

order in court. Even though judges have already found that similar restrictions violate the first amendment, this conference report disregards the case law and the right to challenge the gag order.

If you do decide to consult an attorney for legal advice, hold on; you will have to tell the FBI you have done so. Think about that: You want to talk to a lawyer about whether your actions are going to be causing you to get into trouble, you have to tell the FBI that you are consulting a lawyer. This is unheard of. There is no such requirement in any other area of the law. I see no reason why it is justified here.

If someone wants to know why their own Government has decided to go on a fishing expedition through every personal record or private document, through the library books you read, the phone calls you have made, the e-mails you have sent, this legislation gives people no rights to appeal the need for such a search in a court of law. No judge will hear your plea; no jury will hear your case. This is plain wrong. There are Republican Senators as well as Democratic Senators who recognize it is plain wrong.

Giving law enforcement the tools they need to investigate suspicious activities is one thing and it is the right thing. But doing it without any real oversight seriously jeopardizes the rights of all Americans and the ideals America stands for.

Supporters of this conference report have argued we should hold our noses and support this legislation because it is not going to get any better. That is not a good argument. We can do better. We have time to do better. It does not convince me I should support this report. We owe it to the Nation, we owe it to those who fought for our civil liberties, we owe it to the future and our children to make sure we craft the kind of legislation that would make us proud, not legislation we would settle for because we are in a rush. We do not have to settle for a PATRIOT Act that sacrifices our liberties or our safety. We can have one that secures both.

There have been proposals on both sides of the aisle and in both Houses of Congress to extend the PATRIOT Act for 3 months so we can reach an agreement on this bill that is well thought through. I support these efforts and will oppose cloture on what I consider to be this unacceptable conference report.

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

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

The legislative clerk proceeded to call the roll.

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

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

DEFICIT REDUCTION ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the hour of 3:30 p.m.

having arrived, the Senate will resume consideration of the House message accompanying S. 1932. The clerk will report.

The bill clerk read as follows:

A bill (S. 1932) to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

Pending:

DeWINE motion to instruct conferees to insist that any conference report shall not include the provisions contained in section 8701 of the House amendment relating to the repeal of section 754 of the Tariff Act of 1930.

Kohl motion to instruct conferees to insist that any conference report shall not include any of the provisions in the House amendment that reduce funding for the child support program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.), and to insist that the conference report shall not include any restrictions on the ability of States to use Federal child support incentive payments for child support program expenditures that are eligible for Federal matching payments.

Kennedy motion to instruct conferees to insist that the Senate provisions increasing need-based financial aid in the bill, S. 1932, which were fully offset by savings in the bill, S. 1932, be included in the final conference report and that the House provisions in the bill, H.R. 4241, that impose new fees and costs on students in school and in repayment be rejected in the final conference report.

Reed motion to instruct conferees to insist on a provision that makes available \$2,920,000,000 for the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), in addition to the \$2,183,000,000 made available for such act in the Departments of Labor, Health, and Human Services, and Education, and Related Agencies Appropriations Act, 2006.

Mr. GREGG. Mr. President, I ask unanimous consent that it be deemed that the yeas and nays have been ordered on the next four items which are set for votes.

The PRESIDING OFFICER. Without objection, it is in order to request the yeas and nays en bloc.

Mr. GREGG. I ask for the yeas and nays en bloc.

Mr. DEWINE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. What is the request?

Mr. GREGG. The point of the request is to allow the yeas and nays on each item and that they be voted on seriatim.

Mr. DEWINE. I withdraw my reservation.

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

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered en bloc.

Mr. GREGG. Mr. President, I ask unanimous consent that after the first vote, the subsequent votes be 10 minutes in duration.

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

MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. Who yields time on the first motion? The Senator from Ohio.

Mr. DEWINE. Mr. President, I urge my colleagues to vote yes on this motion to instruct the conferees to support something that 72 Senators have already supported in letters they have signed in the past, 72 Members of this body, and I have the list for anyone who would like to see it when they come to the Chamber.

This is to support a bill that is currently law, the Continued Dumping and Subsidy Offset Act. It is a bill that has helped companies in 48 States across this country. More importantly, it has helped workers in 48 States across this country. It has helped employers who create additional jobs. The idea is to compensate companies that have been victimized by illegal foreign dumping in this country. Instead of giving money to the Treasury, it goes to these companies, and these companies have the right then to reinvest and create jobs.

Some people have argued this is some sort of special interest. I ask Members of the Senate, when in the world did it become a special interest to protect American jobs?

This is a proven way to fight back against illegal trade. It is a proven way to protect American jobs. I urge a "yes" vote.

Mr. BYRD. Mr. President, I wish to join my Republican colleagues, Senator DEWINE, Senator SPECTER, and Senator CRAIG, all of whom have already spoken so eloquently in support of a motion introduced by Senator DEWINE yesterday to instruct conferees on the budget bill to strike an ill-conceived House provision that would repeal the Continued Dumping and Subsidy Offset Act, also known as CDSOA.

To repeal or abandon this trade law would be a travesty. The Continued Dumping and Subsidy Offset Act was enacted to save American manufacturing and our agricultural producers from wave after wave of unfairly dumped foreign imports.

CDSOA remains one of the most successful trade programs ever enacted. It maintains America's corporate competitiveness; it enables small and medium-sized businesses—and family-owned businesses—to invest in their futures. It keeps American workers employed, so they can receive health and pension benefits. This law is about American jobs. As Senator DEWINE said yesterday, this law is not about rewarding special interests: It is about keeping American jobs.

Five years ago, a bipartisan majority of the Senate approved our amendment to give U.S. companies injured by unfair trade the ability to invest in their factories and workers with funds collected by the Customs Service from unfairly traded imports. I particularly appreciate the continued strong support that Senator DEWINE and many of our colleagues on the other side of the aisle continue to express in support of this law. In fact, three-fourths of the Senate has publicly pledged support for the law.

Before this law was enacted, the Customs Service imposed antidumping and countervailing duties on dumped and unfairly subsidized imports—to make foreign exporters stop dumping and charge a fair price. Despite Customs' efforts, unfair foreign traders refused to trade fairly. Instead, they continued to dump—year after year. And the prices of the dumped foreign imports from China, Canada, the European Union, Japan, and other countries continued to unfairly undercut the prices of American-made products sold here in the United States.

Faced with eroding U.S. market share, American producers struggled to stay afloat, unable to invest in new plants or equipment or to meet their payrolls. This was particularly true for small businesses and many of our Nation's family farmers, ranchers, and aquacultural producers. Even today, valiant producers of shrimp and crawfish continue to suffer from having endured a double whammy: unending unfair trade and Hurricane Katrina.

CDSOA was enacted to restore conditions of fair trade, so that jobs that should stay in the United States are not sent overseas or "outsourced" as the result of unfair competition. Under the law, each year, Customs distributes duties collected from unfair imports to those American companies and workers who can prove that they have been materially injured by unfair trade.

While the amounts distributed under the program are not large from a budget perspective—approximately \$226 million for fiscal year 2005—the law is critically important to American companies and workers who continue to work hard to stay in business, even when foreign producers refuse to stop dumping. American companies that rightfully receive distributions under the law include producers of crawfish, garlic, furniture, honey, lumber, wheat, shrimp, catfish, semiconductor chips, bearings, mushrooms, crawfish, pasta, steel, raspberries, cement, and a long list of others—all of which deserve to be reimbursed under the law for having suffered the negative effects of bringing successful trade cases against illegally traded imports year after year after year.

There was a claim on the Senate floor earlier this week that CDSOA claims may be fraudulent. That shows a basic misunderstanding of the law. To receive reimbursement under the law, companies must certify, in writing, that they have made qualifying expenditures in their workers and facilities. CDSOA reimburses them for those expenditures. And Customs may verify any claim submitted to make certain that a request for reimbursement is valid. So there are very careful safeguards in place under the law to be certain that funds are distributed fairly, honestly, and legally.

Critics of the Continued Dumping and Subsidy Offset Act also argue that the WTO has ruled against the law, so we should abandon it. But the WTO was

wrong in opposing it. The WTO was overzealous in ruling against the law; it overreached. The WTO decision against this trade authority was technically beyond the scope of the WTO's legal mandate. The WTO incorrectly read into international agreements a prohibition against our law that was never agreed to by any U.S. trade negotiator. The WTO has no legal basis to request that the United States repeal this law.

Nearly 800 American companies and workers in nearly every State of the Nation receive distributions under its provisions. It is critical to family-owned businesses, like Warwood Tools in Wheeling, WV, and to Wheeling-Pittsburgh Steel, and to Mittal Steel's facilities in Weirton, WV. It is equally important to the thousands of steelworkers in Ohio, Pennsylvania, and elsewhere across the Nation. They, and all hard-working Americans, deserve to continue to receive these funds so long as foreign traders keep dumping. If our trading partners don't like this trade law, I have only two words for them: stop dumping.

In the fiscal year 2004 and 2005 Consolidated Appropriations Acts—and, now, in the fiscal year 2006 Commerce, Justice, Science, and Related Agencies Appropriations Act—both Houses of Congress included language that directs the administration to negotiate a solution to the WTO dispute concerning this law. In fact, the conference report on the CJS bill that contains this language was approved by the Senate on November 16 by an overwhelming vote of 94 to 5.

Pursuant to these congressional directives, the administration last year put this trade law on the table in the Doha Round of trade negotiations, and the USTR even told our trading partners that it agrees it is "beyond question that countries have the sovereign right to distribute duties as they deem appropriate."

Even if the WTO disagrees with the law, any retaliation by other countries against us is negligible—equal to only a few hours of trade among a few of our trading partners.

Currently, the United States and other nations are seeking to complete negotiations in the Doha Round of international trade talks by the end of 2006. Now is not the time to weaken the hand of our trade negotiators by attempting to repeal one of our Nation's most prominent and effective trade laws.

In fact, now is the time to do more to hold foreign unfair traders accountable, not less.

I urge my colleagues in the Senate to join me in support of this motion to instruct the conferees to strike from the budget reconciliation bill any provision that would repeal this critical trade law.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, this proposal is a motion to instruct which has

no binding effect and, thus, I assume Members are just going to vote the way they feel like voting.

I will point out this: No. 1, the effect of this motion, if it had a binding effect, would be to take \$3 billion away from the Federal Treasury and give it to specific companies in violation of a WTO ruling. It may have made sense at one time, but since the WTO ruling, it makes no sense. Because of that ruling, other companies are now being penalized inappropriately because we continue to assess this fine.

No. 2, it is very hard for me to understand why, in a bill that is supposed to be reducing the deficit, we would want to increase the deficit by passing this type of instruction. Therefore, I oppose the motion to instruct.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The Legislative Clerk called the roll.

Mr. McCANNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Georgia (Mr. ISAKSON), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Pennsylvania (Mr. SANTORUM) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER), would vote "aye."

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

The result was announced—yeas 71, nays 20, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—71

Akaka	Domenici	Murray
Allen	Dorgan	Nelson (FL)
Baucus	Durbin	Nelson (NE)
Bayh	Enzi	Obama
Bennett	Feingold	Pryor
Bingaman	Feinstein	Reed
Bunning	Harkin	Reid
Burns	Hatch	Rockefeller
Burr	Hutchison	Salazar
Byrd	Inouye	Sarbanes
Carper	Jeffords	Schumer
Clinton	Johnson	Sessions
Coburn	Kennedy	Shelby
Cochran	Kerry	Smith
Coleman	Kohl	Snowe
Collins	Landrieu	Specter
Conrad	Lautenberg	Stabenow
Cornyn	Leahy	Stevens
Corzine	Levin	Talent
Craig	Lieberman	Thune
Crapo	Lincoln	Voinovich
Dayton	Lott	Warner
DeWine	Martinez	Wyden
Dole	Mikulski	

NAYS—20

Alexander	Bond	Chafee
Allard	Brownback	DeMint

Ensign	Inhofe	Murkowski
Frist	Kyl	Roberts
Grassley	Lugar	Sununu
Gregg	McCain	Thomas
Hagel	McConnell	
NOT VOTING—9		
Biden	Chambliss	Isakson
Boxer	Dodd	Santorum
Cantwell	Graham	Vitter

The motion was agreed to.

CHANGE OF VOTE

Mr. ROBERTS. Mr. President, on rollcall vote 354, I voted “yea.” It was my intention to vote “nay.” Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

• Mr. VITTER. Mr. President, I ask that the RECORD show that I would have voted “aye” on rollcall vote 354, the DeWine motion to instruct conferees on S. 1932. I continue to support the Continued Dumping and Subsidy Offset Act, and I agree that its repeal should not be included in the conference report.●

Mr. SANTORUM. Mr. President, I regret that I was unable to vote this afternoon on the DeWine motion to instruct conferees with respect to S. 1932, the deficit reduction bill.

The DeWine motion to instruct conferees was crafted with the goal of preventing Senate conferees to S. 1932 from agreeing with the House provision that repeals the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA) during conference deliberations. Despite widespread support for this provision of law, the House companion bill repeals CDSOA. I have been a supporter of CDSOA since it was first crafted by Senator MIKE DEWINE of Ohio.

Mr. President, I ask that the RECORD reflect that, had I been here, I would have voted in favor of Senator DEWINE’s motion to instruct conferees to not repeal CDSOA during conference deliberations on S. 1932.

I ask unanimous consent that my letter of November 29, 2005, to the Honorable CHARLES GRASSLEY, Chairman, Committee on Finance, on the need to maintain CDSOA, be printed in the RECORD.

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

DEAR CHAIRMAN GRASSLEY: I write today concerning a provision contained in H.R. 4241, the House-passed savings reconciliation bill, that repeals the Continued Dumping and Subsidy Offset Act of 2000 [P.L. 106-387]. The Senate companion bill, S. 1932, does not include this repeal. I am optimistic that the Senate will not concur with the House action during conference deliberations on this bill. Please know that I was a cosponsor of the free-standing bill introduced by Senator Mike DeWine that was the blueprint for this amendment.

Over two years ago, the World Trade Organization (WTO) ruled that the Byrd Amendment is inconsistent with the United States’ WTO obligations. The WTO has since authorized eight WTO members to retaliate against

the United States. Canada, the European Union, Japan and Mexico have imposed about \$115 million in retaliation on U.S. exports after the United States failed to meet a December 2003 WTO deadline for repealing the act.

However, in H.R. 2673, the Fiscal Year 2004 Consolidated Appropriations Act, Congress included a provision that directs the Bush Administration to immediately initiate WTO negotiations to recognize the ability of WTO members to distribute monies collected from antidumping and countervailing duties, and to provide regular reports on such negotiations.

Earlier this year, 25 Republican Senators wrote to Majority Leader Frist urging that the Senate not agree to any provisions that would repeal CDSOA. Prior to that letter, over 70 Senators wrote to President Bush expressing the view that U.S. negotiators needed to re-engage WTO members and to continue to push for maintaining CDSOA. It was the view of these Members that U.S. trade laws are designed to insure a level playing field for U.S. industries and their workers that are being harmed by unfair trade.

As you may recall, the Bush administration stated in its November 2002 appeal “[T]he Panel in this case has created obligations that do not exist in the WTO Agreements cited. The errors committed are serious and many about a statute which, in the end, creates a payment program that is not challenged as a subsidy.”

With this in mind, I urge you to oppose efforts to repeal CDSOA during House-Senate conference negotiations on H.R. 4241 and S. 1932, the spending reconciliation bills.

Thank you for your kind consideration of this request.

Sincerely,

RICK SANTORUM,
United States Senate.

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

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

The motion to lay on the table was agreed to.

MOTION TO INSTRUCT CONFEREES

Mr. GREGG. Mr. President, what is the regular order?

The PRESIDING OFFICER (Mr. CHAFEE). There is 2 minutes evenly divided.

Mr. GREGG. Is that on the Kohl proposal?

The PRESIDING OFFICER. That is correct.

Mr. KOHL. Mr. President, I call up my motion, which is at the desk, to reject the \$16 billion cut to the child support program which is in the House bill but which is not in the Senate bill. The House position will result in \$24 billion in child support payments going uncollected, and would impact families in every single State. The child support program is a proven success and it has won high praise in the President’s 2006 budget for providing a \$4 return on every dollar invested in the program.

The House conference report is opposed by a wide range of interests, including the National Governors’ Association and the National Conference of State Legislatures. I strongly urge my colleagues to join me in sending a message to the conferees that the Senate will not support cutting benefits for over 17 million children.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. The motion of the Senator from Wisconsin is not binding so I am sure they will vote as they please. It is well-intentioned and I agree with the concept. However, there are issues within the child support questions which should be subject to conference and which, if you read the motion literally and which if it had any binding effect, would undermine our capacity to have flexibility in conference.

Specifically, for example, under the law today, you can use Federal money and make the State match, so what is happening is States are taking Federal money, and instead of using their State dollars to match, they are using Federal money to get more Federal money. That makes no sense at all.

The House has corrected this program. This language would undermine that. I hope we do not support the motion to instruct. The conference will do a good job on this. It does not need this instruction.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Louisiana (Mr. VITTER).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) would vote “yea.”

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

The result was announced—yeas 75, nays 16, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—75

Akaka	Enzi	Murray
Alexander	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Frist	Obama
Bennett	Grassley	Pryor
Bingaman	Harkin	Reed
Burns	Hatch	Reid
Byrd	Hutchison	Roberts
Carper	Inouye	Rockefeller
Chafee	Jeffords	Salazar
Clinton	Johnson	Sarbanes
Coburn	Kennedy	Schumer
Coleman	Kerry	Sessions
Collins	Kohl	Shelby
Conrad	Kyl	Smith
Cornyn	Landrieu	Snowe
Corzine	Lautenberg	Specter
Craig	Leahy	Stabenow
Crapo	Levin	Stevens
Dayton	Lieberman	Talent
DeWine	Lincoln	Thomas
Dole	Lugar	Thune
Domenici	McCain	Voinovich
Dorgan	Mikulski	Warner
Durbin	Murkowski	Wyden

NAYS—16

Allard	Cochran	Lott
Allen	DeMint	Martinez
Bond	Ensign	McConnell
Brownback	Gregg	Sununu
Bunning	Hagel	
Burr	Inhofe	
	NOT VOTING—9	
Biden	Chambliss	Isakson
Boxer	Dodd	Santorum
Cantwell	Graham	Vitter

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote in relation to the motion to instruct offered by Senator KENNEDY.

Mr. KENNEDY. Mr. President, I will just take 30 seconds because the other 30 seconds will be taken by the chairman of the HELP Committee. All this motion does is insist that the student aid program—which provides \$8 billion more for Pell eligible students—that passed out of our committee, virtually unanimously, will be affirmed in the conference. Effectively, we are taking what was the bipartisan agreement in our committee under the leadership of Senator ENZI and instructing the conferees to support that position.

Many of our colleagues have voiced their public support for this motion, including Senators DURBIN, HARKIN, DODD, REID, LIEBERMAN, KERRY, REED, CORZINE, CLINTON, and LAUTENBERG.

If you are for American competitiveness in the global economy, you will vote for this motion.

If you are for a strong national security, you will vote for this motion.

If you are for opportunity for every American, you will vote for this motion.

I urge my colleagues to join me in doing what is right for American families, especially at Christmas, and send a strong message that students need our help now.

I yield 30 seconds to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I concur with what the Senator from Massachusetts just said. As the body will remember, the Health, Education, Labor, and Pensions Committee had the heaviest lifting in the savings bill, and we met that requirement. We met that requirement while we provided for some grants for both low-income and people who would major in math and science and some special languages.

I would appreciate the support of this body on this instruction. I have been negotiating with the House for 5 full days, and this is one of the issues that is still up. This instruction would help us in that negotiation. I would appreciate the support.

Mr. DURBIN. Mr. President, I rise today to urge my colleagues to support Senator KENNEDY's motion to instruct conferees. The motion instructs Senate conferees to insist on preserving the Senate provisions that increase need-based financial aid in S. 1932. Forty years ago, President Johnson sought to

increase accessibility to education by signing into law the Higher Education Act of 1965. In President Johnson's words, "To thousands of young men and women, this [Act] means the path of knowledge is open to all that have the determination to walk it . . . a high school senior anywhere in this great land of ours can apply to any college or any university in any of the 50 States and not be turned away because his family is poor."

Access to higher education has long been and remains a great American goal. The good news is that the number of students enrolling in institutions of higher education has nearly doubled over the past 35 years—from 8.5 million in 1970 to approximately 16 million in 2005. The bad news is that, despite the importance of a college education in the 21st century, so many millions of young adults never make it to college. Sadly, many fail to make it to college due to financial constraints.

Never has higher education played such a critical role in closing the gap between the haves and the have-nots. Over the course of their lifetime, college graduates earn over \$1 million more than those without college degrees. Today, 6 out of every 10 jobs require some postsecondary education and training. By 2010, the number of jobs requiring advanced skills will grow at twice the rate of those requiring only basic skills.

In addition to the individual benefits of earning a college degree, investing in and producing more college-educated Americans is vital to our Nation's growth. Economists estimate that the increases in the education level of the U.S. labor force between 1915 and 1999 directly resulted in at least 23 percent of the overall growth in U.S. productivity.

Unfortunately, the cost of a college education is far out of reach for many American students and is hitting poor families the hardest—not just those from poverty-stricken areas but those who come from family farms and those who may be new immigrants. According to the College Board, the inflation-adjusted, real increase in tuition, fees, and room and board at public colleges over the last 5 years has been 2 percent. At 4-year private schools, the same costs have increased by 17 percent.

Federal financial assistance is simply not keeping pace with rising college costs. In the 1970s, the maximum Pell grant for low-income and working class families covered about 40 percent of the average cost of attending a 4-year college. Now it only covers about 15 percent. Smart, hardworking kids from low-income backgrounds deserve a chance to go as far as their talents will take them. According to Postsecondary Education Opportunity, a higher education research group, the percentage of the Nation's poorest students who earned a bachelor's degree by age 24 increased only from 7.1 percent in 1975 to 8.6 percent 2003. The students left be-

hind represent a huge untapped resource for our country.

Recently, many reports have sounded the alarm that America is losing its edge as the world's technological innovator to countries such as China and India. These countries are moving from being the world's supplier of low-wage, high-labor work to becoming the world's technological leaders by investing in their talent pool. In recent years, Americans have felt the effects of the impact of education as newly educated workers from China and India compete for prime jobs once held in the United States. According to the National Academies, in 2004, China graduated 600,000 engineers and India 350,000, while the United States produced only 70,000 engineers. To keep America's edge, we must recognize the value of investing in higher education and provide our young adults with the assistance they need so that they can compete in the global economy.

The Senate provisions included in S. 1932 that increase need-based financial aid—Pell grants and new need-based aid programs such as ProGap and SMART grants—will help many deserving students reach their educational potential. In contrast, the House fails to seize an opportunity to expand Pell grants and other need-based aid. Instead, the House bill includes provisions that would make college more expensive for families. These provisions include: No. 1, a temporary increase in origination fees for direct loan borrowers; No. 2, repeal of a scheduled reduction in the maximum student loan interest rate—from 8.25 percent to 6.8 percent for students and from 9 percent to 7.9 percent for parents; No. 3, imposing a new 1 percent borrower origination fee that will make it more expensive to consolidate loans; and No. 4, requiring lenders to charge student and parent borrowers a 1 percent insurance fee on student loans.

By insisting on the Senate provisions, we will boost need-based aid and in turn help the United States maintain its competitive edge. But most importantly, we will be a step closer to living up to the promise that President Johnson made to America's youth 40 years ago: providing access to higher education for those determined to realize the American dream.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. We yield back the remainder of the time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the motion.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Louisiana (Mr. VITTER).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) would vote “aye”.

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

The result was announced—yeas 83, nays 8, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—83

Akaka	Durbin	Mikulski
Alexander	Ensign	Murkowski
Allard	Enzi	Murray
Allen	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Frist	Obama
Bennett	Grassley	Pryor
Bingaman	Harkin	Reed
Brownback	Hatch	Reid
Bunning	Hutchison	Roberts
Burns	Inouye	Rockefeller
Byrd	Jeffords	Salazar
Carper	Johnson	Sarbanes
Chafee	Kennedy	Schumer
Clinton	Kerry	Sessions
Cochran	Kohl	Shelby
Coleman	Kyl	Smith
Collins	Landrieu	Snowe
Conrad	Lautenberg	Specter
Cornyn	Leahy	Stabenow
Corzine	Levin	Stevens
Craig	Lieberman	Talent
Crapo	Lincoln	Thomas
Dayton	Lott	Thune
DeWine	Lugar	Voinovich
Dole	Martinez	Warner
Domenici	McCain	Wyden
Dorgan	McConnell	

NAYS—8

Bond	DeMint	Inhofe
Burr	Gregg	Sununu
Coburn	Hagel	

NOT VOTING—9

Biden	Chambliss	Isakson
Boxer	Dodd	Santorum
Cantwell	Graham	Vitter

The motion was agreed to.

Mr. GREGG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided on the Reed motion to instruct conferees. The Senator from Rhode Island.

Mr. REED. Mr. President, I offer this motion along with my colleague, Senator COLLINS from Maine. I will shortly yield to her the last 30 seconds. I also offer it on behalf of myself and other Senators, including Senator LAUTENBERG.

The reality is very clear to so many poor families in this country. Energy prices are rising, temperatures are falling, and they are going to be in a very vulnerable and very disadvantaged position. This amendment would add \$2.9 billion in additional funding for LIHEAP. It would bring it up to the authorized level of \$5.1 billion.

We have considered this proposal in various procedural means four times. A

majority of the Senate has always supported it. I hope it continues to do so.

I yield my remaining time to Senator COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I urge my colleagues to support this motion to instruct the conferees to add \$2.9 billion for the LIHEAP program. The time is growing late. In northern Maine, the high temperature earlier this week—the high temperature—was 12 degrees. Let's act now to avert a real crisis for low-income families across this country.

Ms. SNOWE. Mr. President, I rise today for one very simple reason—to ask for the support of my colleagues for the Reed-Collins-Kennedy-Snowe motion to instruct the conferees to S. 1932, to add \$2.92 billion for the Low Income Home Energy Assistant Program, or LIHEAP. This funding, along with the expected \$2.18 billion in fiscal year 2006 appropriations, will confirm the commitment we made just this past July and bring LIHEAP up to the level of \$5.1 billion we authorized in the 2005 Energy bill.

In the Nation's colder States such as Maine, the days are relentlessly marching toward winter, the clock is ticking as the thermometer edges ever downward and it would be unconscionable for Congress to adjourn for the year without providing critical, additional assistance for LIHEAP at a time when home heating oil prices have been predicted to increase by up to 44 percent this coming winter.

There should be no mistake—this is an emergency and a crisis that is no longer an impending crisis as I have been saying for months—it is now here. I feel very strongly that it would be an abrogation of our responsibility to stand by and allow more and more of our elderly on fixed incomes and low-income people, including children, to suffer because of a lack of heat.

This past week, it was reported to one of my Maine offices that two elderly people—who have already used up their entire LIHEAP allotment for a winter that has not yet officially arrived—were admitted to the hospital with hypothermia. In one of the households, the residence was so cold the water in the toilet bowl was frozen. It has been said that a society is judged by how it treats its most vulnerable citizens. What a failing grade we would get for LIHEAP. The fact is, countless Americans don't have room in their budget for such a surge in home heating prices—but surely, in looking at our national priorities, we can find room in our budget to help Americans stay warm this winter.

It does not take a crystal ball to predict the dire consequences when home heating oil in Maine has risen to \$2.59 per gallon, up 66 cents from a year ago, kerosene prices average \$2.72 a gallon, 52 cents higher than this time last year, and propane is at \$2.20 per gallon, 17 cents higher than last year. Some

projections have a gallon of heating oil reaching \$3.00 later in the winter.

So understandably, we are hearing the mounting concern “how will I pay for home heating oil when it's already almost 30 percent more than last year, and I struggled to make ends meet then?” “How will I afford to pay half again as much for natural gas?” People need to know now that they can count on us—U.S. Congress—for assistance, not the most disruptive country leader in the Western Hemisphere who comes bearing gifts of discounted oil to our communities and States. This country should take care of its own.

Home heating oil in my State is a necessity of life—so much so that 73 percent of households in a recent survey reported they would cut back on, and even go without, other necessities such as food, prescription drugs, and mortgage and rent payments. Churches, food pantries, and local service organizations are all hearing the cry and sensing the growing need.

Because of the supply disruptions caused by the Gulf hurricanes at a time when prices were already spiraling up, prices have been driven even higher and are directly affecting low-income Mainers and how they will be able to pay for their home heating oil, propane and kerosene this winter. A recent Wall Street Journal quoted Jo-Ann Choate, who heads up Maine's LIHEAP program. Ms. Choate said, “This year we've got a very good chance of running out.” Eighty-four percent of the applicants for the LIHEAP program in the State use oil heat. Over 46,000 applied for and received State LIHEAP funds last winter. Each household received \$480, which covered the cost of 275 gallons of heating oil.

The problem this winter is that the same \$480 will buy only 172 gallons, which a household will use up in the first 3 to 4 weeks in Maine. What will these people do to stay warm for the four or five months left of winter? The water pipes will freeze and then break, damaging homes. People will start using their stoves to get heat. The Mortgage Bankers Association expects that the steep energy costs could increase the number of missed payments and lost homes beginning later this year. My State is anticipating at least 48,000 applicants this winter, so there will be less money distributed to each household unless we can obtain higher funding for the LIHEAP program.

Ms. Choate says that Maine plans to focus on the elderly, disabled, and families with small children, and is studying how to move others to heated shelters. This is why our efforts are so very important. And it isn't just Maine. It is happening in all of the Nation's cold weather States. Quite simply, without increased funding, we are forcing the managers of State LIHEAP programs to make a Solomon's choice as to who gets served.

The facts are that LIHEAP is projected to help 5 million households nationwide this winter. But that is only

about one-sixth of households across the country that actually can qualify for the assistance. So this is a perennial fight we wage even when prices aren't as high as today. And now, that battle becomes all the more pivotal.

I Thank Senators REED and COLLINS for their leadership on this motion to instruct the conferees for increased LIHEAP funding, and I am proud to stand shoulder to shoulder with them to secure what is, in essence, literally life-or-death funding for our most vulnerable Americans. The cold weather won't wait—and neither should we when it comes to helping citizens survive through the coming winter.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, let's remember what this amendment does in the context of the LIHEAP issue. This amendment will add \$2.9 billion to the national debt and pass that debt on to our children in order to pay for energy costs which are being incurred today.

The correct way to do this is the way we proposed in the Senate, as Republicans, which is to pay for it. That is what we will do in the conference. There is already \$1 billion additional money for LIHEAP in the conference, and it will probably go up. The difference between those dollars and what is being proposed in this amendment is we actually pay for it.

It is inappropriate to go to this number, which is a 130-percent increase in the LIHEAP program, when spending on oil is estimated to go up by 28 to 30 percent or maybe even 40 percent. Increasing the program by 130 percent when the oil costs are going up 30 to 40 percent is inconsistent on its face.

It is especially inconsistent when one is taking that bill and giving it to one's children and their children's children so they end up paying for today's oil costs rather than their oil costs 2 or 3 years from today or two or three generations.

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

The yeas and nays were previously ordered.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Louisiana (Mr. VITTER).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) would vote "aye."

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

The result was announced—yeas 63, nays 28, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—63

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Grassley	Obama
Bingaman	Harkin	Pryor
Burns	Inouye	Reed
Burr	Jeffords	Reid
Byrd	Johnson	Rockefeller
Carper	Kennedy	Salazar
Chafee	Kerry	Sarbanes
Clinton	Kohl	Schumer
Coleman	Landrieu	Smith
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Corzine	Levin	Stabenow
Crapo	Lieberman	Stevens
Dayton	Lincoln	Sununu
DeWine	Lugar	Talent
Dole	Martinez	Thune
Domenici	McCain	Voinovich
Dorgan	Mikulski	Warner
Durbin	Murkowski	Wyden

NAYS—28

Alexander	Craig	Kyl
Allard	DeMint	Lott
Allen	Ensign	McConnell
Bennett	Enzi	Nelson (NE)
Bond	Frist	Roberts
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Coburn	Hatch	Thomas
Cochran	Hutchison	
Cornyn	Inhofe	

NOT VOTING—9

Biden	Chambliss	Isakson
Boxer	Dodd	Santorum
Cantwell	Graham	Vitter

The motion was agreed to.

• Mr. SANTORUM. Mr. President, I regret that I was unable to vote this afternoon on the Reed motion to instruct conferees with respect to S. 1932, the deficit reduction bill.

The LIHEAP program is of critical importance to Pennsylvania. My State routinely faces very harsh winters. Now that the cold weather is here and bills must be paid, I believe we must act to provide additional funding for this program. My record shows that I have been a consistent LIHEAP supporter, and I am hopeful that an increase will be promptly approved.

Mr. President, I ask that the RECORD reflect that, had I been here, I would have voted in favor of Senator REED's motion to instruct. •

Mr. GREGG. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER.

Under the previous order, the Presiding Officer appoints Mr. GREGG, Mr. DOMENICI, Mr. GRASSLEY, Mr. ENZI, Mr. ALLARD, Mr. SESSIONS, Mr. STEVENS, Mr. SHELBY, Mr. SPECTER, Mr. CHAMBLISS, Mr. McCONNELL, Mr. CONRAD, Mrs. MURRAY, Mr. HARKIN, Mr. SARBANES, Mr. INOUYE, Mr. BINGAMAN, Mr. BAUCUS, Mr. KENNEDY, and Mr. LEAHY conferees on the part of the Senate.

ORDER OF PROCEDURE

Mr. GREGG. Mr. President, I ask unanimous consent that the Senator

from Massachusetts be recognized at this point for 10 minutes, and after the Senator from Massachusetts has completed his time, the majority leader be recognized.

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

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from New Hampshire.

SBA RESPONSE TO HURRICANES IN GULF STATES

Mr. KERRY. Mr. President, obviously somewhere in the next few days—we don't know when yet—we are going to be wrapping up our business here, and that will mark the end of the first session of the 109th Congress. Before we leave, Members on both sides of the aisle are very concerned that we will not have provided the assistance to the small businesses in the Gulf States region that they desperately need in order to recover from the effects of Hurricanes Katrina and Rita.

The effect is that literally hundreds of thousands of small businesses are in desperate need of assistance throughout that region. Without the jobs those small businesses provide, the economy of the gulf coast is going to have a much harder time coming back.

Since Hurricanes Katrina and Rita hit the gulf coast, regrettably—this has been commented on again by Senators on both sides of the aisle; it is not a partisan issue—there has been a stunningly slow response by the Administration to provide relief to small businesses.

The administration has now sent up three pieces of emergency legislation—three supplemental emergency spending bills worth more than \$62 billion—and yet we have not adopted any direct relief for small businesses.

The latest supplemental request asks for \$471 million in additional funding for SBA disaster loans and the SBA Inspector General. But, frankly, giving more money to the disaster loan program doesn't address small business needs. It's too narrow in scope and is not delivering relief with urgency.

Senator LOTT has talked about the problems—Senator COCHRAN has too—and there is a recognition that you have a lot of small businesses that can't wait till their disaster loans are processed or disbursed. They need access to capital immediately.

It is a matter of record now, commented on in many national journals, that the SBA has done a completely inadequate job—abysmal may be a better word—of getting disaster loan funds into the hands of small businesses in the gulf region.

It is not because of the lack of funds or the lack of employees. The SBA has enough funding to grant \$1.4 billion in disaster loans, and \$249 million for administration and staff. The staffing has been increased from some 800 employees to 4,000 employees.

As of Monday of this week, almost 39,000 small businesses had applied for