

records sought, or the individual, suspected of terrorist activity. Additionally, the conference report does not impose any limit on the breadth of the records that can be requested or how long those records can be kept by the Government.

Under the current PATRIOT Act, an individual who receives a section 215 order to turn over business records is prohibited from telling anyone about the order. This is referred to as a "gag order." The conference report is an improvement over current law as it explicitly grants the right for a suspect to consult with an attorney regarding this "gag order" but unlike the Senate version, the conference report also requires an individual who receives a Section 215 order to notify the FBI if he consults with an attorney and to identify the attorney.

Second, under current law, the FBI can issue a national security letter—"NSL"—without the approval of a judge, grand jury, or prosecutor, to obtain certain types of sensitive information about innocent individuals. Similar to a 215 order, the targeted individual is restricted by a gag order. While the conference report does provide the right to challenge the NSL demand, it also requires the court to accept as conclusive the Government's assertion that a gag order should not be lifted, unless the court determines the Government is acting in bad faith.

I also find it troubling that the conference report would give the Government the authority to keep all evidence secret from an individual who is challenging a 215 order or an NSL order. For example, if an attorney wants to challenge an order to turn over the business records of a client on the grounds of attorney/client privilege, they would not be allowed to see the evidence the Government had requested or the reasoning behind the request. It is also important to note that the recipient of a Section 215 "business records" order or an NSL order is usually not the subject of investigation. For example, a doctor could receive a Section 215 order from law enforcement to reveal the medical records of a patient. Under this conference report, that patient would not even receive notice that the Government had obtained his personal information and would never have the opportunity to challenge the use of that information in a trial.

Third, I would like to address "roving wiretaps." A "roving wiretap" is a tap on any telephone that a suspect uses, moving from one telephone to another, with no particular locational target. Under the PATRIOT Act, the FBI is authorized to engage in roving wiretaps without court approval. The Senate bill mandated that a roving wiretap include sufficient information to describe the specific person to be wiretapped with "particularity." "Particularity" is a legal term of art describing the place or places to be searched, the person or persons, thing

or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. The conference report does not include that requirement and it does not require the Government to determine whether the target of a roving intelligence wiretap is present before beginning surveillance. Without this level of specification it is easy to see how roving wiretaps could be abused to secretly record the conversations of Americans without their knowledge or consent.

However, I would also like to note that the conference report is an improvement over current law as it includes a number of comprehensive public reporting and auditing requirements which would help prevent abuse of section 215 orders and to help preserve civil liberties. Additionally, the conference report also maintains provisions from the Senate bill that address the shortcomings of current law, including expressly permitting the recipient of the national security letter or a section 215 order to consult with an attorney, requiring the Government to notify a target of a warrantless search within a set number of days, and limiting the use of roving wiretaps to those cases in which the FBI includes a "specific" description of the target and "specific facts in the application" that show the target's actions may thwart conventional surveillance efforts.

The PATRIOT Act Reauthorization conference report passed the House by a vote to 251-174 on December 14 and was brought to the Senate floor for debate. On December 16, Senator FRIST attempted to invoke cloture to bring this body to a vote on the conference report. Cloture was not invoked. I was necessarily absent from the Senate for health reasons.

Since then I have joined 47 of my colleagues in cosponsoring S. 2082. The bipartisan legislation, introduced by Senators SUNUNU and LEAHY, would provide a 3-month extension of the expiring provisions of the PATRIOT Act. Unfortunately, Senator FRIST has said he will not permit a vote on it; the House leadership has said they will not bring it to the floor for a vote; and the Bush administration has stated that, even if the extension were to pass both the House and the Senate, President Bush would refuse to sign it. My fellow colleagues have asked this body more than a half dozen times to allow this 3-month extension to come to the floor. They have been denied this opportunity. This is playing politics with an extremely important law that protects our citizens from terrorism.

Earlier this week, the President, in speaking of the PATRIOT Act, said, "in a war on terror, we cannot afford to be without this law for a single moment." I agree with his statement. That is why there is no reason why the President and those on the other side of the aisle should refuse to extend this important law. This is why I remain hopeful that the majority leader will

set aside politics and allow this extension to occur. Law enforcement officials should not be without these important tools to fight terrorism for even a single moment. We would then have the opportunity to return after the holidays to address these areas of concern and hopefully pass a bipartisan bill that would enhance our ability to fight terrorism without substantially encroaching on our civil liberties.

The PRESIDING OFFICER. Under the previous order, the bill is read a third time and passed, and the motion to reconsider is laid upon the table.

The bill (S. 2167) was read a third time and passed, as follows:

S. 2167

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF SUNSET OF CERTAIN PROVISIONS OF THE USA PATRIOT ACT AND THE LONE WOLF PROVISION OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.**

Section 224(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (18 U.S.C. 2510 note) is amended by striking "December 31, 2005" and inserting "July 1, 2006".

**MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION—CONFERENCE REPORT—Resumed**

Mr. McCONNELL. Mr. President, notwithstanding the previous order, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany H.R. 3010, that the conference report be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The clerk will report the conference report by title.

The legislative clerk read as follows:

A conference report to accompany H.R. 3010 making appropriations for Departments of Labor, Health and Human Services and Education, and for other purposes.

There being no objection, the Senate proceeded to consider the conference report.

Mr. KYL. Mr. President, I rise today to call attention to a provision contained in the conference report to H.R. 3010, the fiscal year 2006 appropriations bill for Departments of Labor, HHS, and Education. I am pleased to see that House and Senate conferees were able to provide \$100 million for the Teacher Incentive Fund. The Teacher Incentive Fund was first proposed in the President's fiscal year 2006 budget, and will offer an appropriate incentive to States and local education agencies to advance the goals of the No Child Left Behind Act.

The No Child Left Behind Act, enacted 4 years ago, raised expectations for students and teachers. Students are expected to raise their achievement level, and teachers are accountable for reaching the specific goals. The Teacher Incentive Fund is an appropriate follow up to the No Child Left Behind

Act. It is a pilot program for States and school districts to provide additional compensation to teachers who make a measurable impact on raising student achievement. Under this incentive program, Federal funds would be available to States and local school districts for the purpose of developing new compensation systems to reward teachers who raise achievement and to provide an incentive to attract effective teachers to what the Department of Education calls high-need schools. These are schools with high poverty rates and poor performance on State assessments. The Teacher Incentive Fund provides States and school districts with another tool to raise teacher quality and, thus, close the achievement gap, which, of course is the primary goal of the No Child Left Behind Act.

In October, the Senate Republican Policy Committee, of which I am the chairman, released a policy paper in support of merit pay for teachers in general and the Teacher Incentive Fund specifically. The paper, titled "Teachers Are Key to Success of 'No Child Left Behind' Act: Better Pay for Better Teaching," discusses research in support of merit pay for teachers, and the success merit pay programs have achieved.

Mr. President, I ask unanimous consent that this paper be printed in the RECORD following my remarks.

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

**TEACHERS ARE KEY TO SUCCESS OF 'NO CHILD LEFT BEHIND' ACT: BETTER PAY FOR BETTER TEACHING**

**INTRODUCTION**

Enacted four years ago, the No Child Left Behind (NCLB) Act raised expectations for students and teachers. Students are expected to raise their achievement level, and teach-

ers are accountable for reaching the specific goals. As such, it is appropriate to reward and acknowledge those teachers who, by working harder and smarter, have achieved measurable success in their classrooms.

President Bush has proposed a pilot program for states and school districts to provide additional compensation to teachers who make a measurable impact on raising student achievement. Under this incentive program, federal funds would be available for the purpose of developing new compensation systems to reward teachers who raise achievement, and to provide an incentive to attract effective teachers to what the Department of Education calls "high-need" schools, which are schools with high poverty rates and poor performance on state assessments.

In response to the President's proposal, the House of Representatives included an incentive pay program for teachers in its Fiscal Year 2006 appropriations bill that funds the Department of Education (H.R. 3010). The House-passed program, like the one proposed by the President, is a voluntary pilot program available to interested states and school districts. The Senate-reported bill does not contain such a provision.

Some observers may be concerned that using federal dollars for anything related to teacher pay is an inappropriate intrusion of the federal government into an area that is historically the jurisdiction of states and local school districts. However, supporters of this concept view it in the context of a natural follow-up to the four-year-old NCLB. That law placed new accountability requirements upon schools; thus, it is argued, it is now appropriate for the federal government to make available financial incentives for teachers who help meet those requirements. The concept of the President's proposal and the House plan is to provide states and school districts with another tool to raise teacher quality and close the achievement gap, which stand as the foundation of NCLB.

According to a November 2004 national survey, 80 percent of the public supports salary increases for teachers who raise student achievement. However, some observers suggest that teachers' unions oppose anything that might be construed as merit pay. At least one observer notes that union opposi-

tion stands in the way of local districts implementing merit pay systems on a larger scale. For example, in California, in response to Governor Schwarzenegger's proposal to introduce merit pay for teachers, the state's largest teachers' union sought to impose a dues hike on its members to help raise "tens of millions of dollars" to combat merit pay and other budget initiatives. A federal pilot program, such as the one proposed by the President, may be necessary to allow public schools to overcome teachers' unions' opposition to implementing a compensation program that links teacher performance and student outcomes. The pilot program would provide funds directly to state and local educational agencies to allow this concept—one that has already proven successful in other schools—the chance to prove itself and build support within the community. This was the case in Little Rock, Arkansas. Merit-pay bonuses were paid in the first year by an anonymous donor; the next year, the school district, pleased with the results of the first year, voted to use its own funds to pay performance bonuses.

**BACKGROUND: AN ANTIQUATED PAY SYSTEM**

Today, the majority of teachers in the United States are compensated through a "single salary schedule," which bases teachers' pay on their years of experience and their education credits and degrees. According to the National Center for Education Statistics, 96 percent of all public school districts utilize a single-salary schedule for teacher pay. The system was designed in the 1920s to ensure fairness among elementary school teachers, who were mostly women, and secondary teachers, who were mostly men. Critics contend that this pay system fails teachers and students as it does nothing to reward excellence. Indeed, it promotes equal pay for unequal performance. Under the current system, an increase for one teacher means an increase for all. The following table shows the Denver Public Schools' salary schedule as offered by Brad Jupp, education author and member of the Denver Classroom Teachers Association. According to Jupp, it is an example of a "typical single-salary schedule" used for paying teachers.

FIGURE 1.—DENVER'S SALARY SCHEDULE<sup>1</sup>

	B.A.	M.A.	Doctorate
New Hire .....	\$31,320	\$31,779	
Step 1 .....	32,971	33,454	\$39,169
Step 2 .....	33,073	33,697	40,903
Step 3 .....	33,225	35,101	42,642
Step 4 .....	33,480	36,503	44,377
Step 5 .....	33,785	38,053	46,251
Step 6 .....	33,988	39,671	48,219
Step 7 .....	35,421	41,337	50,290
Step 8 .....	36,912	43,087	52,449
Step 9 .....	38,456	44,924	54,702
Step 10 .....	40,092	46,860	57,057
Step 11 .....	41,784	48,843	59,521
Step 12 .....	43,566	50,944	62,082
Step 13 .....	45,546	53,401	64,919

<sup>1</sup> With relatively low starting salaries and guaranteed raises over time, the current Denver Public Schools salary schedule is typical of compensation schemes for teachers. Each step represents a year of teaching.  
Source: Denver Public Schools.

Proponents of changing teacher compensation argue that the single-salary schedule deprives public school administrators of the ability to adjust an individual teacher's pay to reflect performance, attract sought-after skills, and assure that teaching positions in low-income schools are filled by high performers. For example, many school systems struggle to fill teaching positions in fields that command high salaries outside of education, such as math and science. The rigidity of the single-salary schedule prevents them from addressing this shortage in the obvious way—by raising pay in these specialties. Likewise, few school systems provide

extra compensation to teachers who work with disadvantaged students. Therefore, experienced teachers often use their seniority to transfer to more attractive schools, leaving the neediest students with more inexperienced teachers.

With such obvious flaws in this rigid pay system, why don't states and local school districts reform their pay practices for teachers? The short answer is teachers' unions. Unions defend the single-salary schedule in the name of employee equity and fairness, and oppose changes that rely on student performance as a measure of a teacher's effectiveness. Furthermore, teachers'

unions, particularly the National Education Association, have opposed merit pay systems because they place the union in an awkward position: "For every teacher awarded merit pay, ten others will want the union to file a grievance alleging that they deserved merit pay more than the teacher who received it."

**WHY MERIT PAY ENHANCES NCLB GOALS**

The No Child Left Behind Act requires that all students become proficient in reading and math, and that the achievement gap between students of different socio-economic backgrounds be closed. Schools that do not make progress must provide supplemental services,

such as free tutoring, and/or offering the option of choosing another public school. They must also take corrective action with regard to the way the school is run. The law, recognizing that high-quality, effective teachers are a necessary component to obtaining these results, established certain teacher-quality requirements for states, including the requirement that core academic subjects be taught by "highly qualified teachers." And while federal funds already are in place for professional training and development to help states and school districts meet this requirement, that program alone may be insufficient. The General Accounting Office (GAO) reported in 2003 that state and district officials are hindered in their ability to obtain all highly qualified teachers for a number of reasons, including "the lack of incentive pay programs."

In keeping with the rationale that teachers are the key to the success of NCLB's goals, and so should be rewarded for meeting them, the President proposed a \$500 million Teacher Incentive Fund as part of his FY 2006 budget request. This formula grant program is for states and school districts that choose to reward effective teachers—those who are closing the achievement gap for students in schools most in need, and those who otherwise are meeting NCLB annual targets for student achievement. Under the President's proposal, states would be authorized to create a statewide system to reward these teachers, and to provide grant money to local school districts in order to recruit highly qualified teachers to high-need schools. Additionally, the President requested that a portion of the funds be used for competitive grants for the development and implementation of performance-based teacher compensation systems in order to aid school districts that choose to change to such a system.

H.R. 3010, the House-passed Fiscal Year 2006 appropriations bill for the Departments of Labor, Health and Human Services, and Education, and Related Agencies, included \$100 million for a pilot Teacher Incentive Fund program available to states willing to develop and implement innovative ways to provide financial incentives for teachers (and also principals) who raise student achievement and close the achievement gap. In the interest of ensuring that the states remain in control of this issue—and are committed to it—the bill requires states and schools to pay for an increasing share of the total cost of the project in subsequent years with non-federal funds. And, in order to assure that workable plans can be implemented elsewhere, the bill requires the Department of Education to assess each project through an independent evaluator, and then share these assessments with other interested parties.

It is important to note that the proposals of both the President and the House allow state and local schools a great deal of latitude in how they develop merit pay plans. For example, they may include additional measures and goals, combined with student performance, but the fundamental shift would be that the merit pay systems consider outputs, such as student achievement, rather than only inputs, such as the number of courses a teacher takes.

The provisions in the House funding bill were applauded by the chairman of the Department of Education's authorizing committee who noted, "The federal government is spending tens of billions of dollars a year on K-12 education programs. States and schools ought to be allowed to use at least a fraction of that money to provide financial rewards for highly qualified teachers and principals who are working successfully to raise student achievement." Chairman John Boehner (R-OH) also noted that the funds

provided in the House bill are not new, but are being diverted from existing funds that were used for what he termed "less effective programs." Meanwhile, the Senate-reported appropriations bill that funds the Department of Education (as reported on July 14), does not include a similar provision.

#### MERIT PAY IS SOUNDLY SUPPORTED

Support for the use of merit pay in public education has not been limited to one political party. In addition to the support of the President and House Republicans noted above, the 2004 Democratic Presidential candidate, John Kerry (D-MA), voiced his support. In his policy plan, "A Great Teacher for Every Child," the candidate stated that "teachers should be rewarded for demonstrating more skill or better results."

Another Democratic advocate is former Clinton Administration official Joel Klein, now Chancellor of the New York City public schools. According to Chancellor Klein, "Our system is built on principles of non-meritocracy and non-differentiation, and those two principles are killing us. At the heart of the problem are the three pillars of civil service: lock-step pay, seniority, and life tenure. Together, they act as handcuffs and prevent us from making the changes that will encourage excellence in our system."

In addition to the bipartisan support it has garnered from elected officials, merit pay for educators is supported by teachers, parents, and education researchers. In November 2004, two national surveys were conducted for The Teaching Commission, a private panelled by former IBM chairman Louis Gerstner, Jr. The surveys found that 80 percent of those surveyed support salary increases for "teachers who improve student achievement, raise teaching standards and increase accountability for teachers." The surveys also found that three out of four surveyed support paying higher salaries to teachers willing to serve in high-poverty schools that struggle to attract and retain good teachers. Furthermore, a 2003 survey conducted by the research group Public Agenda found that 85 percent of teachers and 72 percent of principals reported that providing financial incentives would "help a lot" when it comes to attracting and retaining quality teachers. Similarly, 72 percent of the public supported paying more for those who teach in subjects such as math, science, and special education in order to attract teachers with knowledge in these subjects.

#### REASONS TO SUPPORT MERIT PAY FOR TEACHERS: MERIT PAY HAS PROVEN RESULTS

A number of school districts have explored merit pay as a means to attract, motivate, and retain high-quality teachers. Below are examples of merit pay systems that proponents point to as promising models.

Starting in 1999, the Denver Classroom Teachers Association and the Denver Public Schools agreed to study the relationship between student achievement and teacher compensation. The initial study included a pilot project at 16 schools for four years. As a result of the initial pilot program, it was determined that teacher compensation "could not be based on student achievement alone." Therefore, the district and the teacher association formed a task force to design a new comprehensive pay system for teachers. The task force of teachers, school administrators, and local citizens used private funds to develop a system dubbed "ProComp," which linked teacher pay to the school district's instructional mission.

Denver's ProComp system has four components that allow teachers to earn additional pay. The first component is "knowledge and skill," which allows teachers to earn additional compensation by completing annual

training. The second component is "professional evaluation," which allows salary increases based on evaluation. The third, "student growth," rewards teachers based on the academic achievement of their students. And the fourth is "market incentives," which allows the district to offer additional pay for difficult-to-fill positions.

The Denver Board of Education and the teachers' association approved ProComp in 2004. Next, the program will be submitted to Denver voters later this year in order to raise the \$25 million needed to finance the system.

A second program proving successful is in Chattanooga, Tennessee. In 2001, nine of Tennessee's twenty worst performing schools were located in Chattanooga. The mayor and the school district, with cooperation from the teacher association (with funds provided by two private foundations), devised a plan to address these nine elementary schools, known as the "Benwood schools." To attract highly qualified teachers to teach in the Benwood schools, the group developed a teacher-incentive package. The package included a \$5,000 bonus for highly-qualified teachers as defined by student achievement, and a \$2,000 annual bonus for every teacher in a school that significantly increased its test scores, among other incentives.

The "Benwood schools" results are impressive. The percentage of third graders reading at or above grade level rose from 23 percent in 2001 to 36 percent in 2003. Across all grades, the percentage of students at or above grade level in reading/language arts rose from 57 percent in 2003 to 77 percent in 2005. Math achievement increased from 54 percent to 70 percent during the same period. In addition to raising student achievement, the Benwood schools report that filling their teacher positions has been easier, turnover has been reduced, and teacher morale has improved.

#### MERIT PAY HELPS WITH DIFFICULT-TO-FILL POSITIONS

The success of the NCLB depends particularly on raising achievement at high-needs schools, but, as Secretary of Education Margaret Spellings describes it, the current system detracts from that goal: "We have a system that doesn't give the teachers who want to help these students the support they deserve. While most professions reward those willing to take on the hardest assignments, the public school system often does the opposite. Teachers with the skill and desire to close the achievement gap find themselves drawn away from the schools that need the most help. Many school systems even offer de facto incentives for teachers to leave these schools." That is, sometimes experienced teachers use their seniority to transfer to more desirable schools.

To address this, a number of school districts have employed merit pay to reward highly qualified teachers who work in designated high-poverty schools. One such program is the Teacher Advancement Program (TAP) developed by the Milken Family Foundation. In addition to merit pay, the TAP system rewards teachers who take on additional responsibilities with additional pay. In Arizona, talented teachers have shown their support for this program by taking jobs at some high-need schools. Of the 61 teachers in one school district who moved to high-need schools, 13 (or 21 percent) came from schools in high socioeconomic areas, schools that are "among the best in the area." Additionally, school districts in Florida, Alabama, Maryland, and Tennessee are offering rewards to qualified teachers who work in designated high-poverty schools. According to the superintendent of one such school district, since the initiative began,

"staffing the urban schools has become much easier."

#### MERIT PAY RAISES TEACHER QUALITY AND TREATS TEACHERS AS PROFESSIONALS

Education research demonstrates that teacher quality is the single most important factor affecting student achievement. That said, one recent study documents a decline in teacher quality—which its authors attribute to lack of financial reward for quality work. Economists Carline Hoxby of Harvard University and Andrew Leigh of Australian National University found that salary distribution for U.S. public school teachers "has narrowed so dramatically that those with the highest aptitude can expect to earn no more than those with the lowest. This alone accounts for more than three-quarters of the decline in teacher quality." According to their research (which used mean SAT scores to define "aptitude" and was limited to women), 16 percent of American female teachers in 1963 were of low aptitude, compared to 36 percent in 2000. At the other end of the spectrum, only one percent of female teachers in 2000 were high-aptitude, compared to five percent in 1963.

This study underscores the assertion that, especially in this highly competitive economy, the single-salary schedule that bases compensation solely on college credits, education degrees, and years of experience does not attract the best and brightest. Highly capable and competent people are more likely to be attracted to a system that rewards individual performance.

Teaching is a profession like none other. It is responsible for educating, training, and preparing all others with the skills needed to succeed. As such, it should be held to high standards. Merit pay allows top teachers to be acknowledged for their efforts, provides an incentive to other teachers, and raises the bar of professionalism in teaching. It allows teachers to be held more accountable and judged in relation to their peers. Merit pay brings evaluation of outputs to teaching, a standard used in most professions.

#### MERIT PAY IS MORE COST-EFFECTIVE FOR THE TAXPAYERS

Under the current single-salary teacher pay system, a salary increase for one means a salary increase for all. Based on survey data, a majority of the public (71 percent) believes teachers deserve to earn more. However, "just to bring the salaries in the below-average states to the national average would cost \$8.5 billion—an amount that is fiscally irrational." Proponents of merit pay note that it would be less costly and would produce greater results to target raises toward the most effective teachers. According to the April 2005 Harris-Hart survey, "public support for paying the costs of higher teacher salaries is enhanced if higher pay is linked to teacher performance and other accountability measures."

#### REFUTING CRITICS

Among the criticisms raised by opponents of merit pay is that it inappropriately uses student performance as a measure of a teacher's effectiveness. Yet, as the aforementioned studies show, a merit pay system can be built around a variety of objective and subjective measures, decided at the local level. Successful pay systems can factor in a variety of measures of excellence, including peer and principal review, in addition to student achievement.

A parallel issue is outcome-based payments for physicians under Medicare, which is currently under consideration by the Senate Finance Committee. The aim of merit pay for teachers is similar to that of outcome-based payments for physicians. As expressed by Senator Max Baucus (D-MT), that

proposal would "reward better health-care quality with better payment."

Critics also contend that it is unfair to grade teachers and that grading could be subject to favoritism. One only needs to be reminded that testing is a reality in education. If gauging performance is inappropriate, then why do we give grades to students? The typical response, as noted in the *Christian Science Monitor*, is, "We give grades because they help us understand which areas need improvement and because they acknowledge superb effort and ability." Also, grading based on student performance is not subject to favoritism; grading is simply a reflection of the numbers. A carefully crafted merit pay program with clearly defined measures and expectations should alleviate this concern.

Another criticism by opponents is that merit pay plans have not proven successful. A number of merit pay experiments tried in the 1980s are no longer in place. Critics argue that the decline of such programs was due to the difficulties of accurately identifying effective teachers and rewarding good teaching practices. These difficulties have been erased following annual testing of grades three through eight as required by NCLB, which provides objective measures to identify effective teachers. Proponents of change insist the experiments in the 1980s were too limited in scope, and were destined to fail due to the stiff resistance from teachers and unions. The programs running in Denver and Chattanooga are two examples of programs that are yielding positive results. Furthermore, now that NCLB gives parents the choice to transfer out of low-performing public schools, a new sense of competition among schools has emerged that has forced changes in how parents and teachers view public schools.

Critics also raise concerns that teachers will "cherry pick" the best students to be in their class. Supporters of merit pay note that this concern can largely be addressed by measuring student achievement using "value-added standards," which look at student improvement or gain over the course of the year instead of students' level of achievement at the end of a year. Furthermore, when value-added standards are used, merit pay remains available to teachers of all students. That is, it is likely easier to get a 25-percentile gain from a student starting in the 30th percentile than a 15-percentile gain from a student already at the 80th percentile.

Critics of merit pay argue that it damages the school culture when "superior teachers" are singled out and given special awards. They note that in competitive industries, both employers and employees must consider the possibility that competing companies will provide better products or services at a lower price, and these incentives "are not present in public education." In response, supporters of merit pay point to its wide and successful use in private schools, which suggests that it is neither infeasible nor unattractive. Private schools note they use merit pay to recruit and retain the quality teachers demanded by tuition-paying parents. This broad use of merit pay by private schools, of course, highlights a critical distinction between public and private schools: such initiatives are "easier in the private sector because administrators are seldom subject to the constraints imposed by a collective bargaining process." Even so, the successes seen in the private schools could point to the direction public schools might take if teachers were rewarded for student achievements.

Along the same lines, some critics assert that rewarding some teachers and not others harms teacher collaboration within a school.

Yet, this did not prove true in the Denver program. When Denver teachers were asked whether their pilot program had an impact on "cooperation among teachers," the results were that 53 percent of the participating teachers said the impact was positive, and only 2 percent said the impact was negative. According to Brad Jupp, the teacher representative to the ProComp taskforce, the Denver teachers' survey response "flies in the face of preconceptions that teachers fear pay for performance based on student growth because it will harm collegial relations." Furthermore, schools need to reward the best teachers to attract and retain them in the schools that need them the most. According to education researchers Caroline Hoxby and Andrew Leigh, in order to attract high-aptitude individuals back into teaching, "school districts need to reward teachers in the same way that college graduates are paid in other professions—that is, according to their performance."

The National Education Association argues that, rather than pay increases for some, all teachers should be paid more. However, history shows that there is no direct connection between spending more money on education and increased student achievement. According to the most recent analysis by the Organization for Economic Cooperation and Development (OECD) of its member countries' spending on education as a percentage of Gross Domestic Product, the United States spends the second-highest amount. And yet, U.S. student achievement does not match the higher-than-average expenditure. While the proportion of individuals completing high school has been rising in all OECD countries, the rates of students graduating from high school in most OECD countries are now higher than those in the United States. Another study shows a similar lack of correlation. According to the National Center for Education Statistics, the United States outspends the other G-8 countries in per-student expenditures. And yet, fourth-grade students in the United States ranked in the middle of the list of countries in mathematics, and eighth-grade students ranked 15th among the 45 countries in mathematics.

#### CONCLUSION

Expectations are greater now for teachers because the No Child Left Behind Act holds schools accountable for student achievement. Merit pay is a positive way to reward those who are effective in raising student achievement. Congress needs to help states to implement alternatives to the traditional, single-salary schedule used by the majority of public schools to pay teachers if it wants to assure that schools nationwide meet the NCLB's important goals. Merit pay increases schools' ability to attract and retain highly qualified teachers, especially in fields that command high salaries outside of education, such as math and sciences, and it encourages teachers to work in high-needs schools. A carefully developed merit pay plan, with clearly defined measures and expectations, should be able to address any legitimate concerns raised by teachers and their unions. Eighty percent of parents and teachers support salary increases for teachers who improve student achievement. The Teacher Incentive Fund proposed by the President and passed by the House will permit many more schools to implement public-supported reforms, and will provide a major incentive for needed changes in teacher compensation nationally.

Mr. SCHUMER. Mr. President, I rise today to express my strong support for the extension of a program that has provided vital support to our Nation's

dairy farmers, helped to maintain the milk supply, and perhaps more importantly has helped to preserve an important way of life in rural America. The program I speak of is the Milk Income Loss Contract, MILC, Program, which since its inception in the 2002 farm bill has provided a crucial buffer between our Nation's hard-working dairy farmers and the rollercoaster ups and downs of the milk market.

America's farmers are the backbone of its rural communities, and as markets, weather, and other challenges become more daunting we must make every effort to support them when they are in need. It is not just for the benefit of our farmers, who work hard year-round, often in the face of unforgiving circumstances, and their families, but for the towns that they help to support and for the health of the land that they steward. Small farms are the big business of rural America, and if it becomes too hard for them to survive, the communities where they are lost will suffer, both economically and culturally. Likewise, as the economic pressure to develop grows, more and more open space will be lost to suburban sprawl if small farms disappear. Allowing these farms to go under by failing to extend sensible supports like the MILC Program would be bad for the economy, bad for our environment, and bad for consumers.

In very few places across the country are the stakes of the MILC Program's survival more starkly apparent than in my State of New York. Agriculture is a dominant industry in New York, and dairy farmers are the bulwark of New York's agricultural economy. In light of dramatic price swings and development pressures that are more severe than almost anywhere else in the country, the dairy farmers of my State need the type of support provided by the MILC Program when prices hit rock bottom. New York's farmers have received millions of dollars under the program, and I can tell you that that money has made a real difference in helping small family farms pull back from the brink and stay in business.

Let me be clear about one thing. While this program provides crucial and timely support, it is not simply a big-dollar bonanza for America's dairy farmers. Payments under the program only kick in when prices dip below the trigger price of \$16.94 per hundredweight, when they are most needed. In fact, in the almost 4 years covered by the program, there were only 26 months in which USDA had to issue payments. There was an entire year, from May of 2004 to May of 2005, where prices were fortunately high enough that support was not necessary. I raise these facts simply to say that anyone who would oppose this program, which provides crucial, targeted assistance to small dairy farms, on the grounds that it is a budget buster or boondoggle is way off the mark.

The MILC Program expired at the end of September, so the need to ex-

tend it is pressing and vital. As we enter the New Year, milk prices may once again drop below the trigger price, and we need to make sure that the MILC Program is in place to do its job should our dairy farmers find themselves in need. The MILC Program is very important to New York, but not just to New York. The fact that the extension of this program has drawn strong support from Democrats and Republicans from multiple regions demonstrates its importance to our entire Nation.

While I have serious misgivings with other provisions contained in this budget reconciliation conference report, the 2-year extension of the MILC Program is one item that I am glad to see is included. The MILC Program has shown itself to be an effective and vital part of our Government's commitment to support America's farmers, and I strongly support its extension.

Mr. REED. Mr. President, this evening the Senate passed the conference report to the fiscal year 2006 Department of Labor, Health and Human Services, and Education appropriations bill. I want to express my concerns with this conference report. Not only does this legislation shortchange important priorities compared to the Senate version of this bill, which passed on a near unanimous vote of 94 to 3, it is not the only affront to these programs since an additional across-the-board cut to discretionary spending is included in the Department of Defense appropriations conference report.

I am disappointed that this conference report fails to provide our children with the resources they need to compete in today's world. Children of all ages will be affected by the decisions we make today.

This conference report decreases funding to programs that help students succeed at every stage. Indeed, it cuts education funding for the first time in 10 years. Despite rising tuition costs, college students will not see an increase in financial aid. The supplemental educational opportunity grant, SEOG, program will receive \$26 million less than the Senate bill we passed in October. The maximum Pell grant award will be frozen at \$4,050 for the fourth year in a row, making it more difficult for students to keep up with tuition and the cost of attending college.

Funding for No Child Left Behind Act programs are reduced by 3 percent, for a total that is \$13.1 billion below the authorized level. Elementary and secondary school children will experience a decrease in services funded through the School Improvement Programs, the educational technology State grants, and the Javits Gifted and Talented Program, which all received less funding than in the Senate bill.

Title I of the No Child Left Behind Act will see its smallest increase in 8 years, for a total of \$12.8 billion. This is \$9.9 billion less than the \$22.75 billion authorized in the No Child Left Behind

Act. This funding is critical to improve education in this country. In 2001, members of this chamber made a commitment with the No Child Left Behind Act to give every child an opportunity at an excellent education. The President and our colleagues from across the aisle should join us in seeking to uphold that commitment.

Infants and toddlers will also receive fewer services. The President's fiscal year 2006 budget proposal, the House bill, and the Senate bill all included increases in funding for Head Start. However, this conference report ignores those increases and instead includes less than 1 percent increase for this important early childhood program. Head Start centers across the country are cutting back on comprehensive services, the core of this program's success, because funding has been minimal year after year and has not kept pace with inflation. In a time when we should be increasing our investment in early childhood development, this conference report moves us in the wrong direction.

The conference report also reduces health funding by a total of \$466 million. It will set back critical research at the National Institutes of Health, unravel already fragile health care safety net programs, undermine essential health professions training programs, and leave our Nation completely unprepared to respond to a looming avian influenza pandemic.

In this conference report, the National Institutes of Health, NIH, after seeing its budget doubled only a few years ago, will face the smallest percentage increase—less than 1 percent—in more than three decades. Withdrawing our support for revolutionary basic and clinical research at such a crucial time will undoubtedly set back our efforts in the war against cancer, as well as impede our quest to learn about the causes of and find effective methods to diagnose and treat debilitating conditions such as diabetes, heart disease, Alzheimer's, Parkinson's, Multiple Sclerosis, Lou Gehrig's disease, and autism. These diseases are not only devastating to those who are afflicted and the families who care for them, they continue to be a significant drain on our health care system and our economy.

This bill also deals a devastating blow to essential safety net programs. First, it essentially stops cold the President's initiative to create 1,200 new or expanded health center sites to serve an additional 6.1 million people by 2006. The Senate-passed bill provided \$105 million over the fiscal year 2005 level for community health centers while this bill contains an increase of only \$66 million, in essence freezing any new competition for community health center funds. Second, the report slashes funding for programs that train health care providers who serve in health centers and other safety net sites.

Title VII health professions programs have a long tradition of responding to

the needs of medically underserved communities as well as providing support to increase the racial and ethnic diversity of our health care workforce. Under this bill, a broad array of small but essential programs pertaining to trauma care systems, geriatrics training and education, and emergency medical services will be eliminated. Over the past several years, Senator ROBERTS and I have led a strong bipartisan effort in support of these essential education and training programs. Gutting these programs is penny-wise and pound-foolish. It will cripple our ability as a nation to be better prepared for the inevitable emergencies and tragedies that happen every day and the demographic tidal wave that will soon be hitting our health care system.

The bill also neglected to include a Senate amendment allocating nearly \$8 billion in emergency funds to combat the avian flu. Instead, the conference report actually diverts millions from the annual influenza program budget to pay for rural health programs, with a promise that funding for avian flu would be included in the pending Defense appropriations bill but at a much lower amount than the Senate originally provided.

This conference report fails to provide sufficient funding for the Low Income Home Energy Assistance Program, LIHEAP. Rising energy prices threaten to financially overwhelm low-income families and seniors. This winter, the average family will face a \$1,000 natural gas bill, an increase of 38 percent from just last year. For families using heating oil, prices are projected to hit \$1,400, an increase of 21 percent over last year. These price increases are overcoming workers' salaries and seniors' Social Security checks. American families need economic relief from high energy prices. They need the security to know they will not have to decide between heating their homes or feeding their families and paying the energy bill or buying lifesaving medicines. With a sharp increase in energy prices this year, it is obvious that level funding for the LIHEAP program is inadequate. A majority of the Senate supports \$5.1 billion in funding for LIHEAP, but this conference report does not reflect the will of my colleagues.

This conference report fails the American people in a number of very important ways. It fails to maintain our promise to give children the opportunity to achieve their full potential. It fails to preserve our commitment to groundbreaking and potentially lifesaving advancements in medicine. And it fails to sustain support for essential programs that help vulnerable Americans.

Mr. DURBIN. Mr. President, American families are ready for a change. They take a look at the priorities of this Republican Congress and the record of the Republican Party and say: it is time for a new direction for our country.

You need to look no further than the Labor-HHS conference report. It is a low point of a Republican Congress that is disengaged from the real needs of American families. This bill is a crowning achievement of a Republican agenda out of touch with voters.

Republicans are ignoring the problems that matter most to families in Illinois and all across the country: health care, education, and jobs.

What we have is a bill that cuts education funding for the first time in a decade, slashes health funding by more than \$300 million, and eliminates funding for trauma care.

This bill pulls the rug out from under America's working families.

Many working families have children in public schools. I have been in a lot of public schools in Illinois that serve lower income kids. No matter how successful those schools are, I can tell you—they don't have money to spare. This bill actually spends less Federal money on schools and education than any federal budget in the last 10 years.

How can we in good conscience reduce our commitment to education for low-income kids in public schools?

But perhaps one of the more striking failures of the reconferenced version of the Labor-HHS appropriations bill is the utter lack of concern over preparing for the avian flu.

Never mind that this bill eliminates the \$7.9 billion added to this bill on the Senate floor to help local hospitals and health departments get ready for what pandemic flu.

This conference report goes so far as to take an additional \$120 million out of already underfunded accounts at the CDC—money specifically designated to prepare for pandemic flu.

"We'll take care of that later," we were told.

Meanwhile, my understanding is that the Defense appropriations bill includes half of the funding the Senate approved—half of the funding the President requested—to prepare for avian flu.

What is driving these cuts is a tax reconciliation that benefits corporations and the wealthiest among us. Those benefits come at the expense of basic guarantees for working American families—that they can have decent public schools; that they can see a doctor; that they have a chance to getting back into the workforce when they are out; and that if a killer flu pandemic breaks out in this country we will have the capacity, the drugs, and the organization to beat it back.

As a member of the conference committee, I did not sign the conference report and strongly oppose it.

Together, America can do better.

Mr. REID. Mr. President, tonight the Senate adopted the fiscal year 2006 Labor-HHS-Education conference report by a voice vote. I would like to note for the Record that I do not support this legislation.

This bill reflects the misguided priorities of the Republican Congress and

will shortchange vital health care, education, and labor programs in order to cut taxes.

At a time when the need for a well-educated, well-trained workforce is more critical than ever, Republican conferees provided education, health care, and job training programs \$1.4 billion below last year's level.

This bill cuts education funding for the first time in a decade. It cuts funding for No Child Left Behind Act programs, and the maximum Pell grant is frozen for the fourth year in a row, even as college costs are skyrocketing. And, for the first time 10 years, the Federal Government will slide backward on its commitment to students with disabilities because this bill cuts the Federal share of the costs of special education.

At a time when most Americans cite health care as their top priority, Republican conferees provided health care programs \$466 million below last year's level, including a \$137 million in cuts to rural health programs and a \$185 million cut to the Bureau of Health Professions. Cutting these programs will make it even harder to recruit qualified professionals in many parts of the country.

Moreover, Republican conferees eliminated nine vital health care programs altogether, including trauma care, rural emergency medical services, the geriatric education centers, health education training centers, and the healthy community access program. As a result of these cuts, not one new community health center will be created next year.

At a time when we are the verge of major new breakthroughs in disease prevention and treatment, the conference agreement also includes the smallest percentage increase for the National Institutes of Health, NIH, since 1970, which will hinder promising medical research and disease prevention initiatives.

These are just a few examples of the unconscionable cuts to crucial programs in this bill. Unfortunately, these cuts will be even deeper because the Republicans imposed an across-the-board cut against all nondefense and homeland security programs in the Defense appropriations bill.

In summary, Mr. President this bill is bad for our children, bad for workers, bad for seniors, and bad for this nation. America can do better.

Mr. KOHL. Mr. President, I rise today in opposition to the conference report to accompany the Labor, Health and Human Services, Education and Related Agencies Appropriations bill. This bill does not reflect our Nation's shared priorities and is a far cry from representing Wisconsin values. The people of Wisconsin value quality education for their children, affordable and decent health care for their families, and sound job training for workers. This bill falls short on all three accounts.

For the first time in a decade, the LHHS bill cuts total Federal education



funding. Funding for No Child Left Behind programs would be cut by \$779 million bringing it to its lowest level since 2002. Funding for Title I, which serves low-income, disadvantaged students and schools across the nation, would receive \$9.9 billion below the authorized level, its smallest increase in 8 years. And again, Congress fails to live up to its promise to provide 40 percent of the costs of educating students with disabilities: the bill cuts the Federal share of special education spending from 18.6 percent to 18.0 percent, just as our school districts are struggling to keep up with rising costs. Funding for Pell grant awards, which help make higher education affordable for many students, is frozen at \$4,050 for the fourth year in a row, funding for Even Start and Education Technology is slashed, and funding for the National Youth Sports Program is eliminated, leaving almost 1,500 Wisconsin young people without summer enrichment programs they have come to count on. The list goes on and on.

And education is not the only investment shortchanged. Some of the largest cuts in the LHHS bill are in programs that help shore up the health care safety net for people lacking other access to care and that address shortages of healthcare providers in underserved urban and rural areas. The conference report cuts funding for community health centers, which serve the uninsured and underinsured, to a lower level than provided in either the House or Senate versions of the bill. This amount would not allow a single new community health center to open in the coming year. Funding for the Bureau of Health Professions, which helps recruit qualified health professions throughout the country, would be cut by \$185 million, including the elimination of geriatric education centers and health education training centers. Rural health programs would be cut by \$137 million, including the elimination of the healthy community access program and rural emergency medical services.

In addition, funding levels have not kept pace with our need for investment in lifesaving biomedical research. The National Institutes of Health's budget would receive a funding increase of less than 1 percent, the smallest percentage increase to NIH since 1970. NIH will have to reduce the numbers of research grants awarded by 355. The bill would provide no increase in Federal funding for Alzheimer's research threatening the progress of promising research on that devastating disease. Less money would be available to support new research grants, attract talented, young researchers to the promising field of Alzheimer's research and fund clinical trials to test new drugs to treat the disease—and this is just one example of the damage to vital research that the LHHS conference report would do.

Labor programs are not immune from the slash and burn approach to appropriations embodied in the con-

ference report before us. They are cut by \$430 million. At a time when five percent of Americans, and four and a half percent of people from my State of Wisconsin, are unemployed, this bill wrongly reduces adult job training by \$31 million and youth job training by \$36 million. Instead of helping the unemployed find work and providing training to upgrade the skills of those who have jobs, this conference report turns its back to them.

I know we can do better for our children and families. I supported the Senate version of this bill, which was bipartisan and passed by a vote of 94-3. Unfortunately, this conference report falls far short; it is neither bipartisan nor bicameral, and actually provides \$1.4 billion less than last year's level. In fact, LHHS is the only fiscal year 2006 appropriations bill to receive an overall cut in funding from last year.

I want to thank Senators SPECTER and HARKIN for working tirelessly to improve this bill. I also want to thank them for the modest increases they provided in the CMS Survey and Certification program, the ombudsman program, as well as their work to restore Perkins funding. However, I cannot support a bill that forces our schools, our health care system, and our workforce to do more with less. I urge my colleagues to join me in rejecting this conference report.

Mr. KENNEDY. Mr. President, the Christmas spirit was nowhere to be found tonight on the floor of the United States Senate as Republicans rushed through unconscionable cuts to the programs that American families deserve. This conference report affects the lives of every single American, and it lets them down. It fails our commitments to the education of our children, to our health care, to the poor, and to our jobs. At a time when we should be moving forward, and helping families meet the challenges of higher costs, this conference report moves us backward.

#### EDUCATION

Parents know that education is a critical factor in making the American dream a reality for their children. An educated citizenry also makes a strong Nation possible. We cannot compete in the world without skilled workers. We cannot maintain a strong defense without a skilled and educated military.

Once again, the United States has been presented with a global challenge, as we were when the Soviets launched Sputnik in 1958. In order to face this challenge with confidence, we should invest in the transforming power of education. That's not what this conference report says. This conference report says that education is not a priority. It says global competitiveness is not a priority. It says basic fairness is not a priority. It says the American dream is not a priority.

In the face of this global challenge, this conference report does not invest more in education. In fact, for the first time in a decade, this conference re-

port cuts the education budget. As we learn more about the critical importance of early education, as our elementary and secondary schools struggle to help our children meet higher standards, as a college degree is becoming an imperative, and as the cost of that degree is skyrocketing, the Federal budget for education is actually going down.

If our country is to remain strong in this rapidly changing world, our economy must work for everyone, and every American must have an equal opportunity to succeed. No Child Left Behind is not just a political slogan. It's a solemn pledge to every parent and every child in America.

At a time when requirements under the law are more demanding than ever, this conference report cuts funding overall for No Child Left Behind programs by \$1 billion, for a total that is \$13.4 billion less than promised in the law. Over 3.2 million children will be left behind. Next year, schools have to raise the bar for adequate yearly progress, administer tests in reading and math on an annual basis, and ensure that all teachers are highly qualified. This conference report tells them they're on their own.

Title I—the key NCLB program, which targets disadvantaged students—is cut for the first time in 13 years. Title I funds will be \$28 million lower than last year, and 160,000 fewer children will be served. Funding to Massachusetts schools will be cut more than \$4.3 million.

The conference report cuts Head Start funds by \$68.5 million, leaving 750,000 eligible preschoolers without services, and dropping from the program 9,500 children who are currently enrolled in Head Start classrooms. It slashes the Even Start family literacy program, taking services away from nearly 35,000 children.

The conference report cuts funds for after-school programs, denying after-school programs to 13,000 children currently enrolled. The conference report also cuts funds to keep our schools safe and drug-free.

With the first cut to special education funding in a decade, this conference report moves backwards on our commitment to disabled students. The Federal share of the cost of educating students with disabilities actually drops from 18.6 percent last year to 17.8 percent this year. The funding in the report is more than \$4 billion short of the amount promised just 1 year ago when we passed the IDEA Improvement Act.

At a time when American students are performing below the international average in math and science, the conference report cuts \$13 million in funds for the Math and Science Partnerships at the Department of Education, leaving funding well below half of the amount promised in No Child Left Behind.

At a time when technology is more and more prevalent in our lives and in

our economy, this conference report continues the bewildering downward trend in educational technology funding. In fiscal year 2004, the program was funded at almost \$700 million. This conference report includes \$248 million, a 50 percent cut since last year and just over a third of the 2004 funding.

At a time when college costs have skyrocketed 46 percent since 2001, and almost 400,000 college-ready students do not go to a 4-year college because of financial need, this conference report provides no increase in student aid. It leaves Pell grants frozen in place for the fourth year in a row.

#### JOBS

Just as this conference report leaves millions of children behind, it also leaves millions of American workers behind.

Close to 8 million Americans are unemployed, and most remain unemployed for 18 weeks or more. The picture is so bleak that many workers have given up hope of finding work altogether. The real unemployment rate is almost 9 percent when these discouraged workers are counted.

Workers affected by the recent storms in the gulf are particularly at risk. Hundreds of thousands of gulf coast workers continue to struggle to find work in the wake of Hurricanes Katrina and Rita. Twenty-five percent of Katrina evacuees are unemployed, including 30 percent of those evacuees that have been relocated across the country. African-American and Hispanic evacuees fare even worse, with an overall unemployment rate of about 43 percent. Thus far, a total of 502,000 initial claims for unemployment benefits can be traced to the two storms.

Yet, the conference report would cut funding for unemployment insurance and employment services offices that help jobless workers around the country. The conference report also cuts job training, as many workers struggle to improve their skills in order to secure good jobs. These illogical steps are an insult to those struggling to recover from our Nation's greatest national disaster and those struggling to meet the challenges of a global economy.

In addition, as we continue the long process of rebuilding the gulf coast, thousands of relief and recovery workers are facing toxic working conditions. Workers cleaning up in the aftermath of the storms are being exposed to hazardous chemicals, oil and sewage contaminated waters, mold, and other hazardous substances. Even outside of the gulf coast region, death rates among Hispanic and immigrant workers continue to be alarmingly high. Yet, our Government will be doing less to protect the lives and health of our workers. The small, 1.8 percent increase that the conference report provides for funding the Occupational Safety and Health Administration is more than eaten up by inflation and won't be enough to maintain current levels of enforcement and training.

The conference report also shortsightedly ignores the future needs of

health care workers. We are facing a looming threat of a pandemic flu epidemic, yet the conference report prohibits the Department of Labor from enforcing key safety standards to protect health care workers from tuberculosis. These are very basic measures that would help protect healthcare workers from all deadly infectious diseases, and it is unconscionable to bow to special interests at the expense of those who will be on the front lines of our battle against this public health crisis.

In addition to threatening the safety of American workers, the conference report also threatens their job security. It is hardly news to any of us that globalization is rapidly creating a single global workforce. Now more than ever, the jobs of American workers are at risk due to the poor wages and working conditions in other parts of the world. It's critical that we invest in efforts to improve working conditions around the world, for the sake of all workers, including our own. Yet, the conference report slashes the budget for the International Labor Affairs Bureau, ILAB, by 22 percent—from \$93 million to \$72.5 million—threatening our ability to protect American jobs and protect the basic rights of workers and children across the globe.

#### HEALTH

The conference report also fails to protect American families from public health catastrophes.

Congress has few higher priorities than protecting the American people from the deadly strain of influenza that is threatening the world and could take the lives of millions of Americans and damage the health of millions more.

The threat from this deadly new disease has been compounded by our inattention and failure to prepare. For years, public health experts sounded warning after warning about the devastation that a flu pandemic would bring, but year after year, we failed to respond to this deadly threat in its earliest stages.

Canada, Australia, Britain, Japan, and other nations released plans long ago. They're implementing their plans now, but the Bush administration has put out a plan for only one Federal agency. A response plan for the Department of Health and Human Services is a critical first step, but even that plan is incomplete. It's missing the actual operational plans for responding to a pandemic.

The President has called, however, for a significant investment in preparedness. I attended his speech at NIH, where he urged that \$7 billion be appropriated immediately for preparedness.

We still have time to avert the serious consequences that a pandemic would bring, but only if we act now to begin improving our readiness. The Senate heeded the call to action by unanimously approving an amendment for \$8 billion in preparedness funding offered by Senator HARKIN.

But the Republican leadership isn't on board. They stripped the \$8 billion amendment out of this conference report, and provided only half that amount in the Defense Appropriations conference report. These irresponsible cuts will mean that critical programs will have to be delayed. Which parts of our response do our Republican colleagues think we should delay? Production of new vaccines? Stockpiling of flu medicine? Support for hospitals and health agencies preparing for the pandemic? I'd like to hear them explain to the American people which of these activities they think are unimportant, which of these priorities can wait, and which are not needed if disaster strikes.

This conference report also means that we will fail to capitalize on the promise of this century of the life sciences. With the 1 percent across the board cut, funding for NIH will decrease. This has happened only four other times in NIH history. This is woefully inadequate to maintain our tradition of research excellence and breakthrough medical science. This is the lowest NIH funding level in 35 years and the research and development budget fails to keep up with inflation. These budget cuts will mean that four of five innovative new ideas will be ignored. Over 500 new research grants will fall by the wayside. It's unbelievable that with the threat of a pandemic looming over America, the Republican Congress is denying the resources we need to discover new, life-saving treatments and cures.

Not only does the conference report not include funding for the avian flu preparedness, funding that would help to improve State and local preparedness against bioterrorist attacks was cut by over \$96 million.

As we know, maintaining the health of our Nation is not limited to emergency preparedness. Providing basic health services to the most vulnerable Americans and health promotion, and disease prevention are also vitally important. But this conference report cuts critical health promotion and prevention programs at the CDC will be cut by \$307 million and HRSA programs are slashed by \$754 million.

This conference report funds community health centers, that serve as a safety net of care for the most vulnerable, at less than half of the increase passed by the Senate, while eliminating the Healthy Communities Access Program which provides funds for health care providers, community-based organizations and local government to coordinate and strengthen health services for the poor and uninsured members of their communities. Funding is also cut for critical health professions training programs that address the shortages of providers and train them to deliver care in underserved areas and to serve the 46 million Americans who lack health insurance—often in community health centers. Funding for critical health professions



training programs that encourage diversity in the health professions and train health care providers that will deliver care in underserved areas are cut 52 percent and training for geriatric medicine was cut by 100 percent.

With a 1 percent across the board cut, several programs, including family planning and HIV/AIDS prevention programs, will now receive a decrease in funding, despite the growing need for these services.

#### LIHEAP

The conference report leaves our poorest Americans out in the cold in a time of soaring energy prices. Households heating primarily with natural gas will pay an average of \$281 more this winter for heat—an increase of an incredible 38 percent over last year. Those relying primarily on oil for heat will pay \$255 more—an increase of 21 percent.

This fall, the Senate voted against fully funding LIHEAP four times, and this conference report only provides flat funds. This is unacceptable.

We know that heating costs are at record levels this year.

Big oil profits are fatter than ever. Exxon-Mobil—the largest oil company in the United States—reported 3rd quarter profits of almost \$10 billion, a 75 percent increase over last year.

Exxon-Mobil alone made \$10 billion in the last quarter—yet the Republican leadership refuses to fund LIHEAP at its authorized level of \$5.1 billion. The Republican leadership is Robin Hood in reverse—robbing the poor to pay the rich.

So this conference report leaves our children behind, American workers behind, and American families behind. It leaves America behind.

It's unfortunate that Christmas comes this week, because this conference report is the Grinch that steals Christmas for so many. While the neediest Americans are struggling to find some hope this season, the special interests are sledding away with all the presents. Bah humbug.

We should embrace the hopes and dreams of millions of Americans—not abandon them, as this conference report does. All parents want their children to have lives of fulfillment and opportunity; to raise strong and healthy families and afford to live comfortably in safe neighborhoods. Our actions in Congress should strengthen, not weaken America.

The PRESIDING OFFICER. Without objection, the conference report is agreed to, and the motion to reconsider is laid on the table.

#### MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

#### UNANIMOUS-CONSENT REQUEST— H.R. 4297

Mr. KYL. Mr. President, I have a unanimous consent request to remake.

As my colleagues know, there is one major unfinished piece of business yet that we need to conclude, and it is the action on the tax reconciliation bill. This is a bill which has the section 179, small business expensing, the small savers credit for low-income families, those making under \$25,000 a year, above-the-line deduction for college tuition costs, R&D, tax credit, and extension of capital gains and dividends.

These are all-important matters that we need to act on.

As a result, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 325, H.R. 4297, the House reconciliation bill.

I ask unanimous consent that all after the enacting clause be stricken and the text of S. 2020 as passed by the Senate be inserted thereof; that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, the Senate insist upon its amendment and request a conference with the House and the Chair be authorized to appoint conferees at a ratio of 2 to 1.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, the majority seeks to go to conference on the House-passed tax reconciliation bill. The House-passed bill includes tax cuts for dividends and capital gains. And the House-passed bill does not include language to prevent 17 million middle-income Americans from getting a tax increase from the alternative minimum tax.

The Constitution requires the House to go first on tax measures like this. In order to build momentum for their tax cuts, the majority in the Senate chose to proceed before the House. But now the Constitution requires that the Senate take up the House-passed tax reconciliation bill and amendment.

That is where we are.

There are a number of Senators on this side of the aisle who would like to avail themselves of the opportunity to propose amendments to the House-passed bill. I expect that several Senators would choose to substitute middle-income tax cuts as alternatives to the dividend and capital gains tax cuts.

It is important to remember that under the Budget Act Senators would have up to 20 hours to debate amendments to the House-passed bill. I, for one, would seek to offer a motion to instruct conferees on this bill to ensure that we do not raise taxes on those 17 million Americans who become subject to the AMT, unless we act. Under the Budget Act, Senators would have an additional 10 hours to debate motions to instruct conferees. We are not in the position to conduct 10 hours of debate at this late hour. The exercise, I might say, would be inappropriate. So I must object.

The PRESIDING OFFICER. Objection is heard.

#### UNANIMOUS-CONSENT REQUEST— H.R. 4096

Mrs. HUTCHISON. Mr. President, if we are not going to take up the major tax cut at this time, I am going to ask unanimous consent to take up the AMT.

In 1969, when Congress passed the AMT it was supposed to affect 1 in 500,000 taxpayers who make over \$200,000 a year. In fact, that is not the case today. By 2010, the AMT is expected to ensnare 32 million taxpayers, the majority of whom have adjusted gross incomes of under \$100,000. In fact, this especially hits people with children. By the year 2010, among married taxpayers with two or more children, 85 percent of married taxpayers with two or more children in 2010 will face the AMT. It prohibits the ability to deduct for children.

So I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 326, H.R. 4096, the alternative minimum tax relief.

I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, the majority, through the Senator from Texas, seeks unanimous consent to pass the House bill which extends the AMT exemption level. The House-passed bill purports to be an AMT hold harmless bill. It is not. It does not hold everyone harmless.

In fact, 600,000 additional families will pay AMT next year under that House bill which the majority seeks our consent. Under the version we in the Senate passed last month, with 64 Senators in support, we ensure that not one additional taxpayer faces higher taxes in 2006 due to an onerous alternative minimum tax.

The same cannot be said of this House bill for which consent is agreed to.

It is true that if Congress does not act, 17 million more middle-income Americans will be subject to the AMT come January 1. We would prefer to get it right the first time and not have to make promises to close the gap for those 600,000 hard-working American taxpayers next year.

I ask the Senator from Texas if she would amend her request instead to seek consent for an AMT relief amendment that I believe the majority would be supportive of, since it shows the Senate's provision, so that no AMT taxpayers are created next year. Further, while we are seeking to do these tax cuts outside of reconciliation, we would have them count against the total allowed under reconciliation. That would be part of the amendment.