investment in mine safety equipment and technology. I was pleased to support that bill.

Unfortunately, as I feared, during negotiations with the House, the reasonable compromise struck in the Senate was abandoned. The final tax package that the conference committee produced has the wrong priorities and will make America's fiscal situation substantially worse.

Middle-class relief from the alternative minimum tax expired at the end of last year. The conference report extends AMT relief through 2006 but does nothing about next year when millions of families will face an enormous tax increase. Additionally, the bill does not include the tax provisions, which I have long supported, that help average West Virginians. Tax cuts which benefit families paying college tuition, schoolteachers buying supplies, and businesses investing in research and development were simply not included in this bill. These provisions have already expired, meaning taxpayers will be hit with higher taxes this year. I recognize that the Senate majority leader has indicated his intention to address these issues later this year, and I will continue to advocate for extension of these important provisions. However, I believe it is irresponsible not to make tax cuts for middle-class families our top priority.

Instead of addressing these urgent priorities, the bill acts to extend tax cuts for investors that were not even set to expire until 2009. I cannot understand why tax cuts that primarily benefit taxpayers with more than $200,000 in income would get a higher priority than tax relief for middle-class families. Unfortunately, in West Virginia, very few taxpayers have been able to benefit from the investor tax cuts enacted in 2003. Fewer than 17 percent of taxpayers reported any dividend income, and fewer than 11 percent of our taxpayers had any capital gains subject to tax.

I am also extremely disturbed by the budget gimmicks used in order to comply with the Senate's rules designed to impose fiscal discipline. By taking advantage of unusual revenue effects, this bill amazingly pays for tax cuts with yet more tax cuts. But without question, we are digging ourselves deeper in debt with such games. In the long run, this bill will cost us even more than the $70 billion its sponsors claim. And because so many important issues have been left unaddressed, Congress will need to enact additional tax cuts this year. This fiscal mismanagement increases our borrowing from foreign nations and increases the burden on our future generations.

Finally, I would like to mention the 18 miners in West Virginia, as well as those in other States, who lost their lives this year and their devastated families, friends, and communities. I am deeply disappointed that this agreement does not include the bipartisan mine safety amendment, which I worked so hard to include in the Senate bill. That amendment would have encouraged mine companies to invest in additional mine safety equipment and training and, most importantly, would have saved lives. This is a provision which cannot wait, and I will continue to push to have this provision enacted. The well-being and safety of miners demands it. •

SMALL BUSINESS RELIEF

Mr. BURNS. Mr. President, in 2002 Congress passed the Sarbanes-Oxley Act, providing important safeguards against unscrupulous accounting practices. In the wake of significant corporate accounting scandals, Congress created the Public Company Accounting Oversight Board overseen by the Securities and Exchange Commission. It restricted the actions of accounting firms who perform audits—specifically preventing them from undertaking other activities which lead to conflicts of interest. At the end of the day, this legislation is important to protect shareholders and employees from dishonest accounting practices that can cost them their futures and, in extreme cases, even their businesses.

Section 404 of Sarbanes-Oxley requires the Commission to create rules for annual reports and to prescribe internal control reports to ensure that financial reporting is accurate and ethical. The goals of this provision are warranted but the burden on smaller publicly held companies has come at a great cost.

Unfortunately, they are also incredibly and unnecessarily burdensome for small- and medium-sized businesses. In my State of Montana, it is these small- and medium-sized businesses that fuel the engine of our economy. Small businesses are collectively the largest employer in Montana, and it has always been important to me that the Federal Government consider the impact its regulatory policies have on small businesses.

For this reason, I am proud to be added as an original cosponsor of legislation that will reduce some of the burden facing small businesses, specifically in section 404. S. 2824, the Competitive and Open Markets that Protect and Enhance Treatment of Entrepreneurs Act, or COMPETE Act, will not remove the important safeguards that Sarbanes-Oxley created, but it will increase the flexibility of the law to allow businesses to comply with the law with less hardship.

In 2004, the average cost for a public company to be public was $3.4 million. One out of every three dollars spent were for audits performed even if there was little or no value of those audits to the investors. It defies common sense to have the same requirements for the largest public companies as we do for the smallest, and the COMPETE Act will offer small- and medium-sized companies the option to comply with standard internal control guidelines with enhanced internal controls, greater transparency, and specific restrictions against conflicts of interest.

One of the things I have learned here in Washington, DC, is that one-size-fits-all solutions don't work. American innovation is too diverse to encompass through inflexible regulations. When we passed Sarbanes-Oxley, our intentions were to protect investors and employees from the minority of companies that abused accounting practices to mislead their shareholders. This intention remains important, but in the past years I have heard from Montanans about the unforeseen and unintended consequences of this legislation. The COMPETE Act can sort these out, keeping the goals of Sarbanes-Oxley intact, while increasing the flexibility needed to make the regulation as harmless as possible to honest businesses.

COMMENDING THE USTR

Mr. BROWNBACK. Mr. President, I rise today because, as you may know, for several years now there have been ongoing negotiations between the State of Israel and the Office of the United States Trade Representative, USTR, regarding Israel's protections of U.S. intellectual property rights. I commend the USTR for so vigorously protecting these very valuable assets to the U.S. economy. However, what has caused my colleagues and I concern has been the treatment of Israel in this process; a process that we hope will become more transparent. This year, I was joined by Senators SCHUMER and WYDEN on a letter to the U.S. Trade Representative expressing our hope that the positive steps Israel has taken, particularly in the context of how many of our other trading partners have acted, would be granted the recognition it deserves. Unfortunately, when this year's Special 301 report was released, Israel was put on par with countries such as China and Russia while other countries, which have little or no intellectual property protections, were given a much less egregious designation.

Ron Dermer, the Israel Embassy's Minister for Economic Affairs, recently stated that ''countries with a record of much more severe breaches of intellectual property than those attributed to Israel, are not included in these lists.''

I do look forward to continuing our work with the Office of the USTR on this issue and to make sure that those countries that are working towards our mutual goals are met with the recognition and support from our government they deserve.

AMERICAN UNIVERSITY

Mr. GRASSLEY. Mr. President, I ask unanimous consent to have printed in the RECORD my correspondence with American University, AU. AU is a federally chartered nonprofit, tax-exempt educational organization.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, May 17,2006.

GARY M. ABRAMSON,
Chair of the Board, American University.
THOMAS GOTTSCHALK,
Vice Chair of the Board, American University, Washington, DC.

DEAR MR. ABRAMSON AND MR. GOTTSCHALK: I am writing to you regarding the Finance Committee's review of governance issues at American University (''AU''). AU is a federally chartered non-profit, tax-exempt educational organization. Congress enacted the law in 1893 that first incorporated AU, appointed its initial individual corporate members, and specified the size and composition of its board of trustees. Act of Feb. 24, 1893, ch. 160. In 1953, Congress enacted legislation, altering, among other things, the process by which the AU board of trustees is elected. Act of Aug. 1, 1953, Pub. L. No. 183, ch. 309. The Finance Committee's review is predicated on this unique history of the legislative relationship between the federal government and AU as a congressionally chartered institution, as well as on the Committee's general legislative and oversight jurisdiction over tax-exempt charitable organizations.

In conducting its governance review, the Finance Committee has reviewed the numerous documents provided by AU and material provided by other sources, as well as discussions with current and former board members, faculty, students and AU employees. In addition, I have heard concerns raised by AU students from Iowa and their parents. To allow students, faculty and staff, and the public to have a better understanding of the governance issues still facing AU, I am today releasing relevant material provided to the Finance Committee. It says volumes about problems of AU governance that students, faculty, and supporters often have to learn about the work of the AU board from the U.S. Senate Finance Committee rather than from the board itself. I understand that governance changes are to be proposed that proponents claim will ensure that there will be greater openness and transparency at AU. I look forward to meaningful reform in this area and expect to be informed of the details of those proposals.

While I am releasing quite a bit of information today, I am frustrated that there is certain key material that I cannot release today. When the Committee began this investigation on October 27, 2005, I received assurances of cooperation. The Washington Post stated on October 28, 2005, ''Gottschalk said yesterday that the board would do everything it could to cooperate.'' Unfortunately, those words have not always been met by deeds. While AU has over time provided material requested, AU continues to redact material provided and most frustratingly labels key documents' 'confidential' and not to be released to the public. This is not what I would expect from a university that benefits from tax-exempt status and was chartered by act of Congress. I call on you to hold to your public commitments of full cooperation and allow for public release of all documents without redaction that have been requested. AU students, faculty and supporters have a right to a full understanding of the board's actions.

One of my principal governance concerns relates to the legal structure and composition of the AU board. The Finance Committee, during its roundtable discussion on charitable governance, heard from AU student leaders, faculty, and former board members, a number of whom called for the removal of certain AU board members—particularly focusing on members serving on the ad hoc committee that took actions regarding former AU president Dr. Ladner without the knowledge of key board members.

In reviewing the material, I understand the views of those who believe the members of the ad hoc committee should be removed. In the course of our review, I have also focused on several key votes by some AU board members. In particular, given all related information reviewed by the Finance Committee, I am seriously troubled by votes cast in October 2005: 1) to amend the audit committee's recommendation and secondly to reject the audit committee's recommendations on a vote for reconsideration; 2) to reject three identical recommendations from counsel, including Manatt Phelps as well as Arnold & Porter, that had concluded that Dr. Ladner's 1997 employment agreement was invalid; 3) not to terminate Dr. Ladner for cause; and 4) to increase cash severance to Dr. Ladner by an additional $800,000 over eight years—after the board had already voted to increase Dr. Ladner's cash severance by $950,000.

It is important to bear in mind that these votes were made after the findings from protiviti independent risk consulting reports, which I am releasing today; were known to the board and that provided in detail the expenses of Dr. Ladner and his wife that he charged to AU. The report shows expenses that would make for a good episode of 'Lifestyles of the Rich and Famous'—a lifestyle paid for by AU students and their parents. In addition, as noted above, the board members were aware of the findings of two respected law firms that found that Dr. Ladner's 1997 employment agreement was invalid.

While I fully understand that as Chairman of the Senate Finance Committee, I'm not here to direct the management of the affairs of AU or its board, I do want you to know that I am considering proposing federal legislation that would require changes in the structure, composition, and governance of the AU board, as Congress has done previously. In particular, in discussions with Finance staff, AU board members have noted that they do not view that under current federal law the AU board has the authority to compel a board member to resign. Please confirm if that is accurate, and please also provide your views about the wisdom of Congress amending the law to provide the AU board such authority and, if so, suggested changes to the law.

In addition, I want to draw your specific attention to a board meeting that discussed Mr. Ladner's compensation package. In general, under federal tax laws, outside review and justification for the salary of a highly compensated individual at a public charity provides a safe harbor from penalties under Section 4958 of the Internal Revenue Code. My review of tax-exempt organizations and corporations has found that in the overwhelming number of cases outside consultants provide a justification for the salary request that is being considered. In fact, the AU situation is the only example Finance Committee staff have seen of an outside consultant stating that a salary of an individual at a public charity is too high.

However, in calling for a salary for Dr. Ladner higher than that recommended by outside consultants, some AU board members appear to have rejected concerns about complying with the laws passed by Congress and instead described financial penalties for violating federal law as 'de minimis.' Comments that suggest that federal laws should be disregarded because penalties are 'de minimis' are stunning when I hear them from members of for-profit corporate boards; they are shocking when they come from board members of a tax-exempt university. Do you believe this is the appropriate message AU should send to students—it is all right to violate the law if the penalty is de minimis? Please provide a complete explanation of these events and your views of them, as well as all related material.

The issue of whistleblower protection at non-profit institutions has also been of great concern to me in the course of the Committee's work. Whistleblowers in certain situations are protected from retaliation under state and federal law. A series of aggressive emails to other AU board members by one AU board member appear to attack whistleblowers trying to do the right thing regarding the situation at AU. They include the following language: ''You are right in citing a Nixon era example. People do not tolerate leaks any more. No one is so naive anymore to think that unidentified 'whistleblowers' are public servants. You are right in saying there always must be a process for people to report wrongdoing but this is not the way.''

As a champion of whistleblowers in Congress for years, I can state categorically that not only are whistleblowers public servants, they are often heroes—saving lives and taxpayers billions. I commend you, Mr. Gottschalk, and former board chair Ms. Bains, for taking a strong line against any effort to bring the Salem witchcraft trials to northwest DC. But again, that a board member might propose retribution against whistleblowers, as appears from some of these emails.is inexcusable. I would appreciate your general views on the benefit of whistleblower protection at tax-exempt organizations, as well as your specific views on the series of emails appearing to support aggressive efforts to search, find, and punish those who try to speak out against what is wrong. In particular, do you believe such efforts send the appropriate message to AU students—especially given that a large number of AU graduates will be employed in public service?

Finally, let me return to the overall issue of governance. In meetings with my staff, AU representatives have given assurances that AU will have in place governance reforms that will provide students and faculty a meaningful and substantive voice at AU. I view this as a vital part of AU governance reforms coupled with greater sunshine and transparency that I mentioned at the beginning of my letter. Please inform me in detail what the governance reforms are as to students and faculty.

Given that Congress is currently considering reforms to provisions of the tax code affecting charities as part of the conference on the pension bill, I ask that you provide answers to this letter within 10 working days. Thank you for your time and courtesy.

Cordially yours,

CHARLES E. GRASSLEY,
Chairman.

HONORING THE INDY RACING LEAGUE

Mr. BAYH. Mr. President, I rise today to applaud the Indy Racing League, IRL, for its decision to use ethanol in its race cars and the impact that decision has had on efforts to inform Americans about this important alternative fuel. Since 1911, Indiana has been the center of the autoracing world, setting the standard in racing for drivers and fans alike. And now, the Indy Racing League is setting a new standard, this time for greater energy independence.