friend.

The Chamber of Commerce says it is going to hurt small business. What they mean by that is there are some small businesses that pay their taxes as if they were individual taxpayers. Do you know how many of them pay at the top 1 percent? Of all the small businesses in America? For every 100 small businesspersons in America who claim and pay as individuals, 2 percent—two percent—of them are in this category where they would be affected.

I am sure the Senator will be able to tell me—I suspect he is here to engage in debate—how taking 1 percent of the American individual taxpayers and asking them to pay 1 percent more in the next 5 years, and taking 2 percent of the small businesspersons in America and asking them to pay 1 percent more for the next 5 years, when each of them fall in a category where they

have a taxable income of at least \$319,000 a year—how this is going to slow the economy.

I have said this to the President and I have said it publicly—Senator MCCAIN was on the floor earlier—what I am about to say. Senator MCCAIN was on the floor earlier talking about the end strength amendment of Senator REED. He said we need this. He said mistakes happen in war. That is why—and he went on from there.

I believe, and I am confident, this President has made some very serious mistakes in the conduct of this war. I am also confident were I President I would have made mistakes. I am confident, had it been President Gore, he would have made mistakes. I am confident that Senator KERRY will make some mistakes if he is President. I don't think this President will be judged harshly for the mistakes he has made.

But I do think history will judge him fairly harshly for the opportunities he has squandered. One of the opportunities squandered here is the ability to have united this Nation in common purpose after 9/11.

Let me ask a rhetorical question. Can you imagine if immediately after 9/11, when the President had that big economic summit down in Crawford, TX, or near Crawford, with some of the most prominent, significant, and patriotic businessmen in America, and some of the most wealthy men and women in America—what do you think would have happened, as that broke up, if he said: By the way, I want to ask the following of all of you. I would ask each one of you in the spirit of unity and harmony in this country, when you leave this room after hearing me speak, I strongly urge you—I ask you to take out your cell phone and call your accountant at home and ask him to go out and find four of the most worthy young women and men, eligible for college, who are unable to pay for college for 4 years, and commit to pay their tuitions.

Would any of my colleagues on the Senate floor think there would have been a single solitary man or woman in that room who would not have walked out, dialed up their cell phone, and said to their accountants, find those people? I mean it sincerely. I am not joking about this. I can't fathom that group of women and men not responding to the call for unity—not just to deal with the war on terror but to deal with healing and uniting this country. Nothing has been asked of these people, not because they have refused, not because they are unwilling, but because of an ideological disposition that somehow in any way to alter the tax structure beyond what we have just done is ipso facto wrong, bad, counterproductive. We are a slave to ideology on this floor.

There is not a single person in here who can say this \$25 billion because it is all fungible is not going to be added to the deficit. Why don't we pay for it

fairly, honestly, and straightforwardly? When have we ever succeeded in the great noble causes of this country without engaging all segments of society?

I would make the rhetorical point—I suspect you will not do this, but I will make you a bet. If you were to call your State's 10 wealthy people who fall into this category and ask them whether they would support having to pay at a 36-percent rate rather than a 35-percent rate to pay for the war, I am willing to bet you that 8 out of 10 or more of them will say, I am willing. I am betting—and I trust all of my colleagues would—if you do that, you will come and tell me you found in your State more than 2 out of 10 said they wouldn't do that, I will buy you dinner anywhere you want to go to dinner. It is on me. My financial disclosure statement shows, unfortunately, that I am one of the least well positioned in this body to pay for dinner.

There is something wrong, there is something not sensible about failing to be more responsible. How can it be called responsible to say we are going to make these pages, these kids, pay the \$25 billion? I don't get this. Every one of us, Democrats and Republicans, comes to the floor of the Senate and talks about the need for a culture of responsibility. I truly don't get it, other than ideology.

I respectfully suggest that if, in fact, we do this to set a precedent that engages more people in the outcome of this war on terror—I am not making a populist argument—the group that is in the top 1 percent will get, out of the total tax cut of \$1.8 trillion, \$88.9 billion.

Again, I am not making a populist argument. That may be arguably justified on the merits. But it is the idea that 1 percent can't give up 1 percent of \$688.19 billion. It is not even 1 percent; it is actually \$688.19 billion over 10 years—that they will not give up 1 percent for 5 of those years. It is the equivalent of asking them to give up one-half of 1 percent of that number when 99 percent of the American people pay—not all 99 percent; some don't pay taxes—but 99 percent of the American people get a tax cut of about \$1.1 billion dollars.

A couple of my Republican colleagues have said it is unfair to pick on the wealthy. It is not picking on anybody. I am trying to find the most equitable way to do this. What I am trying to do is make sure we are in a position to act responsibly, and it is not responsible to pile the debt upon our children for an endeavor we chose to undertake when it is fully within our power to pay for it without in any way being unfair to any single group of taxpayers and without having any rational argument that it will, in fact, negatively impact on the economy.

Were I in my 27-year-old populist mode, I would say it is greed. But I have learned a lot in my 32 years here. It is that we have not asked. For every

wealthy group of businessmen and businesswomen in my State that I have approached, I have yet to have one tell me there is something unfair or unequitable about this.

I urge my colleagues. I will conclude this portion by saying I urge my colleagues to let us be responsible, what I define as responsible. It doesn't mean if you disagree you are irresponsible, but let us be responsible here. Let us pay for something we can easily pay for and not pile more debt for an elective judgment we made in this body—and I made it as well—to take on the dictatorship and the maniacal leadership of Saddam Hussein, to take down the Taliban, and to seek al-Qaida in its hovel.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent to set this amendment aside temporarily. I further ask unanimous consent that the time not be charged against either side on this amendment for the purpose of resolving an amendment discussed earlier today.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Reserving the right to object, Mr. President, I am told by leadership staff that we have not been able to clear that at this moment on the Senate floor. So I would suggest the Senator withhold briefly until I find out why there is some doubt. I object, and I say to my friend from Missouri that I will find out why in a moment.

The PRESIDING OFFICER. Objection is heard.

Mr. BOND. Mr. President, I guess that is objection to the unanimous consent request.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, do I have 20 minutes?

The PRESIDING OFFICER. There is 60 minutes allotted to the Senator. Out of fairness, I yield myself 20 minutes because there are other Members who want to speak.

The PRESIDING OFFICER. The Senator has 20 minutes.

Mr. GRASSLEY. There is a big problem with Senator BIDEN's amendment. Before I go into the problem with Senator BIDEN's amendment, let me say I agree with his concerns about the size of future Iraq funding packages. I am concerned about the Federal deficit we are facing on the horizon.

But we also have to realize we are in war. You do not go to war unless you go to war to win. If you go to war, you go to war to win. You put all the resources behind the men and women that it takes to win that war. You do not put their life in danger on the battlefield. It may sound like we do not care about future generations, but you don't worry about deficits.

If we worried about deficits in World War II, Hitler would have been in New

York City. The Japanese would have been in California. They would not have stopped at Pearl Harbor. We decided we were going to win that war, and we put all the resources behind it.

For only the first time since Pearl Harbor, we have been attacked. On September 11, 3,000 Americans died. We decided we were going to defend America. We decided we were going to fight not on American soil, we were going to fight on the soil of the people who harbor the terrorists who attacked America on September 11. We are going to go to war to win. We are going to put the resources behind our men and women. We are not going to take any chances.

I don't find any fault with anyone who talks about deficits. Only if they are so concerned about deficits that they do not care if we win the war and protect Americans, and the Constitution gives our Government that responsibility.

We also found, as a result of the war, being attacked in America, that the economy went into the tank. Out of 2.5 million jobs supposedly lost in this recession, 1 million of those jobs were lost 3 months after September 11, 2001; not because of the economy but because of war and the public not being certain what would happen in the future.

So we had tax cuts to revive the economy. We have a strong economy. A strong economy produces more resources so we can fight the war and win the war. The economy is growing. Federal revenues, as a result of these tax cuts, returned to their average levels, where they have been for 50 years, 18 to 19 percent of gross domestic product. We fought the Vietnam war and the Persian Gulf war during that period of time. So 18 to 19 percent of GDP for Federal taxes seems to be a level that does not hurt the economy.

In fact, the economy grows, and it is a level of taxation that people have accepted. It is producing the results we need to bring in more revenue to close the gap so that we do not have big budget deficits in the future.

On the point of taxes and the point of the budget gap, I note that Senator BIDEN's amendment contains no dedication of the revenue from raising taxes to any kind of fund that is oriented toward the war. In other words, the amendment simply raises taxes for more spending. The implication is on a Defense bill it will go to defense efforts.

When we hear about sacrifice, I am not sure I hear sacrifice. Let's spend less for domestic programs so we can give more to support our men and women in uniform. In World War II there were efforts to curtail domestic expenditures. We put all of our efforts behind our men and women but not, raise taxes, more spending, bread and butter at the same time.

I also point out there are two sides to the Federal ledger. One is the revenue side. That is what we take in from the people who work in our factories, our

offices, and our farms across America. The other side of the ledger is the spending side.

My friends on the other side focus exclusively, as my good friend from Delaware has, on the tax side. They look only to taxpayers to put our fiscal house in order.

I agree with the goals of reducing the deficit, but I don't intend to hurt the economy through higher taxes and put a damper on the economy. I want the economy to grow. The economy is growing. What sort of a signal would raising taxes send? Lower taxes one year, raise them the next year. How do you get investment that way?

I disagree that it is all right to look only at the tax side of the ledger. Indeed, the Senate approved a bill a little over a month ago that included \$170 billion in revenue offsets. Republicans, working with like-minded Democrats, have been willing to exercise fiscal discipline, especially when it comes to closing corporate loopholes and curtailing tax shelters.

I digress for a moment on the subject of offsets. I notice with some amusement a story in *Congress Daily A.M.* dated last month, May 18. The story noted the special alchemy in the Finance Committee work in formulating offsets. The article went on to quote anonymous lobbyists who were frustrated with the Finance Committee production of offsets.

As a matter of fact, the tax staff at the Finance Committee happens to be the only committee personnel putting in work to generate offsets to raise revenues, and doing it in a fair way for corporations taking the advice of big tax firms, big investment bankers, big accounting firms, working together, to think of some miraculous tax loophole that is not legal to avoid taxation. That is cheating.

We are going after the cheaters and bringing in that revenue.

The record is clear. We found plenty of revenue raisers. I ask the full Senate, who was the last Democrat to propose any savings on this spending side? All we have to do is look at Senator SANTORUM's "spendometer," that thermometer he has of red ink that adds up every Democrat amendment being offered on budgets and otherwise. We know where the pressure to spend is.

How can we in good conscience propose those billions and billions of dollars of expenditures—mostly for domestic programs, not to win the war in Iraq—and then complain about budget deficits?

Not a single spending cut is being proposed by those on the other side. Maybe back in the mid-1990s, but we have to go back many years. All I see is spending increases.

So if those on the other side want to claim to be fiscal disciplinarians, let's see entries on the spending side of the ledger. To have credibility, you cannot just go to the American people and ask for more money. You know, if I could ever get a reasonable tax increase, and

have people on the other side of the aisle tell me how high taxes had to go to satisfy their appetite to spend money, I might just scratch my head and say: Well, maybe we ought to do it if we could get a consensus that is as high as taxes are going to go, and we don't have to worry about them going any higher. But I have never seen that you could raise taxes high enough to satisfy some people in this body who want to spend money.

I am also concerned about the degree to which taxpayers finance reconstruction in Iraq on a blank-check basis. I first raised this concern almost a year ago. We ought to be very careful about the structure of future aid packages.

Now I will speak specifically about Senator BIDEN's amendment. He says he is seeking to offset the President's war-funding request with a tax increase. As I noted above, the text of the amendment simply raises taxes for more spending. There is no connection between taxes raised and Iraq funding.

Let's take a look at the tax increase. For 2001, the top rate was reduced to 38.6 percent. In the 2003 tax bill, we reduced the top rate to 35 percent. Senator BIDEN's amendment would raise that top rate back to 36 percent. The premise of the Biden amendment seems to be that taxpayers in the top bracket are solely Park Avenue millionaires. They clip coupons, bring in the money, get out their cigars, lean back in their chairs, and enjoy life. Well, the facts are somewhat different.

According to the Treasury Department, about 80 percent of the benefits of the top rate go to taxpayers with small business ownership. Now, we have had some debates about the definition of "small business." Some on the other side define "small business" as only those businesses with taxable income below, say, \$320,000.

To those folks, a local chain of shoestores, if it makes over \$320,000—no matter how many folks it employs—is the same, in their category, as the Nordstroms or the J.C. Penneys.

Those of us from the heartland know that the definition of "small business" does not cut off at, say, \$320,000. It depends upon whether the business is locally owned. It depends on whether the business finances its growth from its own earnings.

Conversely, to folks from small towns, like me, big businesses are generally the companies that finance themselves through big, massive bond borrowing or through the stock market.

The reason the distinction is important for public policy issues, such as the level of taxation, is that we value local or regionally based businesses. The folks who own those businesses are from that community. They go to the local church. They support the local Little League. Small business, as I see it, is a stabilizing yet very dynamic social force in these communities and makes America what it is today.

So when I talk about small business, I am not going to use any artificially

low level of taxable income. I am going to use a commonsense definition of what small business is. There is too much at stake to demagog the definition.

When we are considering tax policy, and specifically the tax rate applicable to business, we have really two categories. The first category is the regular big corporation. Virtually all big businesses, that is, publicly traded companies, are taxed under the regular corporate rate schedule.

Small business income is generally taxed at the individual or personal level. In most cases, the owner of the small business puts the income of the small business on his or her personal tax return.

As a practical matter, then, the individual tax rate is the rate paid by that small business. The corporate tax rate, with some exceptions in the case of some older, smaller corporations, generally applies to big business. The relationship between the top individual rate and the top corporate rate has a bearing on our policy toward small business. If the top individual marginal rate is higher than the top corporate marginal rate, then we as a society are sending a very bad and negative signal about small business, and even to small businesses that exist.

Before 2001, the top marginal rate for small business was 39.6 percent. Guess what. If you were a big corporation, the top rate was 35 percent. We had a penalty against small business. When you look at the difference, it was a 15-percent penalty against small business—before we changed the tax law last year. So it was a 15-percent small business penalty. That was the law. That was our Federal tax policy bias against small business.

In 2001, a bipartisan majority of this Senate, including almost one-fourth of the Democrats voting with us, voted to gradually equalize the top marginal rate between small business and big business, recognizing that penalty as being unfair, being anti-entrepreneurial.

Starting last year, for the first time in many years, the top rate, 35 percent, is the same for Fortune 500s as it is for successful small businesses. Senator BIDEN's amendment would take the first step to restore and perhaps even enhance the 15-percent penalty on small business. With all the appetite for taxing and spending around here, rest assured, small business would be facing even higher taxes in the future because, as I said, you cannot raise taxes high enough on the other side of the aisle to satisfy the appetite to spend money.

I do not quarrel with the notion that taxpayers in the top bracket make incomes starting in the range that has been stated of \$320,000. A lot of these successful small business owners make figures like that. But keep in mind, that figure represents the total net income of those small businesses. Successful small businesses are those that

purchase the equipment and hire the new workers.

I would ask my friends on the other side, those friends who are so eager to raise taxes—and not all are—why they are all so reluctant to cut spending and eager to increase spending, to focus on the effects of their policy on small business, the effects of their policy on entrepreneurship in America, because small business creates 80 percent of the jobs in this country. Why, at this time, with a recovering job market—1.2 million jobs created this year—would we want to put a damper on the economic recovery by raising taxes on the very people, the very businesses, the very small businesses, that create 80 percent of the new jobs?

Last month, the Senate, by a vote of 92 to 5, approved a bill designed to cut the top marginal tax rate for small business manufacturers yet again to 32 percent. Senator BIDEN's amendment would go the other way and hammer our small business manufacturers.

Anyone voting for Senator BIDEN's amendment is, in effect, saying they support raising taxes on small business manufacturers. A vote for the Biden amendment is a vote to raise the top marginal tax rate on small business manufacturing from the 32 percent in the JOBS bill that we just passed to 36 percent. That is a tax increase on small business of 13 percent—13 percent. Is that the direction we want to go in a recovering economy, in a job-creating economy? Is there something wrong with the economy that is growing now, with 1.2 million jobs in the last 6 months? Why would you want to dampen that?

Finally, I do not want you to take my word for this. I am just a public official. I would like to have you listen to what small business folks are saying.

I would like to have you take a look at this chart. The chart is a copy of a letter from the three principal small business grassroots organizations. The first organization is the National Federation of Independent Business or NFIB. The second one is the Small Business Legislative Council, and the third organization is the Small Business Survival Committee.

The PRESIDING OFFICER (Mr. SMITH). The Senator has used 20 minutes.

Mr. GRASSLEY. I ask unanimous consent for 3 more minutes.

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

Mr. GRASSLEY. I am going to read the second paragraph of this letter.

Accelerating income tax relief: Approximately 85 percent of small businesses file their tax returns as individuals. An increase in tax refunds means small firms will have more resources and more capital to put back into growing their businesses. A series of studies by four top tax economists examined the effect of tax rate cuts on sole proprietors. Their results indicate that a 5 percent point cut in rates would increase capital investment by about 10 percent. And, they found that dropping the top tax rate from 39.6 percent—

Where it was up until the year 2001—

to 33.2 percent would increase hiring by 12.1 percent.

What these small business groups said was their tax policy priorities included a reduction in the top marginal rate. It is right there in their letter.

Now let's think about this. As the small business folks say in their letter, there is a link between tax relief, economic growth, and jobs. We have seen the evidence of that linkage over the last year or so. Check out the economic statistics. The tax relief kicked in, the economy started growing, and jobs started coming back—1.2 million jobs in the last 5 or 6 months.

Why would we want to reverse the course? Some would speculate that for the minority party, it is good politics for the economy to go into the tank. Raise taxes as the economy is coming back, and you stifle economic growth. If economic growth is stifled, then jobs disappear. If jobs disappear, then voters will throw out the President and his party.

I am not that cynical. I don't believe some of the opposition would want to put short-term political advantages over the economic well-being of their constituents. But it does make you wonder.

To sum up, a vote for the Biden amendment is, clearly and simply, a tax increase. How high do taxes have to go to satisfy the appetite on the other side of the aisle to spend money? I don't know. But this is a start. It is a tax increase during an economic recovery. It is a tax increase on the folks who create the jobs in America, our hard-working small business owners.

For those reasons, I obviously ask Members to reject the Biden amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my friend and colleague, Senator GRASSLEY, for his remarks. I join in those remarks. I compliment him for his leadership as chairman of the Finance Committee. Under his leadership of the Finance Committee, we have passed two very significant tax cuts: The tax cut in 2001, and we accelerated or completed that tax cut in 2003. As a result of those tax cuts, the economy is growing. As a result of the tax cuts, the maximum tax rate is 35 percent. Again, this has made a difference. The economy is growing.

Senator GRASSLEY mentioned there have been over 1 million jobs created in the last few months. He is correct. The stock market has rebounded substantially—the stock market is up 25 percent, if you are looking at the Dow Jones; 40 percent, if you are looking at the NASDAQ—from the time we took up that bill last year.

Some people want to undo that. They say: We want to pay for the war; we don't want to add more debt to our children and grandchildren. I appre-

ciate that, but what about other spending? This is \$25 billion. They say: We will increase the rate 1 percent on the upper income people to pay for that.

Let me just look at a couple of other facts. As recently as May 12, 3 or 4 weeks ago, we had an amendment on the floor of the Senate that was voted on that would have increased spending \$86 billion. It wasn't paid for. We made a budget point of order against it. We defeated it, I think, by one vote. But no one was saying: We want to increase taxes to pay for that. I guess on this one, you would have to increase the maximum rate by 3 or 4 points to pay for it. On the same day there was a motion to increase spending by \$9 billion. We defeated that with a budget point of order; again, I believe, by one vote. That was \$9 billion.

On May 4, there was another spending increase. This was trade adjustment assistance, \$5 billion. We defeated that by a vote or two.

Many of the people who are saying they want to pay for this \$25 billion, they want to pay for the war, they didn't want to pay for this additional spending or they didn't offer that. So I find it interesting, for the ones who are acting as if, in many cases, they want to balance the budget, I have a total of about 68 votes where budget points of order were made, and in most cases, mostly Democrats—with the exception of my very good friend, ZELL MILLER from Georgia—voted to waive the budget every time. In other words, they voted for more spending.

The three amendments I just alluded to in May of last year were over \$100 billion of new spending. So there are lots of attempts to increase spending over and above what we are doing anyway, mostly by our colleagues on the other side of the aisle. That is one of the points I wanted to make.

Let me echo a couple of other things my friend from Iowa said. Why would you want to have an individual rate higher than corporations? I used to be in manufacturing. I used to have my own business. Why should an individual be taxed more than Exxon? The corporate rate is 35 percent. There is an effort to make manufacturers at 32 percent. Yet we are going to tell self-employed people, S corp people, that they should pay 36 percent. That doesn't make a lot of sense.

There is one other comment. This happens to be about the Constitution. Are people trying to kill this bill? You put this on this bill and the House is going to, what we call, blue-slip it. It is going to stop the bill. Why? Because there is something called the Constitution. The Constitution says in article I of the Constitution, section 7:

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

It says all revenue measures, all tax measures have to originate in the House of Representatives. This is the U.S. Senate. So if we do that, the tradition is, the House will say: Thank you

very much, but we are not going to let you preempt our constitutional prerogative. So they blue-slip it. In other words, they kill the bill.

This is a Department of Defense authorization bill. I have great respect for Senator WARNER and Senator LEVIN, but they are not supposed to rewrite the tax bill. That is for the Finance Committee. That is under the jurisdiction and leadership of Senators GRASSLEY and BAUCUS. Tax amendments don't belong on this bill. Maybe it sounds good rhetorically: We will just ask the upper 1 percent.

I think that is bad policy: We want the upper 1 percent to pay for the war. Nobody else has to pay for it, just the upper 1 percent.

That doesn't make sense. We don't do that for education. We don't do that for other spending. I don't think it makes sense. I happen to think the income-tax code is already so progressive, the upper 5 percent pay over half; the upper 1 percent pay over 20 percent. Yet some people want to make it more and more progressive.

It wasn't too long ago we were celebrating Ronald Reagan's legacy and his great contributions to this country and the free world during his term of office. At the conclusion of his term of office, the maximum tax rate was 28 percent. I know under President Clinton it went all the way up to 39.6. That is a pretty significant increase. Now we have it at 35 percent. Yet some people say: Let's make it more progressive.

I guess you could take this same amendment and put it on every one of these spending amendments. And I haven't totaled it. It is about \$1.4 trillion worth of additional spending that most of our colleagues on the Democratic side of the aisle have proposed, and we have stopped using budget points of order. For those who ask, Do we need budget points of order? Yes, we do.

They have been effective in curtailing the growth of spending. I said \$1.4 billion, but it is actually \$1.2 trillion, not since the budget was adopted last year. Real money, a lot of money. I think the figure is well over \$140 billion just in 2004 or 2005 alone.

Constitutionally, those of us who have the pleasure of serving this great body, the Senate, stand before the President of the Senate and put our hand—most of us—on the Bible and swear allegiance to the Constitution of the United States. The Constitution of the United States says all revenue measures shall originate in the House. If you don't like that, try to amend the Constitution. That is in the Constitution. We have over 200 years of history and tradition of the Senate of following the Constitution. All revenue measures shall originate in the House. So to try to circumvent that and say we are going to stick a little tax bill into a Defense authorization bill is not the way the Senate is supposed to work. It hasn't worked that way.

I have only been here 24 years, which is not quite as long as my colleague

from Delaware. But the Senate doesn't originate tax bills. It hasn't for hundreds of years, and it should not today. I ask my colleagues to, at the appropriate time, vote against the amendment by our friend and colleague from Delaware.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I say to my friend from Oklahoma, he doth protest too loudly. I am not taking it out of the tax bill. This is good stuff on the Constitution, but I think my friend voted for the JOBS bill and just violated the Constitution, by his definition, because we had a revenue measure in there. It didn't get blue-slipped, and he apparently violated his oath, by his definition. I don't think he violated his oath at all.

But the truth is this: In the JOBS bill, what did we do? We changed the Tax Code. So this is great rhetoric, and my friend from Iowa went through this whole thing about—

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

Mr. BIDEN. Yes.

Mr. NICKLES. For my colleague's information, we have not yet passed the JOBS bill. What we are going to do is take a House bill, strike that House bill, and insert that bill into an H.R. So it will be a House revenue measure before it goes to conference. We have not gone to conference. The bill before us is a Senate bill. There is a difference.

Mr. BIDEN. The Senator did vote for the Senate bill, correct?

Mr. NICKLES. Yes.

Mr. BIDEN. He would be able to do the same thing with this bill if he used his ingenuity, would he not?

Mr. NICKLES. To clarify, this is a Senate bill, and it will stay that when it goes to conference.

Mr. BIDEN. But it doesn't have to any more than the last Senate bill had to stay a Senate bill. I have been here 32 years. I may not be in the No. 2 position in my party, as my friend was, but I don't need an education on how we do this. This is malarkey, as they say—this argument being made about the Constitution. Let me move on, if I may.

My friend references President Reagan, and I might note that I voted for the Roth-Kemp tax cut. Then I watched President Reagan and voted with him when he raised taxes three times after that because he was a responsible fellow. He raised taxes three times after that out of necessity. I also was here—and we talked about World War II. The President says this is the equivalent of World War II. My friends talk about World War II. We raised taxes through the ceiling in World War II. I don't know whether they didn't teach the same history in Oklahoma and Iowa as they did in Delaware, but we raised taxes in World War II.

Also, this notion about all these other programs—the Senator, because

he is so busy and has extensive responsibilities on his side of the aisle, did not have an opportunity—he didn't miss much—to hear my speech on the front end.

There are two purposes in my doing this: One is to unite this Nation, for everybody to get in on the deal. Many other people are being asked to sacrifice. You know, this is a war. People are dying. Some people are sacrificing. People are having their incomes radically changed—those in the National Guard and Reserves. They are contributing at the office.

The other part is—I will say this again, and I said it last time—would any wealthy American—and I hope every one of my kids becomes a wealthy American. By most people's standards, based on my salary, most people think I am wealthy. I don't have stocks, bonds, debentures, and savings accounts. I am not bragging about that, but that is a fact. Most Americans think I am wealthy based on the salary I get paid. But I say to the top 1 percent out there, call me, give me your name, and tell me you are not willing to pay 1 percent higher for the next 5 years in order to make sure these kids sitting here don't pay.

War is different than education. Part of the purpose of a leader, when you go to war, is to unite the Nation, share the responsibility, engage in the sacrifice.

The other point I will make is that my friend from Iowa talks about the fact that this tax cut generated economic growth. I don't disagree with that. But the real question is, is taking one-tenth of 1 percent of the total tax cut going to stop economic growth? Is the Senator making that argument? Well, if he is right, this is a bad idea. One-tenth of 1 percent is the total cost of the total tax cut of this amendment—\$25 billion, one-tenth of 1 percent. That is going to bring this economic growth to a screeching halt? Give me a break.

Let's talk about the small business people. I didn't make the assertion that all small business people are sitting back clipping coupons. I am not saying that. I just tell you what the facts are. The facts are, as the Senator knows, that small business owners have to be in the top 1 percent of wage earners to fall into this bracket. Only 2 percent of all the small business owners in America fall into this bracket. That does include some people with passive incomes participating in investment and small businesses. This is not the hands-on, mom-and-pop business owners by any stretch of the imagination. If you look at only sole proprietor returns, those with hands-on owners, they are less than 2 percent. So I can understand my friend disagreeing with me. That is a logical position he takes. He may believe that it is unfair to have them pay 1 percent more and not ask people making \$100,000 to pay 1 percent more. I can understand that. That is just an honest disagreement.

I can understand my friend from Oklahoma in his argument on why are we taxing corporations more. That makes sense, too. We can do that. If he wants to go that route, I will help him.

There are other ways to do this. I tried to pick the most painless, unifying mechanism I could find to do a responsible thing: make sure these kids in the blue suits don't pay for this war. They are still going to pay for the war, by the way. We have already spent over \$200 billion on this war. I am not complaining about that. I am arguing that we need more troops.

My Lord, all these specious arguments: My God, the mom-and-pop grocery store owners are going to be put in jeopardy by this amendment; this is going to slow down economic growth; this is unfair.

Then the irony is that my friend from Iowa, who always says he is not a lawyer—as I pointed out to him, he is smarter than any lawyer on that committee. Be careful of this good old boy from Iowa, who says: Golly, gee whiz, I am not a lawyer. He knows more hard case law than anybody I know on the Senate floor. Yet he stands up there straight faced and says: You know what, this \$25 billion tax increase—and it is—paid for by the top 1 percent is bad for the economy, but I, Chuck Grassley, am out there making sure corporations pay more. I am finding loopholes and closing them.

I congratulate him. Guess what it means. It means you are going to have more people pay more taxes. Is that going to slow down the economy? When my friend takes out of the tax stream or adds to the tax stream by shutting loopholes that do not belong in the law, guess what. More money is coming to the Government. More money than \$25 billion I am talking about.

He is a very bright guy. So let's be logical. Let's set up a little syllogism here. If his thesis is my \$25 billion is going to slow down the economy, \$25 billion now is in the hands of people out there, or will be over the next 5 years out in the hands to be spent by Americans, what about the \$25 billion, \$35 billion, \$100 billion he is looking to take out of the economy over the next 5 years that will be spent by corporations, being spent by, maybe unfairly, but being spent—that is not going to slow down the economy, but my \$25 billion is?

Again, to use the expression of my granddaughter, give me a break. I may not be the brightest candle on the table, but I am a relatively logical guy. There is no logic in the argument.

So, look, there are three good reasons to be against Biden: One, you ideologically think this is a bad idea because somehow you think—and I am being a little facetious—that the top 1 percent of the American public pays too much of a burden and is put upon, and to add anything else on them is just unfair to the rest of the American public. OK. Got it. It is a straightforward argument, logical.

The second logical argument is, if there is any merit to it: You ought to spread this out, Biden. If, in fact, you are going to add to the deficit by paying for Medicare or the prescription drug bill—which I voted against and which a lot of you voted for; it cost a lot more than you promised it was going to cost, raising the deficit, spending that I did not vote for—it is better to say unless you are going to pay for this spending, you should not pay for it with revenues. OK. I got it. It is a straightforward argument.

Or lastly, one might argue: Psychologically this is dangerous because after cutting taxes, to now raise them for 5 years by 1 percent for 1 percent of the population, it is going to inject some uncertainty. I don't know what that means. That could be an argument one could make.

With all due respect, you cannot make the argument mom and pop are going under; mom and pop are slowing down; that the loss of revenue is going to stifle economic growth; that this portion of the population is put upon; that this is no different than education or health care or highways, because it is. It is war.

By the way, when I introduced this proposal on a larger measure—\$87 billion—a while ago, according to the national polls, 56 percent of the Americans polled on the last version of this amendment said pay for the war from the tax cut.

This is all about values. This is about value differences. And the value that I am espousing—and I am not being so moralistic to suggest that I know it is superior to the value my friends are proposing, but it is a different value. I value the necessity of a greater sense of national unity and a greater contribution from all sectors of the economy in winning this war. I value the notion that when we are clearly able, without doing any harm to the economy or being unfair to any one segment, that we should pay, when we can, rather than make our children and grandchildren pay.

The difference between war and education is on education we made a judgment that we should have an educational system, and we do not control the population. So as children are born, the responsibility to keep a commitment we made exists. It is not elective. War, in this case, was elective. I elected to go to war. That is not a societal responsibility that rests with a generation that has not even come of age yet; it is a responsibility of ours, just as World War II was the responsibility of the greatest generation in the history of mankind, the World War II generation. They did not say: Make my son, Joe, make my daughter, Valerie, make my son, Jim or Frank, pay for this war. They valued responsibility. They stepped up to the ball. As to the idea that this even calls for any serious sacrifice, if that is the case, my Lord, we have lost our bearings.

I have seen not one scintilla of evidence that this will slow economic re-

covery; that this is a burden upon a group of people who strongly resist taking on the burden; that this is, per se, unfair. This is something I believe—and I cannot prove it because I have not conducted any national poll—that if the people who will be affected by this, again, whose average income is \$1 million a year, who have to have a taxable income of \$320,000 a year even to get in the game, and if they are small business, 98 percent of them will be not affected one single little way by this, my guess is, if they know it is really going to pay for the \$25 billion needed next year for the war, they would pay it, proudly pay it, and rightfully should pay.

My dad, who passed away long ago, used to have an expression. My dad was, I guess, probably like the mom or dad of Senator GRASSLEY and Senator NICKLES and others, a generation that had a different view. My dad's table was a place where you had dinner, you sat down, and two things were demanded. One, you had to have good table manners, and the other was you had to engage in conversation. Our table was a table where you sat down and had conversation and incidentally ate, rather than sat down, ate, and had incidental conversation. It was the one place the family got together with certainty every night, and friends were always included.

I will never forget my father in a discussion with my uncle, Bill Scheen, talking about a particular tax. My dad looked at him and said: Bill, there is no price too high to pay to live in this great country.

I am not asking for a big price. I am just asking for people to do what in their heart they know is right.

I understand my friends, what they have not said—and I may be wrong, but I suspect part of their concern about this amendment, because at least four Members on that side have come up to me and said: I would like to vote for this, Joe, but here is my fear—I give my word this is true—this is my fear: My fear is this would be a foot in the door. If you make this argument and it has catches, I am paying for the war, then your guys are going to come back and say: Look, we ought to raise taxes on the wealthiest corporations to pay for health care, or to pay for whatever. I think that is a legitimate concern on the part of my Republican friends. I understand that. Maybe that is the reason why, not the people who have spoken but some of the people who have spoken to me, who share my concern about not passing this on to these kids are not going to vote with me. I think it is a shame. I just cannot think of how we are able to communicate to the American people that we are in mortal combat for what will be an extended period of time with an enemy that does not wear a uniform but has the capacity to do overwhelming harm to us but that there is no need to rally the entire Nation to contribute a little bit at the office in order to win that war.

Again, the example I gave of what if the President had said go out and pay the tuition of two or four people in your neighborhood, for those of you who can afford it, that is not going to help the war. If anyone thinks that is what I meant, they missed the whole point.

The point is, we should use this time of crisis to unite the country, to talk about the things where we can help one another, where it is not paid for, where it is not unfair. That is the point I am trying to make, and I guess I am not being articulate enough because I do not think a lot of my friends get it.

It is probably my fault because maybe I am not explaining it well enough, but just to make sure everybody understands, how does one convince people that this is as tough a deal as it is if, in fact, we have this incredibly large tax cut? How does that square? It is like my saying to my kids, when they ask me can they go to a summer camp, and my saying I cannot afford to do that, and I drive up the driveway the next day in a brand new Lexus; it is tough times, kids, I cannot afford to send you to that college, you are going to go to the State university, and we buy a summer house. I mean, how does one do that?

By the way, this war is going to cost us a couple hundred billion dollars more before this is over.

Well, I have said all I want to say. I wish I could have said it better but I think this is fair. I think it is equitable. I think it is necessary, and I hope my colleagues will see it that way. I understand if they do not.

I reserve the remainder of my time, and I yield the floor.

Mrs. FEINSTEIN. Mr. President, I join Senator BIDEN in support of this amendment to pay for the President's request for an additional \$25 billion to fund the war in Iraq.

This amendment will temporarily roll back the acceleration of the President's May 2003 tax cuts for those making more than \$319,000 per year by raising the income tax rate from 35 percent to 36 percent for 5 years, 2005-2009.

Assuming passage of this supplemental funding request, the Iraq war will have cost the American people more than \$175 billion. And without this amendment, every penny of this \$25 billion supplemental request will be borrowed, becoming another debt we will leave to our children and grandchildren.

This amendment, however, offers a very reasonable way to pay for this stage of the war on terror.

By rolling back the acceleration of the May 2003 tax cut just enough to fund the \$25 billion request before us, we will reduce the already serious debt burden on our Nation.

We are offering this amendment because it is essential that we begin paying for the programs that we propose.

It is important for the public to know that they—along with our soldiers—must also sacrifice during this war on terror.

Except to tell us that we should visit our shopping malls more frequently, the President has shown little leadership in asking citizens to give to this war effort.

This amendment sends a different message—one that says that it is important that those who have the capacity to pay for this war effort must step forward.

It is time for sacrifice. Deficits, interest costs and the debt are growing again.

Net interest payments on Federal debt are set to increase sharply from approximately \$170 billion in 2003 to more than \$300 billion by 2012.

And we are facing these daunting fiscal realities as we try to meet a host of new challenges: the war on terror, the war in Iraq, the threat of North Korea, and, of course, securing our homeland.

The Congressional Budget Office predicts that the Federal deficit for fiscal year 2004 will top \$470 billion—the largest deficit in our history.

A portion of every dollar we spend from this day until the end of September 2004, will be borrowed money—money our children and grandchildren will have to repay.

After this year's deficit, it is estimated that we will accumulate almost \$1.5 trillion in debt during the next 5 years and a total of \$2 trillion during the next decade.

To help us understand the fiscal track we are on, one must understand that this year's deficit is larger than the amount the President requested for defense in his Fiscal Year 2005 budget request, 447 billion, and larger than the combined non-defense discretionary budget for this year, 459 billion.

Further, the budget projections we are now using do not include the cost of military operations in Iraq and Afghanistan. So add another \$25 billion to \$80 billion to the deficit.

Nor do they include long-term costs associated with correcting a growing problem with the Alternative Minimum Tax, AMT. This will cost \$660 billion over the next 10 years.

The current budget picture also hides the full impact of extending the President's tax cuts to just the next 5 years. Beyond this 5-year window, the costs escalate dramatically. The total 10-year cost of those cost: \$1.6 trillion.

And the budget uses \$1.1 trillion of revenue from the Social Security and Medicare trust funds over the next 5 years.

Overall, our Federal debt is expected to rise from \$6.8 trillion today to \$15.1 trillion in 2014.

Why do Deficits Matter? They matter, as the Brookings Institution points out, because they slow economic growth. By 2014, the average family's income will be an estimated \$1,800 lower because of the slower income growth that results when government competes with the private sector for a limited pool of savings or borrows more from abroad.

They increase household borrowing costs by driving up interest rates: A

family with a \$250,000, 30-year-mortgage, for example, will pay an additional \$2,500 in interest for a one-percent hike in interest rates.

They increase indebtedness to foreign creditors. Japan holds \$526 billion of our debt. China holds \$144 billion. The United Kingdom holds \$112 billion. Caribbean Banking Centers hold \$62 billion.

They require that a growing proportion of revenues be devoted to paying interest on the national debt: By 2014, this increased borrowing will cost the average household \$3,000 in added interest on debt alone.

They impose enormous burdens on future generations. Today's young people will have to pay more because our generation has increased the debt so tremendously. And there will be added pressure to cut spending on health care, education, and other critical services.

Additionally, deficits will prevent us from addressing looming crises in both Social Security and Medicare when the baby boomers retire.

In 2003, we spent \$1.2 trillion on these programs and other entitlements—54 percent of the Federal budget. This includes Social Security, Medicare, Medicaid, food stamps, unemployment compensation.

By 2009, we will be spending \$1.6 trillion for these entitlements—57 percent of the Federal budget.

By 2014, we will be spending \$2.1 trillion—59 percent of the budget.

These programs are in serious danger if we continue down this path of deficit spending.

In January of last year during his State of the Union Address, the President said the following:

This country has many challenges. We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other Presidents, and to other generations. We will confront them with focus and clarity and courage.

Well, this is one challenge we are passing on to other Congresses and to other generations.

Today we have a chance to meet this challenge and demonstrate fiscal responsibility by temporarily rolling back a small portion of the accelerated tax cut for the wealthiest Americans.

Everyone who is affected by this amendment makes more than \$319,000 a year in taxable income, which typically means that they are making more than \$430,000 a year in gross income.

This amendment does not revoke the 2001 or 2003 reductions in the top income tax rate, nor would it affect any other element of the 2001 or 2003 tax packages. It would merely temporarily raise the marginal income tax rate on the richest in our society.

By scaling back a small portion of the accelerated cut in the May 2003 tax package, we will be taking a first step toward putting our fiscal house in order and asking citizens to sacrifice for the war on terror.

Passing this amendment is the responsible thing to do. I urge your support.

THE PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I assure my colleague from the State of Delaware, for whom I have a tremendous amount of respect, that his inability to persuade us has nothing to do with his lack of passion or eloquence. He has an abundance of both, and a lot of good faith and friendliness thrown in to boot. The problem is, he is wrong. That is the only problem.

I would like to try to explain why I think that is so, with all good faith, to my friend. He started out by saying that the purpose of his amendment is to unite the Nation and then proceeded to offer an amendment which chose a very small minority of taxpayers on whom to raise taxes, and that is supposed to unite the Nation.

With all due respect to my friend, I do not think that unites the Nation. That harkens back to the old class warfare concept that there are some people who are so rich that we have to soak them a little bit more in order to be fair.

In fact, that is implicit in the argument. We have a lot of people overseas sacrificing. These rich people must not be sacrificing enough so let us extract more money from them in the form of income taxes. That is the implicit argument. That is not a uniting argument.

The interesting thing is that when it comes to the Tax Code of the United States, Americans are very egalitarian. Middle-income taxpayers support repeal of the death tax, for example, even though they know it would never help them. They support the retention of the tax cuts on the highest tax brackets, on the middle tax brackets. We all support it for the lower tax brackets. In fact, a lot of people would like to be in the next higher bracket. That may be one reason they do not want to soak the rich, because they would like to be in that next bracket maybe in a few years.

The reality is, most people are perfectly happy, even where they are, supporting fair taxes. Polls have been taken, and the question asked is, What do you think is the fair percentage of taxes to extract from Americans? The answer, uniformly, year after year, is about one-third, and that applies to all tax brackets. So most Americans believe that the fair tax would be about a third of what one makes, regardless of how rich they are.

What are the real facts about the sacrifice that Americans make financially, the sacrifice, that is to say in the amount of taxes that they pay to fund things such as the war effort? Let me give the exact statistics, because I think this makes the point that there is already a lot of sacrifice—and, by the way, it is a willing sacrifice.

When it comes to war, I think we are all willing to do more because we are

asking some young men and women to sacrifice an awful lot, but let's get the exact facts.

How much do the top 1 percent—and that is the people we are talking about—pay in taxes in this country? The top 1 percent obviously pay more than 1 percent, maybe 5 percent or 10 percent, maybe 20 percent, 30 percent? Do my colleagues know how much the top 1 percent pay? They pay almost a third of the taxes of this country. So the folks we are talking about, the 1 percent pay, to be exact, 32.3 percent of the taxes. Almost exactly a third of the taxes are paid by the top 1 percent.

That is more than fair. That is a pretty progressive tax system.

How about the top 5 percent? They pay over half of all taxes. Just the top 5 percent pay 52.8 percent of the taxes.

How about the top 10 percent? We always like to talk about the top 10 percent of the class, and that is a pretty elite group. The top 10 percent pay almost two-thirds of all of the taxes—64.8 percent, to be exact. What do the bottom half percent of our taxpayers pay? There is the top half and the bottom half. How much do my colleagues think the bottom half pay? Less than 4 percent of the taxes are paid by the bottom half—36 percent, to be exact.

One could say the wealthier people in this country are paying their fair share. One could say they are making a sacrifice. I would not put it that way because, frankly, I think most of them can afford to do it. I do not think it is something they resent doing. So I think it is a sacrifice they are very willing to take on, but I do not think we should contend that we are uniting America by picking a very small minority of taxpayers, who are already paying a third of all of the taxes in the country, and saying now they are going to have to pay some more or else they are not sacrificing enough.

The interesting thing is that the tax cuts President Bush proposed and we passed into law actually increased the percentage of taxes paid by those in the higher brackets. It did not decrease it. So it added to the sacrifice, if one wants to put it that way.

In every one of these brackets, if we want to take the top 1 percent, the top 5 percent, the top 10 percent, the percentage of taxes paid by that group of people is higher today than it was before the tax cuts. And the percentage paid by the lower 50 percent is actually less. It used to be 4.1 percent. Now it is down to 3.6 percent.

So it is a specious argument to suggest that somehow these people are not paying their fair share, that the only way to be fair is to make them sacrifice some more. I don't think we should look at the war effort this way, let alone fund our Government this way. I don't think it is the way to unite the country. If anything, it further tends to divide the country.

I would like to move to the second point. I think most people now recognize that the tax reductions had a

great deal to do with the stimulation of the economy. Why was that so? Primarily because there was more capital available. People were able to keep more of their own money, and they did one of three things with it: They either spent it, which helped some businesses because they now had more revenue; or they invested it, then there was more capital to be invested in businesses to create more jobs, for example; or they saved it, and savings amounts to investment because whatever institution you put it in then invests the money.

So in all three situations there was more money infused into the economy; more capital, which created more jobs; and those jobs, the jobs that have been created and the capital infused in the economy, have created an extraordinarily strong economy.

One of the results of that has been to begin to reduce the budget deficit by providing more income to the Federal Government because more money is being paid by people and by businesses. That wealth is what is going to be able to help us win the war as well as fund the other things we have to fund.

The argument of my colleague from Delaware is: But this is a very small amount of money. One-tenth of 1 percent, I believe, is the number. That may be. One-tenth of 1 percent of what we are talking about is a heck of a lot of money—\$25 billion to be exact, as I understand it. So we are not talking peanuts. That is \$25 billion that would not be helping to create new jobs, to stimulate the economy, to create additional wealth, which could be used to pay for the war as well as the other things on which we need to spend it.

It is an especially important part of the economy. Phil Gramm, our former colleague from Texas, used to talk about one of his constituents who said he had a lot of jobs in his life. He worked for a lot of employers, and he said, the funny thing was they all had more money than he did.

There are employers and there are employees. Thank God for both. But you have to have enough capital, enough wealth, to create jobs to pay people to do work for you in order for the rest of us to have a job. It is those people in these tax brackets who have that capital that they are able to invest in a business, so-called disposable income, money that they can invest in a stock or some other equity to help create a job in this country. That money has more effect in the economic recovery than a lot of the other money that is paid in taxes. Therefore, this is not an insignificant proposition that we are talking about, only talking about one-tenth of 1 percent, and therefore what difference and does it matter? It could make a great deal of difference in the economic health of our country.

It is wrong to raise taxes at this point when we know the reduction in taxes, especially the marginal rates, have produced such a strong effect on the economy.

We could get into an argument about small businesses. There is an entire report that I could get into that talks about the effect on small businesses. We know many of the people in this tax bracket are small business owners. These are where most of the jobs are created, 7 out of 10 jobs, if you want to get into the statistics, are created by small businesses. There are 8 million small businesses in America that employ over half the workers, and this tax rate is the rate many pay because they are a passthrough entity, like the subchapter S corporations and partnerships and so on. We don't need to get into all that.

The point is, this hurts small businesses just as much as it hurts big businesses. In any event, it hurts those who create jobs, and it doesn't unite America. It doesn't unite us as a nation, as my colleague would suggest. It tends to divide us and hurt us. That is one of the reasons we oppose it.

There are very few people on the other side of the aisle for whom I have greater respect than the Senator from Delaware. I understand the motivation behind his proposal. I simply think it is the wrong approach. It is in that spirit that I oppose his amendment and urge my colleagues to keep the tax cuts that we put in place. They have done a lot of good. Let's keep them. We do not need to hurt somebody in order to unite the country. We have enough revenue to pay for the increased needs of our country. Of course, the amendment doesn't even apply that money to the war in Iraq. There is an assumption that it would be used for that purpose, and I will grant that assumption. But the bottom line is we don't have to do this in order to win the war in Iraq, in order to supply our troops, and it would have very negative effects on the economy of the country, as well as being very unfair.

So I urge my colleagues to vote against the amendment of the Senator from Delaware.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa.

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

When the author of this amendment finished, he spoke about my being inconsistent; that I want to close tax loopholes. He says that takes money out of the economy, so it is inconsistent when I say that it is wrong for him to take money out of the economy.

I think the thing for him to remember about closing these tax loopholes, we are taking in money from dishonest taxpayers, whereas he is taking money away from honest taxpayers by raising the marginal tax rate. He would say I am inconsistent in complaining about his taking money out of the economy and running it through Government, whereas I am taking money out of the economy by closing the tax loopholes of dishonest taxpayers.

When I close those loopholes, have dishonest taxpayers pay taxes they

ought to be paying anyway—except for the fact that they buy tax shelters put together by big corporate lawyers, big accounting firms, and big investment bankers—I am getting money from dishonest taxpayers. But in the bill that I referred to, the JOBS bill, we reduce taxes in America so that companies that do manufacture in the United States will pay less corporate tax as an incentive to create jobs in America.

We are taking money from dishonest taxpayers, but we are putting it right back into the economy in the private sector by reduced taxes for people who do manufacturing in America to create jobs. So I think I am totally consistent. I think having dishonest taxpayers pay what they would otherwise pay if they hadn't been buying these tax shelters is the right policy.

I think the Biden amendment reducing marginal tax rates and hurting small business is the wrong policy. It is the right policy to have dishonest taxpayers who use tax shelters pay their taxes, and I think it is all right to give tax relief to companies that manufacture in America—not those that manufacture overseas but create jobs in America. That bill passed 92 to 5, and I presume with the support of the Senator from Delaware.

I believe we are doing the right thing. I believe he is doing the wrong thing. I believe we encourage job creation and entrepreneurship, particularly among small business. I believe his amendment will actually discourage it.

I believe his amendment is the first step towards what Senator KERRY is campaigning for in his campaign for the Presidency—that, if he is elected, he made it very clear he is going to raise the top marginal tax rate not just to 36 percent as the Senator from Delaware would, but raise it to 39.6 percent.

Do you think that is the end? There is not enough money there to do all the things Senator KERRY is campaigning on. Pretty soon it is not just 39.6. Pretty soon it is taking away deductions so that the top marginal tax rate might say 39.6, but it is effectively 42, or, in the case of subchapter S, 45 as it used to be. Pretty soon there is not enough money there. Pretty soon you are taxing middle-income people to a greater extent. Who knows where that all ends?

I think sometime there has to be a decision made that the Government will only take so much out of the economy; that 535 Members of Congress will only spend so much money. That amount of money is not satisfactory to people on the other side of the aisle, but I decided that where it has been for 50 years—17 to 19 percent of GNP—is where it ought to be, and the tax reductions we passed in 2001 and in 2003 to stimulate the economy, to get us out of the recession, out of the joblessness that came as a result of the September 11 attack on America by terrorism, and to revive the economy, is about right. These tax bills were at

their highest level since World War II. We ought to bring it back to where it was for 50 years—17 to 19 percent—for two reasons.

No. 1: The economy has grown at that level of taxation very well over that 50 years. It hasn't done any harm to the economy.

No. 2: It is a level of taxation that is accepted by the people of this country.

There is a basic philosophical difference between that side of the aisle and this side of the aisle. They believe we should bring the money into Washington and let 535 Members of Congress decide how to divide up the goods and services of this country. There is a philosophy we have on this side of the aisle that it is better to leave the money in the pockets of the taxpayers because having 130 million people decide how the goods and services of this country ought to be expended or invested results in a more dynamic economy than if 535 Members elected to the Congress of the United States make that decision for 270 million Americans.

When we enacted the individual tax cuts in 2001, the Treasury Department estimated that roughly three out of four taxpayers affected by the 35 percent bracket filed returns with small business activity involving a sole proprietorship, S-corporation, partnership, or a farm.

Advocates of tax increases now claim that only 2 percent of small businesses are impacted by the top rates.

I would like to address their criticism that a very small percentage of all small businesses are affected by the top brackets.

This statistic merely states the obvious. Only about 2 percent of all taxpayers have incomes above \$200,000 per year, so it is not surprising that the distribution of small business owners follows roughly the same pattern.

Let's consider the impact of this tax increase on small business.

A soon-to-be-released study by the Tax Foundation concludes that most high-income taxpayers are active business owners rather than "passive" investors.

The Tax Foundation study combines IRS data with demographic Census data, and finds that high-income taxpayers are mostly in "active" business occupations—such as construction, manufacturing, and retail trade—rather than in passive occupations such as banking, finance, and securities.

What is significant about the Tax Foundation report is that, overall, about 74 percent of those hit by the highest marginal rate have active business activity.

This business activity comes in three basic forms: Schedule C, for sole proprietorships; Schedule E, for S-corporations, royalties, and partnerships; and Schedule F, farm income. The most common of these are Schedule E.

Of those taxpayers hit by the 35 percent rate, nearly two-thirds—62.7 percent—have Schedule E income from an S-corporation, royalty, or partnership.

It is likely that most of these taxpayers are shareholders in S-corporations.

The Tax Foundation data shows that these high-income taxpayers receive about 37 percent of their overall income from salaries and wages which, when combined with their Schedule C, E, and F income, would bring their total amount of business income to 65 percent of their total adjusted gross income.

This figure does not include other ways in which a business owner may take profits out of the firm.

For example, an entrepreneur who capitalized his business with a loan, may receive regular interest in return.

Taxable interest and dividends account for roughly 9 percent of the overall income for high-income taxpayers.

While most of this interest and dividend income is likely from traditional investments, a portion could be "business income" taken as interest or dividends from their small business.

The Tax Foundation was able to isolate the occupations and industries that these high-income individuals are engaged in. They did this by combining IRS data with demographic Census data.

They found that high-income taxpayers are engaged in a wide variety of active business industries and occupations throughout the economy.

The largest single category of 31.5 percent is "executive, administration & managerial"—the most likely category that the president or CEO of a firm would choose.

By contrast, physicians, lawyers, and judges comprise just 11.4 percent of these individuals.

Another analysis shows that high-income taxpayers are engaged across all industries.

The one category in which passive investors would most likely be found is within the "securities, brokerage, and investment companies." But only about 4 percent of high-income taxpayers are found in this industry.

By contrast, 4.9 percent of these taxpayers are found in the construction industry, 8.1 percent are in manufacture durable goods, 5 percent are in retail trades, and 6 percent are in business services such as computers and data processing.

High-income taxpayers engaged in legal services comprise just 3.2 percent of these high-income taxpayers.

The data clearly shows that a very large proportion of high-income taxpayers are engaged in some form of active business operation—not clipping coupons and resting back in their rocking chairs smoking their cigars, the image of a lot of rich people.

The only conclusion from these findings is that raising taxes on these high-income taxpayers would ripple through every industry, not just passive investors.

And as the U.S. Chamber of Commerce says in their letter, it will kill job growth in small businesses.

The 1997 economic census—the most recent available—shows that S-corps, proprietorships, and partnerships employed over 30 million people that year.

It seems unlikely that 30 million jobs could be created by "shell" companies owned by passive investors.

The stakes of this debate are high because there has been an explosion of individual-owned businesses over the past two decades.

Between 1980 and 2000, for example, the total number of sole proprietorships, partnerships, and S-corporations more than doubled, from 10.8 million in 1980 to 22.8 million in 2000.

S-corps alone grew 424 percent, from 545,389 in 1980, to 2.86 million in 2000, and now far exceed the number of conventional C-corporations.

This year, the IRS estimates that nearly 58 percent of all corporate tax returns will be S corporation returns. If you are prepared to vote for a tax increase on small business job growth, then Members should vote for the amendment before the Senate by the Senator from Delaware. If Members care about sustaining the job growth that we have experienced over the past several months, I urge Members not to vote against that growth by increasing taxes on the important small business sector.

There is also another problem with the bill. Senator BIDEN would have Members believe the world is filled with wealthy, passive investors. The truth is, however, that people continually move in and out of high tax rate categories, most likely because they have sold a business or a major asset.

The IRS recently released a study of 400 of the highest individual income tax returns for the years 1990 through 2000. That study shows less than 25 percent of those returns appeared in the top 400 more than once and less than 13 percent appeared more than twice, which shows high-income people are not high income through their lives.

I could add that low-income people are not always low income throughout their lives because we have a dynamic society, a dynamic economy. Some people improve their lot and some people do not improve their lot. Some people end up in a lower level.

What does this mean? The top taxpayers are not a fixed group of people. People move in and out of this group according to economic fluctuations or maybe because of major events. So we are probably looking at a large number of business owners who are selling their businesses or selling their farm. If members think they are voting for a tax increase on a class of idle rich, think again. These are not coupon-clipping people who get their money, smoke their cigars, and lean back in their rocking chairs. These are people that create jobs, probably never retire, keeping that small business going by reinvesting their earnings.

If Members vote for this amendment, I am not sure they will know whose taxes they are increasing.

How much time remains on this side? The PRESIDING OFFICER. The time in opposition is expired.

Mr. GRASSLEY. I yield the floor. The PRESIDING OFFICER. There are 6 minutes 18 seconds remaining.

Mr. REID. This is for Senator BIDEN's amendment.

Mr. BIDEN. If my colleagues are finished responding, I am prepared to yield back the remainder of my time and at whatever time appropriate, vote on the amendment.

Mr. GRASSLEY. My time has expired.

Mr. BIDEN. I yield back the time.

AMENDMENT NO. 3352, AS AMENDED

Mr. REID. Under the order, there will now be 10 minutes for Senator REED. We are going to yield back that time.

The PRESIDING OFFICER. Time is yielded back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

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

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

Mr. WARNER. The regular order is the vote on the Reed amendment?

The PRESIDING OFFICER. As amended.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the amendment.

The clerk will call the roll. The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

Mr. REED. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—93

Akaka	Coleman	Graham (SC)
Alexander	Collins	Grassley
Allard	Conrad	Gregg
Allen	Cornyn	Hagel
Baucus	Corzine	Harkin
Bayh	Crapo	Hatch
Biden	Daschle	Hollings
Bingaman	Dayton	Hutchison
Bond	DeWine	Inouye
Boxer	Dodd	Jeffords
Breaux	Dole	Johnson
Brownback	Domenici	Kennedy
Bunning	Dorgan	Kohl
Burns	Durbin	Kyl
Byrd	Edwards	Landrieu
Campbell	Ensign	Lautenberg
Cantwell	Enzi	Leahy
Carper	Feingold	Levin
Chafee	Feinstein	Lieberman
Chambliss	Fitzgerald	Lincoln
Clinton	Frist	Lott
Cochran	Graham (FL)	Lugar

McCain	Pryor	Snowe
McConnell	Reed	Specter
Mikulski	Reid	Stabenow
Miller	Roberts	Stevens
Murkowski	Rockefeller	Sununu
Murray	Sarbanes	Talent
Nelson (FL)	Schumer	Voinovich
Nelson (NE)	Sessions	Warner
Nickles	Shelby	Wyden

## NAYS—4

Craig	Smith
Santorum	Thomas

## NOT VOTING—3

Bennett	Inhofe	Kerry
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The amendment (No. 3352), as modified, was agreed to.

Mr. FRIST. Mr. President, I move to reconsider the vote.

Mr. ENSIGN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, we have made good progress on the bill. I congratulate the managers for their tremendous progress. We have been in discussions with the Democratic leadership and the chairman and the ranking member as to how we can complete action on the bill. I think we are under way, although we have a number of amendments pending, a lot of amendments planned for tomorrow and Monday. After discussion with the Democratic leadership, we are prepared to vitiate cloture in large part because of the progress we made yesterday and today, and we will continue to make tomorrow and Monday.

Members have talked to the managers of the bill about amendments tomorrow as well as Monday. They have a good outline. We would, therefore, not vote tomorrow. We have one more vote tonight. So we would not vote tomorrow.

Monday has to be a very productive day and, in all likelihood, we would have a series of votes beginning late Monday afternoon, sometime after 5 o'clock. We can talk about the specific time. But there are likely to be four or five or even six rollcall votes on Monday, starting after 5 o'clock, probably 5:30 or so. The exact time will be announced tomorrow.

We will have a busy day Tuesday as well, as we consider the remaining amendments. It is my personal hope—as long as we continue working together very aggressively—to complete the bill on Tuesday, understanding we have a lot of work to do. Thus, the proposal would be to have one more rollcall vote, which will be shortly, no more rollcall votes tonight, no votes tomorrow, and starting at about 5 or 5:30 on Monday, a series of rollcall votes.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3379, offered by the Senator from Delaware, Mr. BIDEN.

Mr. REID. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Is there a sufficient second?  
There appears to be a sufficient second.

The clerk will call the roll.  
The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 130 Leg.]

## YEAS—44

Akaka	Dorgan	Leahy
Biden	Durbin	Levin
Bingaman	Edwards	Lieberman
Boxer	Feingold	Lincoln
Breaux	Feinstein	Mikulski
Byrd	Graham (FL)	Murray
Cantwell	Harkin	Nelson (FL)
Carper	Hollings	Reed
Chafee	Inouye	Reid
Clinton	Jeffords	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Daschle	Kohl	Stabenow
Dayton	Landrieu	Wyden
Dodd	Lautenberg	

## NAYS—53

Alexander	Dole	Murkowski
Allard	Domenici	Nelson (NE)
Allen	Ensign	Nickles
Baucus	Enzi	Pryor
Bayh	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Snowe
Chambliss	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Kyl	Sununu
Collins	Lott	Talent
Cornyn	Lugar	Thomas
Craig	McCain	Voinovich
Crapo	McConnell	Warner
DeWine	Miller	

## NOT VOTING—3

Bennett	Inhofe	Kerry
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The amendment (No. 3379) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. The managers, together with our distinguished colleague from Nevada, would like to do the following to accommodate Senators on both sides: The Senator from Missouri would introduce an amendment, lay it down, and speak maybe 1 minute to it. We then would turn to the other side. The Senator from New York wishes to address the Senate for several minutes and then we will come back over to Senator TALENT, who wishes to speak with Senator CLINTON. They will each have a couple of minutes. Then Senator BROWNBACK will lay an amendment down and Senator DORGAN may or may not speak to it, but there will be no more votes, of course, tonight.

Mr. LEVIN. Then we will clear those amendments after all of that?

Mr. WARNER. No, we might stop midway and clear the amendments. As soon as the package is ready, the Senator from Michigan and I may clear an en bloc package of amendments.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I have a question for the manager of the bill. I will have a second-degree amendment to the Brownback amendment which I will also lay down after his.

Mr. WARNER. That is fine. I am not seeking unanimous consent. I am just trying, in a gentlemanly way, to organize this.

I see the distinguished Senator from Nevada wishes to speak?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, can we just do this one step at a time, before we agree to any amendment? If there is going to be a second-degree amendment as part of a unanimous consent, I think we better withhold that piece. We didn't realize there was going to be a second-degree amendment. Is it to the Brownback amendment? If this is in the form of a unanimous consent request, we can't at this moment agree to it.

Mr. WARNER. It is not in the form of a unanimous consent.

Mr. REID. Mr. President, if I could address remarks to the Chair? We have a number of Senators who have been waiting. The two managers have cleared 18 amendments, or something like that. It would take just a matter of a minute or two to do that, but they are not yet ready.

Mr. WARNER. I thank the leader. The package is being put together. At this point in time I yield the floor and I see the Senator from Missouri seeks recognition.

The PRESIDING OFFICER. The Senator from Missouri.

## AMENDMENT NO. 3384

Mr. BOND. Mr. President, I thank my good friend, the chairman, and certainly I thank the ranking member, for their accommodation. I call up amendment No. 3384 which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. BOND), for himself, Mr. TALENT, and Mr. HARKIN, proposes an amendment numbered 3384.

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

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

The amendment is as follows:  
(Purpose: To include certain former nuclear weapons program workers in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program and to provide for the disposal of certain excess Department of Defense stocks for funds for that purpose)

At the end of subtitle D of title XXXI, insert the following:

**SEC. 3146. INCLUSION OF CERTAIN FORMER NUCLEAR WEAPONS PROGRAM WORKERS IN SPECIAL EXPOSURE COHORT UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.**

(a) FINDINGS.—Congress makes the following findings:

(1) Energy workers at the former Mallinkrodt facilities (including the St. Louis downtown facility and the Weldon Springs facility) were exposed to levels of radionuclides and radioactive materials that were much greater than the current maximum allowable Federal standards.

(2) The Mallinkrodt workers at the St. Louis site were exposed to excessive levels of airborne uranium dust relative to the standards in effect during the time, and many workers were exposed to 200 times the preferred levels of exposure.

(3)(A) The chief safety officer for the Atomic Energy Commission during the Mallinkrodt-St. Louis operations described the facility as 1 of the 2 worst plants with respect to worker exposures.

(B) Workers were excreting in excess of a milligram of uranium per day causing kidney damage.

(C) A recent epidemiological study found excess levels of nephritis and kidney cancer from inhalation of uranium dusts.

(4) The Department of Energy has admitted that those Mallinkrodt workers were subjected to risks and had their health endangered as a result of working with these highly radioactive materials.

(5) The Department of Energy reported that workers at the Weldon Springs feed materials plant handled plutonium and recycled uranium, which are highly radioactive.

(6) The National Institute of Occupational Safety and Health admits that—

(A) the operations at the St. Louis downtown site consisted of intense periods of processing extremely high levels of radionuclides; and

(B) the Institute has virtually no personal monitoring data for Mallinkrodt workers prior to 1948.

(7) The National Institute of Occupational Safety and Health has informed claimants and their survivors at those 3 Mallinkrodt sites that if they are not interviewed as a part of the dose reconstruction process, it—

(A) would hinder the ability of the Institute to conduct dose reconstruction for the claimant; and

(B) may result in a dose reconstruction that incompletely or inaccurately estimates the radiation dose to which the energy employee named in the claim had been exposed.

(8) Energy workers at the Iowa Army Ammunition Plant (also known as the Burlington Atomic Energy Commission Plant and the Iowa Ordnance Plant) between 1947 and 1975 were exposed to levels of radionuclides and radioactive material, including enriched uranium, plutonium, tritium, and depleted uranium, in addition to beryllium and photon radiation, that are greater than the current maximum Federal standards for exposure.

(9) According to the National Institute of Occupational Safety and Health—

(A) between 1947 and 1975, no records, including bioassays or air samples, have been located that indicate any monitoring occurred of internal doses of radiation to which workers described in paragraph (8) were exposed;

(B) between 1947 and 1955, no records, including dosimetry badges, have been located to indicate that any monitoring occurred of the external doses of radiation to which such workers were exposed;

(C) between 1955 and 1962, records indicate that only 8 to 23 workers in a workforce of

over 1,000 were monitored for external radiation doses; and

(D) between 1970 and 1975, the high point of screening at the Iowa Army Ammunition Plant, only 25 percent of the workforce was screened for exposure to external radiation.

(10) The Department of Health and Human Services published the first notice of proposed rulemaking concerning the Special Exposure Cohort on June 25, 2002, and as of May 13, 2004, the rule has yet to be finalized.

(11) Many of those former workers have died while waiting for the proposed rule to be finalized, including some claimants who were waiting for dose reconstruction to be completed.

(12) Because of the aforementioned reasons, including the serious lack of records and the death of many potential claimants, it is not feasible to conduct valid dose reconstructions for the Iowa Army Ammunition Plant facility or the Mallinkrodt facilities.

(b) INCLUSION OF CERTAIN FORMER WORKERS IN COHORT.—Section 3621(14) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398); 42 U.S.C. 7384(14)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

“(C) Subject to the provisions of section 3612A, the employee was so employed for a number of work days aggregating at least 45 workdays at a facility operated under contract to the Department of Energy by Mallinkrodt Incorporated or its successors (including the St. Louis downtown or ‘Destrahan’ facility during any of calendar years 1942 through 1958 and the Weldon Springs feed materials plant facility during any of calendar years 1958 through 1966), or at a facility operated by the Department of Energy or under contract by Mason & Hangar-Silas Mason Company at the Iowa Ammunition Plant (also known as the Burlington Atomic Energy Commission Plant and the Iowa Ordnance Plant) during any of the calendar years 1947 through 1975, and during the employment—

“(i)(I) was monitored through the use of dosimetry badges for exposure at the plant of the external parts of an employee’s body to radiation; or

“(II) was monitored through the use of bioassays, in vivo monitoring, or breath samples for exposure at the plant to internal radiation; or

“(ii) worked in a job that had exposures comparable to a job that is monitored, or should have been monitored, under standards of the Department of Energy in effect on the date of enactment of this subparagraph through the use of dosimetry badges for monitoring external radiation exposures, or bioassays, in vivo monitoring, or breath samples for internal radiation exposures, at a facility.”

(c) FUNDING OF COMPENSATION AND BENEFITS.—(1) Such Act is further amended by inserting after section 3612 the following new section:

**“SEC. 3612A. FUNDING FOR COMPENSATION AND BENEFITS FOR CERTAIN MEMBERS OF THE SPECIAL EXPOSURE COHORT.**

“(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Department of Labor for each fiscal year after fiscal year 2004 such sums as may be necessary for the provision of compensation and benefits under the compensation program for members of the Special Exposure Cohort described in section 3621(14)(C) in such fiscal year.

“(b) PROHIBITION ON USE FOR ADMINISTRATIVE COSTS.—(1) No amount authorized to be appropriated by subsection (a) may be utilized for purposes of carrying out the compensation program for the members of the Special Exposure Cohort referred to in that subsection or administering the amount authorized to be appropriated by subsection (a).

“(2) Amounts for purposes described in paragraph (1) shall be derived from amounts authorized to be appropriated by section 3614(a).

“(c) PROVISION OF COMPENSATION AND BENEFITS SUBJECT TO APPROPRIATIONS ACTS.—The provision of compensation and benefits under the compensation program for members of the Special Exposure Cohort referred to in subsection (a) in any fiscal year shall be subject to the availability of appropriations for that purpose for such fiscal year and to applicable provisions of appropriations Acts.”

(2) Section 3612(d) of such Act (42 U.S.C. 7384(d)) is amended—

(A) by inserting “(1)” before “Subject”; and

(B) by adding at the end the following new paragraph:

“(2) Amounts for the provision of compensation and benefits under the compensation program for members of the Special Exposure Cohort described in section 3621(14)(C) shall be derived from amounts authorized to be appropriated by section 3612A(a).”

On page 373, line 18, strike “\$6,674,898,000 and insert “\$6,494,898,000”.

AMENDMENT NO. 3384, AS MODIFIED

Mr. BOND. I send to the desk a modification on behalf of myself, Senator HARKIN, Senator TALENT, and Senator GRASSLEY, and ask it be immediately considered as a modification.

The PRESIDING OFFICER. Is there objection to the modification? Hearing none, it is so ordered.

The amendment (No. 3384), as modified, is as follows:

(Purpose: To include certain former nuclear weapons program workers in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program and to provide for the disposal of certain excess Department of Defense stocks for funds for that purpose)

At the end of subtitle D of title XXXI, insert the following:

**SEC. 3146. INCLUSION OF CERTAIN FORMER NUCLEAR WEAPONS PROGRAM WORKERS IN SPECIAL EXPOSURE COHORT UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.**

(a) FINDINGS.—Congress makes the following findings:

(1) Energy workers at the former Mallinkrodt facilities (including the St. Louis downtown facility and the Weldon Springs facility) were exposed to levels of radionuclides and radioactive materials that were much greater than the current maximum allowable Federal standards.

(2) The Mallinkrodt workers at the St. Louis site were exposed to excessive levels of airborne uranium dust relative to the standards in effect during the time, and many workers were exposed to 200 times the preferred levels of exposure.

(3)(A) The chief safety officer for the Atomic Energy Commission during the Mallinkrodt-St. Louis operations described the facility as 1 of the 2 worst plants with respect to worker exposures.

(B) Workers were excreting in excess of a milligram of uranium per day causing kidney damage.

(C) A recent epidemiological study found excess levels of nephritis and kidney cancer from inhalation of uranium dusts.

(4) The Department of Energy has admitted that those Mallinkrodt workers were subjected to risks and had their health endangered as a result of working with these highly radioactive materials.

(5) The Department of Energy reported that workers at the Weldon Springs feed materials plant handled plutonium and recycled uranium, which are highly radioactive.

(6) The National Institute of Occupational Safety and Health admits that—

(A) the operations at the St. Louis downtown site consisted of intense periods of processing extremely high levels of radionuclides; and

(B) the Institute has virtually no personal monitoring data for Mallinkrodt workers prior to 1948.

(7) The National Institute of Occupational Safety and Health has informed claimants and their survivors at those 3 Mallinkrodt sites that if they are not interviewed as a part of the dose reconstruction process, it—

(A) would hinder the ability of the Institute to conduct dose reconstruction for the claimant; and

(B) may result in a dose reconstruction that incompletely or inaccurately estimates the radiation dose to which the energy employee named in the claim had been exposed.

(8) Energy workers at the Iowa Army Ammunition Plant (also known as the Burlington Atomic Energy Commission Plant and the Iowa Ordnance Plant) between 1947 and 1975 were exposed to levels of radionuclides and radioactive material, including enriched uranium, plutonium, tritium, and depleted uranium, in addition to beryllium and photon radiation, that are greater than the current maximum Federal standards for exposure.

(9) According to the National Institute of Occupational Safety and Health—

(A) between 1947 and 1975, no records, including bioassays or air samples, have been located that indicate any monitoring occurred of internal doses of radiation to which workers described in paragraph (8) were exposed;

(B) between 1947 and 1955, no records, including dosimetry badges, have been located to indicate that any monitoring occurred of

the external doses of radiation to which such workers were exposed;

(C) between 1955 and 1962, records indicate that only 8 to 23 workers in a workforce of over 1,000 were monitored for external radiation doses; and

(D) between 1970 and 1975, the high point of screening at the Iowa Army Ammunition Plant, only 25 percent of the workforce was screened for exposure to external radiation.

(10) The Department of Health and Human Services published the first notice of proposed rulemaking concerning the Special Exposure Cohort on June 25, 2002, and the final rule published on May 26, 2004.

(11) Many of those former workers have died while waiting for the proposed rule to be finalized, including some claimants who were waiting for dose reconstruction to be completed.

(12) Because of the aforementioned reasons, including the serious lack of records and the death of many potential claimants, it is not feasible to conduct valid dose reconstructions for the Iowa Army Ammunition Plant facility or the Mallinkrodt facilities.

(b) INCLUSION OF CERTAIN FORMER WORKERS IN COHORT.—Section 3621(14) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398); 42 U.S.C. 7384f(14)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

“(C) Subject to the provisions of section 3612A and section 3146(e) of the National Defense Authorization Act for Fiscal Year 2005, the employee was so employed for a number of work days aggregating at least 45 work-days at a facility operated under contract to the Department of Energy by Mallinkrodt Incorporated or its successors (including the St. Louis downtown or ‘Destrehan’ facility during any of calendar years 1942 through 1958 and the Weldon Springs feed materials plant facility during any of calendar years 1958 through 1966), or at a facility operated by the Department of Energy or under contract by Mason & Hangar-Silas Mason Com-

pany at the Iowa Army Ammunition Plant (also known as the Burlington Atomic Energy Commission Plant and the Iowa Ordnance Plant) during any of the calendar years 1947 through 1975, and during the employment—

“(i)(I) was monitored through the use of dosimetry badges for exposure at the plant of the external parts of an employee’s body to radiation; or

“(II) was monitored through the use of bioassays, in vivo monitoring, or breath samples for exposure at the plant to internal radiation; or

“(ii) worked in a job that had exposures comparable to a job that is monitored, or should have been monitored, under standards of the Department of Energy in effect on the date of enactment of this subparagraph through the use of dosimetry badges for monitoring external radiation exposures, or bioassays, in vivo monitoring, or breath samples for internal radiation exposures, at a facility.”

(c) FUNDING OF COMPENSATION AND BENEFITS.—(1) Such Act is further amended by inserting after section 3612 the following new section:

“SEC. 3612A. FUNDING FOR COMPENSATION AND BENEFITS FOR CERTAIN MEMBERS OF THE SPECIAL EXPOSURE COHORT.

“(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Department of Labor for each fiscal year after fiscal year 2004 such sums as may be necessary for the provision of compensation and benefits under the compensation program for members of the Special Exposure Cohort described in section 3621(14)(C) in such fiscal year.

“(b) PROHIBITION ON USE FOR ADMINISTRATIVE COSTS.—(1) No amount authorized to be appropriated by subsection (a) may be utilized for purposes of carrying out the compensation program for the members of the Special Exposure Cohort referred to in that subsection or administering the amount authorized to be appropriated by subsection (a).

“(2) Amounts for purposes described in paragraph (1) shall be derived from amounts authorized to be appropriated by section 3614(a).

## NOTICE

*Incomplete record of Senate proceedings. Except for concluding business which follows, today’s Senate proceedings will be continued in the next issue of the Record.*

### ORDERS FOR FRIDAY, JUNE 18, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, June 18. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 503, S. 2400, the Department of Defense authorization bill. I further ask consent that the cloture vote be vitiated. I further ask consent that the Brownback recognition request be vitiated.

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

### PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will resume consideration of the Defense authorization bill. As I mentioned earlier, we intend to complete action on this bill early next week. The chairman and ranking member of the Armed Services Committee have done a superb job in moving this bill forward, and as I commented a couple of hours ago on the floor, we made real progress over the last 48 hours. We will maintain that momentum and that effort over the course of tomorrow’s session.

As I stated, I vitiated the scheduled cloture vote in anticipation of further cooperation and with the view of finishing the bill on Tuesday. I also stated earlier that we would not have rollcall votes tomorrow, although a number of

Senators have expressed an interest in offering their amendments, and a number have said they still want to offer an amendment. If that is the case, I ask that they contact the managers so that we can proceed in that fashion tomorrow.

The next votes will occur Monday at approximately 5:30, and there will likely be a number of votes after 5:30 on Monday night, given that we will be voting on some of the amendments considered tomorrow as well as Monday during the day.

Finally, as a reminder, the resolution we just adopted moments ago provides for the official photograph of the Senate to occur on Tuesday, June 22. Members are asked to be at their desk at 2:15 sharp that day for this photograph.