

It may be this is our last best chance. I would urge all sides to take a deep breath and to rethink positions on all sides and try to find a rational, bipartisan way to proceed.

Mr. President, how much time remains on my side?

The ACTING PRESIDENT pro tempore. The Senator has 58 minutes remaining.

Mr. SPECTER. Fifty-eight minutes remaining.

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

The ACTING PRESIDENT pro tempore. The Senator from Vermont has 49½ minutes.

Mr. LEAHY. Mr. President, I know the Senator from Pennsylvania has the floor, but the Senator from New York wants to speak briefly, and I have also been advised there are a number of Republicans who want to go to a burial service. So just so people can plan, as soon as the Senator from New York has finished his speech, which will be very brief, I am prepared to yield back our time to accommodate those who wish to go to the burial service.

Mr. SPECTER. Mr. President, do I understand the Senator from Vermont, the distinguished chairman, is proposing a grand bargain?

Mr. LEAHY. No, sir.

Mr. SPECTER. A grand bargain which would allocate 1 minute to Senator SCHUMER, and then all time yielded back?

Mr. LEAHY. I am told the Senator wishes 2 minutes.

Mr. SPECTER. Sounds excessive to me, but I will go along. When he finishes his speech, if we are prepared to yield back time, I will consider the proposal for the grand bargain.

The ACTING PRESIDENT pro tempore. The Senator from Vermont yields time.

Mr. LEAHY. Mr. President, I yield to the grand marshal.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank my colleagues, and Raskolnikof as well, since he made the grand bargain once before. It didn't work out so well, so I would say to my colleague from Pennsylvania, I hope his grand bargain works out better than Raskolnikof's grand bargain.

Anyway, I rise to speak on our nominee, the confirmation of Debra Livingston. She is a legal superstar from my home State of New York, and she is nominated to the Second Circuit Court of Appeals.

Let me just say we in New York have a system in place for nominating Federal judges that works. The President and I work together to name highly qualified consensus candidates to the Federal bench. There is often rancor when it comes to judges from other parts of the country, but there has been very little when it comes to New York. It shows that when both sides wish to compromise, we can probably

get there. That is because in New York we have an effective and bipartisan way to select qualified and, almost without exception, moderate candidates for the bench.

Ms. Livingston is squarely in that mold. Her career so far has spanned private practice, criminal prosecution, and academia, so she has a deep understanding of the law gained from many perspectives, from the courtroom to the classroom. Ms. Livingston is a graduate of Princeton University, received her J.D. from Harvard Law School—also my alma mater—where she served as an editor of the Harvard Law Review.

From 1986 to 1991, Ms. Livingston was an assistant U.S. attorney in the Southern District, where she prosecuted public corruption cases and served as deputy chief of appeals. Before and after her time as a prosecutor, Ms. Livingston was an associate at one of the very prestigious law firms in New York, Paul, Weiss, Rifkin, Wharton, and Garrison. She is currently the vice dean and Paul J. Kellner professor of law at Columbia University, where she focuses on criminal procedure, evidence, and national security.

I think it is great that we will have an appellate judge who has both a scholarly mind and practical courtroom experience. It is a perfect combination, in my view, for an appeals court judge. I hope my colleagues will join me in voting for her confirmation.

In keeping with the prelude to the grand bargain, I yield the floor.

Mr. LEAHY. Mr. President, I am prepared to yield back time.

Mr. SPECTER. Sealing the grand bargain, I, too, yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded, the question is, Will the Senate advise and consent to the nomination of Debra Ann Livingston, of New York, to be U.S. circuit judge for the Second Circuit? On this question the yeas and nays were previously ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHN-SON), the Senator from Michigan (Mr. LEVIN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN) would vote "yea."

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Idaho (Mr. CRAPO), the Senator from North Carolina (Mrs. DOLE), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from North Carolina (Mrs. DOLE) would have voted "yea."

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

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 158 Ex.]

#### YEAS—91

Akaka	Dorgan	Menendez
Alexander	Durbin	Mikulski
Allard	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Biden	Graham	Obama
Bingaman	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Hagel	Reid
Brown	Harkin	Salazar
Bunning	Hatch	Sanders
Burr	Hutchison	Schumer
Byrd	Inhofe	Sessions
Cantwell	Inouye	Shelby
Cardin	Isakson	Smith
Carper	Kennedy	Snowe
Casey	Kerry	Specter
Chambliss	Klobuchar	Stabenow
Clinton	Kohl	Stevens
Coburn	Kyl	Sununu
Cochran	Landrieu	Tester
Coleman	Lautenberg	Thomas
Collins	Leahy	Thune
Conrad	Lieberman	Voinovich
Corker	Lincoln	Warner
Cornyn	Lott	Webb
Craig	Lugar	Whitehouse
DeMint	Martinez	Wyden
Dodd	McCaskill	
Domenici	McConnell	

#### NOT VOTING—9

Brownback	Johnson	Roberts
Crapo	Levin	Rockefeller
Dole	McCain	Vitter

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid on the table.

The President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2008

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senate proceed to the House message to accompany S. Con. Res. 21, the budget resolution; provided further that the motion to disagree to the House amendment be agreed to, the motion to agree to the request of the House for a conference be agreed to, and the motion to authorize the Chair to appoint conferees be agreed to; provided further that prior to the appointment of conferees, the following motions to instruct conferees be in order and that no amendments be in order to the motions: No. 1, Senator KYL, relating to the estate tax; No. 2, Senator GREGG,

relating to the extension of certain tax cuts; No. 3, Senator CONRAD, alternative to Senator GREGG's extension of certain tax cuts; No. 4, Senator CORNYN, relating to the point of order on increasing tax rates; No. 5, Senator DEMINT, relating to the increase of taxes; and No. 6, Senator STABENOW, relating to energy.

I further ask consent that each motion be limited to 60 minutes equally divided in the usual form, that there be an additional 1 hour of general debate equally divided between the chairman and ranking member; further, that following the use or yielding back of time on each motion, the motion be set aside and that the votes occur in a stacked sequence this evening, Wednesday evening, beginning at 7:30 p.m., with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I thank the ranking member for his courtesy in working out this matter so we can complete action on the naming of conferees today. I think we have done this in a way that will give all Senators a right to express themselves on issues that are before the conference.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the chairman of the committee for his cooperation. Obviously, he wants to get to conference. He wants to complete the conference on the budget. Although we disagree with the budget that was passed here—and I am sure we will disagree with the final product that is produced, regrettably—I think it is important the process go forward. It is not our intention to be dilatory, to try to slow this process down. That certainly is something we could do, but we certainly have no intention of doing that. Rather, we just want to be able to have a fair opportunity to make the points which we think are important relative to the budget.

So I appreciate the chance to work with the Senator and the chairman's willingness to work with us to reach an accommodation that seems to be constructive, which is constructive, and which will hopefully move the process along.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent that when the items are considered for a vote, there be 2 minutes equally divided before each vote, and that after the first vote, the votes be limited in duration to 10 minutes.

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

The Presiding Officer laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House insist upon its amendment to the resolution (S. Con. Res. 21) entitled "Concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012",

and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

The PRESIDING OFFICER. The Senate disagrees to the House amendment, agrees to the conference requested by the House, and authorizes the Chair to appoint conferees.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, it would now be in order for the Senator from Arizona to proceed with his motion. Again, I want to thank all Senators. These things are difficult. They are always last-minute considerations. But I think we have worked out a reasonable accommodation.

I thank the Presiding Officer and again thank the ranking member, and I believe now Senator KYL's motion is in order. I also thank Senator KYL for his patience as we worked through some of these procedural hurdles that cropped up at the last minute.

I say to Senator KYL, we thank you for your patience.

The PRESIDING OFFICER. The patient Senator from Arizona.

Mr. KYL. Thank you, Mr. President. I compliment both the chairman of the Budget Committee and the ranking member, who both have to have the patience of Job to work with all of their colleagues—all of them who have a little different idea of how things should proceed. I appreciate the comments.

MOTION TO INSTRUCT CONFEREES

Mr. President, I send a motion to instruct conferees to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] moves that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 21 (the concurrent resolution on the budget for fiscal year 2008) be instructed to insist that the final conference report include the Senate position to provide for a reduction in revenues, sufficient to accommodate legislation to provide for permanent death tax relief, with a top marginal rate of no higher than 35%, a lower rate for smaller estates, and with a meaningful exemption that shields smaller estates from having to file estate tax returns, and to permanently extend other family tax relief, so that American families, including farmers and small business owners, can continue to enjoy higher after-tax levels of income, increasing standards of living, and a growing economy, as contained in the recommended levels and amounts of Title I of S. Con. Res. 21, as passed by the Senate.

Mr. KYL. Mr. President, let me take a few moments to discuss what this motion to instruct conferees embodies.

The subject is the death tax, the tax which requires millions of American families and small businesses to spend millions of dollars preparing against the possibility that they will have to pay very large amounts of money to the Federal Government upon the death of the person in the family who is responsible for that small business or who owns the property.

For a long time, there has been a bipartisan understanding that this death tax is not a good thing. The Gallup poll

and other polls consistently show that at least 60 percent of the American people think it is an unfair tax, that we should not be taking money from people at the time of death. They have already paid income taxes on it, frequently capital gains and dividends taxes, and yet again they are taxed at the time of death on an amount of asset that remains.

But just as pernicious as that tax is the planning, and the expensive planning, that has to go into trying to prepare for the possibility that the tax will be imposed—if you have a very large estate, frankly, trying to avoid having to pay a large amount of taxes into that estate because that frequently means you have to sell the small business, the farm, in order to liquidate assets to pay the tax.

This is not a theoretical proposition. A good friend of mine from Phoenix, AZ, who was one of the great contributors to eleemosynary concerns in Phoenix—especially the Girls and Boys Clubs; he has one named after him—moved from New York City to Phoenix and with another person started a printing company. Years later, they had over 200 employees. They were a great printing company in Phoenix. When Jerry died, his family could not afford the death tax liability because most of the money in the business was in the equipment. In that business, you have to constantly get new equipment to stay up with your competitors. They took out a small amount each year in salaries, but the rest of it was tied up in the business. So he did not have the liquidity to pay the substantial death tax that would be required. The business was sold.

Interestingly enough, as to the argument that we have a death tax to prevent the concentration of wealth, it was sold to a big corporation. By the way, corporations do not pay death taxes. Also, this corporation has not contributed, as far as I know, a nickel to any of the great charity causes in Phoenix that Jerry contributed to every single year. It was really a shame when he died. More than the head of that household passed away at that time.

What we are trying to do is to permanently reform the death tax. Now, in the past we have tried to repeal it. What this motion to instruct conferees does is embodies concepts that have been agreed to by both Democrats and Republicans to reform the death tax so that most people do not have to worry about it, they just do not have to go to the lawyers and the accountants, the estate planners, they do not have to pay money for insurance to get around it because they know the way we have constructed it, they are not going to have to pay it. It is still there for the very large estates, but most people would be exempted from it.

Specifically, the motion to instruct conferees would call on Senate conferees to insist that the final budget

resolution provide for a reduction in revenues relative to the baseline sufficient to allow Congress to approve meaningful death tax relief, defined as follows: A top marginal rate of no higher than 35 percent with a lower rate for smaller estates, and an exemption level that is sufficient to shield smaller estates from having to file a death tax return. While the motion does not specify that amount, an exemption of \$5 million per estate indexed for inflation is what is contemplated.

As I said, I think repeal of the death tax is the best option. I have been trying to find some agreement on reform since we haven't been able to get the votes for repeal. It is a nightmare for families now, and that is why I want to see if we can find a bipartisan way to do that this year. America's small business owners, farmers, and ranchers deserve this kind of certainty now.

I might say, this might be a bonanza for insurance companies, but I think they have plenty of other ways to offer products to us. There is plenty to insure against. They can still make a very comfortable living without putting us through the burden to invest without insurance to avoid paying much of the death tax. This concept, by the way, would be sufficient to accommodate the death tax reform similar to the proposal introduced by the senior Senator from Louisiana last year and which was endorsed by the junior Senator from Arkansas on his Web site.

I might say I have worked with other Members of the majority party now, and I thought last year we were very close to having an agreement that might have been achieved in a bipartisan way. In particular, the Landrieu bill provides for a \$5 million exemption indexed for inflation, which is great, a family business carve-out, a top rate of 35 percent, as I mentioned, and it recaptures the benefit of the \$5 million exemption for estates valued at over \$100 million.

The motion to instruct does not specify any revenue offsets. We don't believe extensions of existing law should require that. Indeed, this would be a retreat from existing tax law. It would be less generous to taxpayers, and none of our provisions last year contemplated an offset. We don't offset extensions of existing mandatory spending, and we don't think this extension of tax relief should be offset either.

Some have said we should freeze the 2009 law in place. That provides for a \$3.5 million exemption and a gift tax exemption that would be separate, a 45-percent rate, but a 45-percent rate means the Government takes almost half your property above the exempted amount, and that is frankly not acceptable to most small businesses or farmers. Forty-five percent is a rate most Americans deem to be unfair. So what we would suggest is a proposal that would be able to accommodate no higher than the 35-percent rate.

Now, a couple of final points here. We all know budget resolutions don't dictate policy of the Finance Committee. It would be my intention to work with the Senators whom I have mentioned here, in addition to Senator LINCOLN, who worked very hard on this the last couple of years, and others, to craft an estate tax reform proposal that would provide for this \$5 million exempted amount indexed for inflation, a lower rate for the smallest estates, and it provides for a top marginal death tax that is no higher than 35 percent. I would love to see it lower than that. The Joint Tax Committee tells us anecdotally that a rate any higher than 35 percent would drive families into aggressive tax planning to avoid the tax. That is what we are trying to avoid here, the extra expense of planning. I might add that the last study done that I know of determined that the amount spent on trying to avoid the payment of the death tax each year is almost exactly the same amount that is collected by the U.S. Government. So in effect, we have a double tax here. People are paying maybe \$30 billion, roughly, in these taxes to the Government, and spending another \$30 billion to try to avoid paying the tax. That is \$30 billion that could be going to much more productive activities than paying lawyers, accountants, and insurance folks.

I conclude by saying it is important to provide the lowest rate for the smallest estates, because we don't want to have to have them go to the trouble of trying to protect their assets against the payment of the tax. We could accommodate that through a high exempted amount and a very low rate. That means they simply wouldn't have the incentive to go pay the money to the accountants and the lawyers.

There is much more I could say about this. Right now I know the distinguished chairman of the committee might have something to say.

I am happy to reserve the balance of the time on this side, subject to the ranking member's concurrence with that.

Mr. CONRAD. Mr. President, I again thank the Senator from Arizona for his motion to instruct which he has offered. I ask our colleagues to resist this motion to instruct. I ask our colleagues to resist it on two grounds. No. 1, we have already provided for estate tax reform in the budget resolution that passed the Senate. I will do everything I can, as chairman of the Senate delegation and chairman of the conference, to uphold the Senate position, which is to reform the estate tax.

The motion of the Senator from Arizona is not paid for. It will blow a hole in the budget. We are trying very hard to balance this budget by 2012. Our budget and what will come back from conference does balance by 2012. But if we adopt the Senator's amendment, we will not balance.

Let me say what the budget resolution that passed the Senate did. All of

us know, first, there is no death tax. It is good language, but it is not accurate. There is no death tax. Nobody pays a specific tax on death in America. We do have an estate tax on larger estates. In fact, in 2009, only two-tenths of 1 percent of estates will pay any tax. That means 99.8 percent of estates will pay zero. So this talk about a death tax—I am reminded of a colleague of ours who was in Missouri and was stopped by a baggage handler and he told him: You have to stop this death tax. He said: My family is so worried about that death tax. That gentlemen wasn't going to pay any death tax. Mr. President, 99.8 percent of Americans are going to pay no death tax, because there is no death tax. There is an estate tax on larger estates. Right now, it applies to estates of over \$4 million a couple. Under \$4 million, you pay nothing. It is going up. In 2009, it will be \$7 million a couple who will be exempt. So in 2007, the year we are in now, there is a \$4 million exemption per family. You pay nothing if you have an estate of less than \$4 million. In 2008, it is \$4 million. In 2009, it goes to \$7 million. In 2010, there is no estate tax. Then in 2011, it goes back to \$2 million a couple. That makes no sense. It goes backward. It goes from a \$7 million exemption in 2009 to no estate tax in 2010. In 2011, it goes back to \$2 million per couple. We don't permit that in this budget resolution. We stay at the \$7 million exemption per couple, index it for inflation, so as values go up, the estate tax exemption will go up. We have covered this out of the resources of the budget so we are able to balance the budget by 2012.

Now, the Senator from Arizona is absolutely well-intended. He has been very persistent on this. I give him high marks for that. He is absolutely dedicated to this cause. I give him high marks for that. The problem is he doesn't pay for it. Unfortunately, what he would do is throw the budget out of balance in 2012. I think that is a mistake.

In the budget resolution we have passed, beyond providing for a \$7 million exemption indexed for inflation, \$7 million for couples, anybody who has an estate of \$7 million or less will pay zero, will pay no estate tax, which means, again, 99.8 percent of estates in our country will pay zero, nothing, not a penny. We have paid for it. In addition, we have provided a reserve fund that says if you want to go further, you can if you pay for it. The difference, the big difference we have is the Senator from Arizona doesn't want to pay for it. He wants to put it on the charge card. He wants to stack it on the debt. He wants to shove it off on our kids, let them pay. No. That shouldn't be the way we go. We have stacked up enough debt during this administration. This administration has added \$3 trillion to the national debt, and if they have their way over the next 5 years, they are going to stack another \$3 trillion on the debt.

Where are they getting the money from? They are taking it from Social Security. That is what they are doing. They have already taken over \$1 trillion of Social Security money and used it to pay other bills, and they are getting ready to take another \$1 trillion of Social Security money and use it to pay other bills. If you were in any other organization and you tried to take the retirement funds of your employees and use it to pay operating expenses, you would be on your way to a Federal institution, but it would not be the Congress of the United States, it would not be the White House—you would be headed to the big house, because that is the violation of Federal law. What the Senator from Arizona is doing by refusing to pay is he is going to take the money from Social Security. He is going to take Social Security money and use it to pay other bills. I think that is a mistake.

We have provided for fundamental estate tax reform in the budget. We ought to continue to support that, but we paid for it. Let's not go back to the bad old days of doing things around here and not paying for them.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, let me make three quick comments and then I would like the ranking member to respond as well.

It is true the budget already provides for some form of death tax relief. The problem is that form is a 45-percent rate—45 percent. Almost half of your estate would be paid to the Federal Government. I want a show of hands for everybody who believes that is fair.

Let the RECORD show one person in the Chamber raised his hand.

Second, the idea of the chart which the chairman pointed out showing the irrational treatment of the death tax, I totally agree with that. It is irrational, and there is a reason why it is irrational: because Democrats would not agree to cause the death tax relief to be permanent. All they would do is agree to the budget window, which at the time was a 10-year budget window. After that, it is done. That is why you have this crazy system where we have a declining rate. In the year 2010 it goes away, and in the year 2011 it comes right back again. We are all for making it rational by making it permanent. All in favor of that, raise your hands. The problem is, we can't get 60 Senators to vote for that, which is why we are stuck with this irrational system.

Finally, the most irrational thing of all, the idea—and this is an odd concept if you stop to think about it. The Government takes citizens' money in taxes, and then if we decide to let people keep more of their hard-earned money, they have to pay for that. We decide you should be able to keep more of your money because you know how to spend it better than Washington, but this odd concept on the other side

of the aisle is: We can't let people keep more of their own money unless they "pay for it." Pay who for it? Pay Washington for it. In effect, we are going to raise your taxes in some other way to make up for the relief in taxes we are providing here. That is what the American people are stuck with under the Democratic budget's idea of a good time, of what is fair. That is not good policy, and it is not fair. When we decide it is good policy to let the American people keep more of their hard-earned money, they shouldn't have to "pay Washington an equivalent amount in some other kind of taxes."

We wish to instruct conferees to pass a budget that can accommodate real relief from the death tax. I think the way we have laid this out is the best way to provide that kind of relief, as evidenced by the fact that several of our colleagues on the other side of the aisle have joined with us in proposing precisely that.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, let me correct one matter of history here. The Senator from Arizona says this bizarre circumstance with the estate tax ending in 2010 and then coming back in 2011 with lower exemption amounts is the fault of the Democrats. Whoa, whoa, whoa, whoa. That is a whopper. That is a double whopper. As the Senator knows, we weren't in charge when that tax policy was put in place. Our friends on the other side were in charge. They controlled the Senate, they controlled the House, they controlled the White House. They wrote this tax policy. Why? They did it because they wanted to put more tax cuts into the bill than they could afford, so they played an old Washington game and an old Washington trick.

They sunsetted their tax provision at the end of the period to reduce its cost. They are the ones who constructed this monstrosity. It is their responsibility, and we are fixing it. We are fixing it in this budget resolution and we are paying for it. That is a fundamental American value.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I have one last comment regarding the "whopper," as the Senator put it. It is absolutely true that Republicans were in charge when we passed the lower tax rates for Americans to help Americans out. We had 55 votes at the top amount; to make tax policy permanent, we needed 60. We could not get enough of our Democratic friends—not even six or seven of them—to join us to make the tax policy permanent; we could not get 60 votes so we could eliminate that irrational system.

So it wasn't a "whopper" that I told; it was the truth. Republicans were in charge. If we had about seven more votes, we could have had a rational tax system rather than the one we have today.

Mr. CONRAD. Mr. President, look, let's be absolutely direct with those who are watching and with our colleagues. Democrats did not construct this estate tax charade that takes us up to a \$7 million exemption in 2009 and then goes to no estate tax in 2010 and comes back in 2011 with a \$2 million exemption. That was a construction totally and completely of our friends on the other side of the aisle.

The Senator says we did not support the tax cuts that were disproportionately extended to the wealthiest among us and that plunged us into debt. He is absolutely right, we did not. Unfortunately, it has proven to be extraordinarily expensive to this country. We will pay for this for a very long time because the debt of the country exploded as a result of that policy.

Look, we supported tax reductions; we supported a more modest package of tax reductions—about half as much as they passed—and reserved the rest of the money to strengthening Social Security, getting us back into a situation where we weren't raiding the Social Security piggy bank around here to pay other bills. I am proud of that. We did the right thing.

I am happy to yield 5 minutes to the Senator from Florida.

Mr. GREGG. Mr. President, is this a morning business speech?

Mr. CONRAD. Does the Senator wish to talk on the estate tax matter?

Mr. NELSON of Florida. Both.

Mr. GREGG. I am going to be here for a while, so we can let the Senator from Florida go ahead.

Mr. CONRAD. I thank the Senator from New Hampshire for his courtesy.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, we have a saying in the South: being between the devil and the deep blue sea. That somewhat illustrates the position this Senator is in regarding the estate tax, for this Senator has been a sponsor of the elimination of the estate tax for the last 7 years. The problem—as I have conferred with colleagues here, including the Senator from North Dakota, as well as colleagues on the other side—is finding the 60 votes out of 100 Senators in order to be able to pass some form of estate tax relief.

The fact is we have Senators who are all over the lot. There are some Senators who don't want to have any estate tax relief, and there are others on the opposite side of the spectrum who think there should be a total abolition of the estate tax and nothing short of that is any good.

Well, the truth is, if we had been able to eliminate the estate tax back in 2001, when the Federal Government had a healthy surplus, we would not be facing what we are today, which is trying to eliminate the estate tax, or part of it, when we have a drastic shortage of revenue, the consequences of which keep running up the red ink of the Federal Government and continued deficit

financing. Of course, you know who is buying our debt: the banks in China and Japan.

So earlier this year, when we crafted a compromise, with Senator BAUCUS in the lead, having a \$3.5 million exemption and lowering the estate tax on that above \$3.5 million per person, or a \$7 million exemption for a couple, lowering that tax rate from 55 to 45, that seemed to be the compromise by which we could get the 60 votes.

I ask the chairman of the committee to confirm that what this Senator is saying is correct—having been able to get that 60 votes, then if we go off onto something else, what is going to happen is that those of us who want some relief for the family farms and the family businesses are not going to be able to make that stick. You cannot have it all. This Senator's attitude is to get something if you cannot have it all. I ask the chairman, the Senator from North Dakota, if the reasoning this Senator has laid out in the compromise that was crafted, to give some estate tax relief, if that is correct?

Mr. CONRAD. The Senator is entirely correct. As a valuable and valued member of the Senate Budget Committee, he knows, with great precision, how difficult it was to put this package together. He also knows if we go the route of Senator KYL, we will jeopardize the middle-class tax relief that is in this resolution. We provided full relief for the marriage penalty. We provided full relief for the 10-percent bracket. We provided full relief for the child tax credit.

If Senator KYL's amendment is adopted, one of two things will happen: It will reduce the funds available for the middle-class tax relief to transfer the money to the wealthiest among us or it will stick it on the debt. There are only two possibilities. I think it would be unfortunate to do either. I think it would be a mistake to reduce the middle-class tax relief in our budget resolution. I think it would be a mistake to reduce the child tax credit. I think it would be a mistake to reduce the cut in income taxes that are provided for by the 10-percent bracket. I think it would be a mistake to reduce the marriage penalty relief that is here in order to stack more benefits on the estate tax or to put it on the charge card and add it to the debt.

Mr. NELSON of Florida. Mr. President, I will conclude with this thought: Naturally, the vote that this Senator will cast on Senator KYL's motion to instruct conferees is a very uncomfortable one because, for this Senator, if I had my druthers, would I want the estate tax lowered? The answer to that is yes. I have been a sponsor of eliminating the estate tax. But the question is: What is the doable deal? What is the deal that will avoid this ridiculous outcome that is going to occur in 2010, when the estate tax will go away completely in one year and the next year come roaring back—back to its original position in the law back in 2000?

That is the compromise we have crafted that is in the budget resolution.

I want anybody who is within earshot to understand the position of this Senator in supporting the budget resolution.

Mr. CONRAD. Mr. President, I ask unanimous consent that the following remarks of Mr. NELSON of Florida be moved so as to not interrupt the flow of debate.

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

The Senator from Florida is recognized.

(The remarks of Mr. NELSON of Florida are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Republican leader is recognized.

#### IMMIGRATION

Mr. MCCONNELL. Mr. President, based on comments we have heard from some of our colleagues on the other side over the last 2 days, there is some genuine concern that the bipartisan immigration compromise that Members and staff have been working on so diligently over the last 2 months might be brushed aside in favor of last year's unsuccessful bill. I strongly urge all of our colleagues to reconsider this approach, if, indeed, it is the one they plan to take.

This exercise needs to be a bipartisan one or it will not—it will not—succeed. That is an indisputable fact. Any effort to move legislation on this issue that isn't the result of an ongoing bipartisan discussion would be a clear signal from the Democrats they are not yet serious about immigration reform.

So I urge my colleagues on both sides of the aisle to stay at the table. Let this bipartisan working group finish its work so we can achieve immigration reform this year. Scrapping their work now will only end in frustration and defeat for both sides.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the Republican leader for reminding us how we should be approaching the immigration issue, which is in a rational way.

I wish to respond to a few comments that have been said, and then I want to offer the motion to instruct, which I have reserved in the order that has been entered into, and then yield to the Senator from South Dakota for his comments, and then, obviously, the Senator from North Dakota, I presume, will want to respond, if that is acceptable to the Senator from North Dakota as the procedure.

To begin with, there has been a lot of references to what is going on in the area of tax policy and what the implications are, both relative to the death tax—and I did find it ironic that the Senator from North Dakota said it wasn't a death tax. Well, the only way you can pay it is if you are dead, or the only way your relatives can pay it. That is the only way this kicks in is to

be hit by a truck. I think "death tax" is a fairly reasonable explanation of what it is.

Regarding the issue of the tax cuts which are obviously at the essence of much of the debate relative to this budget, this chart reflects the underlying question of what these tax cuts have accomplished. The Senator from North Dakota correctly reflects the fact that revenues fell off as the tax cuts originally were put in place. That is correct. Why did they fall off? They fell off because we were coming out of the largest bubble in the history of organized cultures, an economic bubble, where the Internet bubble of the nineties exploded on us, caused a significant contraction in the economy, which obviously caused a contraction in revenues. That was coupled with the attacks of 9/11, which disrupted the economy to a degree that our economy has never been disrupted, except for the Great Depression and probably World War II. So those two events created a huge retardation of revenue.

It was actually quite fortunate in the middle of that disruption, and a little bit prior to that, we had put in tax cuts during President Bush's first term which would stimulate the economy. As a result of those tax cuts going into place—yes, initially there was a revenue reduction, but that revenue reduction was in large part due to the bubble burst and the 9/11 contraction in the economy.

Since that time, we have seen those tax cuts energize an economic recovery which has truly been historic and extraordinary, and it has done a great deal for our country from the standpoint of creating jobs, which is the bottom line most important thing we can do but also generating revenue to the Federal Government.

We have now had 3 years of the largest growth in revenue in the history of our country, the largest growth, year after year. We are seeing revenues explode literally at the Federal level. They went up 11 percent in 2005 and 18 percent in 2006. They are projected to grow 18 percent in 2007. These growth rates are truly extraordinary. And revenues not only have grown year to year in an extraordinary way, but they have grown in a relationship to the overall historic burden of revenues paid by the American people to the Federal Government.

Historically, the American people have paid 18.2 percent of the gross national product to the Federal Government. That is represented by the blue line on the chart. We are actually well above that now so that we are seeing a rate of income to the Federal Government of about 18.6 percent of GDP. That means we are actually generating more revenues to the Federal Government than we have on average generated to the Federal Government.

We have a tax law in place which is doing a number of things. It is generating huge revenues, and it is generating revenues that exceed what has

been the historical norm for this Nation, and it is a tax law which is creating jobs and causing the economy to expand.

We have now had 22 straight quarters of economic expansion as a result of tax cuts, and we have had 44 consecutive months of expansion in jobs, 7.8 million jobs created. Those are massive expansions, people getting work.

In addition, two of the essential elements of this tax cut, the capital gains and dividends rates, have actually generated a huge explosion of economic activity in this country because they have unlocked, in the instance of the capital gains area, funds which have been locked up for years in relatively unproductive assets have now been sold, the revenue has been turned over, and people have reinvested, entrepreneurs and risk takers, in items that have created more return, which has had two effects: It has created more jobs and more revenue to the Federal Government.

The tax cuts have been good for this country from the standpoint of creating jobs, from the standpoint of economic growth, and from the standpoint of revenues to the Federal Government. Yes, one can look at this period from 2001 to 2003 and say revenues dropped. Yes, they did, but I would argue that was a function of the bursting of the internet bubble and 9/11 more than the tax cuts. But if you look at the most recent period, one cannot argue with the fact that we are seeing an explosion in revenues to the Federal Treasury, which has dramatically, in addition to the other two things, caused economic growth, jobs creation, the revenues, and has dramatically reduced the deficit of the Federal Government. In fact, we projected the deficit of the Federal Government. It was projected 3 years ago that it would be somewhere in the \$350 billion range. It looks as if it is going to be under \$200 billion, and significantly under \$200 billion. And on a \$3 trillion budget, you are basically talking a deficit number, which is really getting well under what has been the historic deficit of the Federal Government and, more importantly, had we not had the Katrina catastrophe where we had to spend over \$150 billion approximately on that, and were we not at war, a war which we did not ask for when we were attacked on 9/11, we would be in surplus, significantly in surplus.

These tax cuts have been good for this economy. They have been good for the country. They have been good for employment. They have been good for economic growth. They certainly have been good for the Federal Treasury.

On the specific issue of the death tax, which is the motion which is pending, the motion by Senator KYL, I think the point Senator KYL makes is the one on which people should focus, which is what his proposal says is, we are going to put in place a compromise proposal on the death tax which was, ironically, a compromise proposed from the other

side of the aisle. I think it was the senior Senator from Louisiana, Ms. LANDRIEU, who basically came up with this idea, which is we would have a higher rate for bigger estates, 35 percent, and for little estates, small businesses, farmers, ranchers, we would have a lower rate, and you would have an exemption of I believe about \$5 million.

This proposal makes a lot of sense. There is no reason why it should be a taxable event to die. A taxable event should involve economic activity. It should be you went out, made some money, and as a result you got taxed.

But the way the death tax works is, the taxable event is that you, unfortunately, die. You end up getting hit by a truck, fall off your motorcycle, you get some serious disease, and as a result, your family gets hit with a tax bill. In many instances, if you are a small businessperson or you are running a farm or some other thing that involves one person and is the essence of the whole operation, that death is a huge, traumatic economic event, to say nothing, obviously, of the personal trauma that is involved. But that is a huge, traumatic event, if somebody runs a restaurant and he is the cook, the bottle washer, and maitre d', or runs a gas station, runs a small business or a farm; that person is usually the key person. When they die, that business is in extreme distress usually. That distress should not be multiplied and dramatically increased by having the tax man come in and say: I'm sorry, we are going to take half the value of your business, which is the way the law works now.

So this proposal, which was a compromise worked out among a variety of people around here, and actually the essence of it was put forth by the Senator from Louisiana, makes a lot of sense. So what Senator KYL has said is let's do it. Let's put it in the budget.

The argument is, that is going to increase the deficit. That is a fairly specious argument because it is the essence of that argument: If you let people keep their own money, you are making a mistake. The Federal Government should take the money and then they should have to pay money to get their money back. They should have to pay more in taxes. It makes no sense at all.

In addition, let's remember this proposal of the Democratic budget, as it left the Senate, had over a \$700 billion tax increase in it. As it left the House, it has over a \$900 billion tax increase in it. That is on the American people. What Senator KYL is suggesting is you take a very small percentage of that huge tax increase that is in this budget and use it to basically put in place proper procedures and policies relative to the death tax.

#### MOTION TO INSTRUCT CONFEREES

And that brings me to my motion to instruct. I ask unanimous consent that the pending motion be set aside and that my motion be ordered.

Mr. CONRAD. Reserving the right to object, one thing we have to do is make

sure we have the time figured out because we have an hour on the Kyl matter. I will want some time to respond to the Senator's comments, and Senator THUNE wants to apparently talk about the Senator's motion. So we would be reserving our time on the Kyl motion while we go next to the Senator's motion?

Mr. GREGG. That is fine to me, or yield it back and use the time altogether.

Mr. CONRAD. It will all wash out. Let's do that.

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

The clerk will report the motion.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. GREGG) moves that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 21 (the concurrent resolution on the budget for fiscal year 2008) be instructed to reject the House amendment that assumes a \$916 billion tax increase, the largest tax increase in U.S. history, and insist that the final conference report include in the recommend levels and amounts in Title I of S. Con. Res. 21, reductions in revenues commensurate with extending the existing tax policy:

- \$1,000 child tax credit;
- marriage penalty relief;
- 10% income tax bracket—so those earning \$15,000 or less continue to benefit from low tax rate;
- lower marginal rates for American families and small businesses (15%, 25%, 28%, 33%, and 35%);
- Earned Income Tax Credit relief for military families;
- adoption tax credit;
- dependent care tax credit;
- college tuition deduction;
- deduction for student loan interest;
- \$2,000 Coverdell Ed. IRA;
- 15% rate on capital gains and dividends;
- and death tax repeal.

Mr. GREGG. Mr. President, I will speak quickly to this because I know the Senator from South Dakota has been courteous and is waiting, and I know he wants to speak to it. So I will highlight a little and then come back to the substance of it.

The essence of this motion is that the \$916 billion tax increase, the largest tax increase in history, which is in the House budget, be rejected; that the \$700-plus billion tax increase in the Senate budget—again, that would be the largest tax increase in history were the House not outbidding us—be rejected; and that instead we extend a series of tax breaks which are already in place and which are very beneficial to the American people, including the \$1,000 child credit, the marriage penalty relief, the 10-percent income tax bracket, the lower marginal rates for American families and small businesses, the earned-income tax credit for military families, the adoption tax credit, the dependent care tax credit, the college tuition deduction, the deduction for student loan interest, a \$2,000 Coverdell education IRA, the 15-percent rate on capital gains and dividends, and essentially the Kyl death



tax proposal. That is what this instruction would do.

I would ask that, instead of increasing taxes by the largest amount in history on the American people, we continue tax policies which have produced this huge economic expansion.

I yield to the Senator from South Dakota for his comments.

Mr. THUNE. Mr. President, I wish to thank the Senator from New Hampshire for yielding and also to just elaborate on some of the things he talked about with regard to his motion. I congratulate him on offering this motion to instruct because I believe it gets at the heart of this issue, which is whether we are going to continue this economic expansion, the job growth that has come with it, the explosion in Government revenues associated with the tax relief that was enacted in 2001 and 2003 or whether we are going to go down the opposite path and increase taxes by, as he said, the largest amount in American history.

Now, up until this last year, this budget we are talking about today, the largest tax increase in American history happened in 1993. That was \$293 billion in increased taxes that was put through the Congress in that year. What has been proposed this year, through the budget process in the other body, in the House of Representatives, was a \$916 billion tax increase, and, as the Senator from New Hampshire has noted, here in the Senate it is a \$700 billion tax increase.

The only question really before us is whether this conference committee which is going to meet is going to adopt the House version, which is triple the largest tax increase in American history, or adopt the Senate version, which is double the largest tax increase in American history. Either way, whether we adopt the Senate-passed budget or the House-passed budget, we will be adopting the largest tax increase in American history—if we adopt the House version, three times the largest tax increase in history and, if we adopt the Senate version, more than two times the largest tax increase in American history.

So the gentleman from New Hampshire, the Senator who has proposed a motion that would instruct the conferees who will be meeting, the Senate conferees who will be meeting with the House conferees to work out and reconcile the differences between these two budget resolutions—one, as I said, is the House, which is triple the largest tax increase, or the Senate version, which is double—his motion would essentially instruct the Senate conferees to go into that conference with a position that doesn't accept the House tax increase or the Senate tax increase; rather, it allows these existing tax cuts to stay in law—in other words, not to allow them to expire.

I have a chart here which illustrates a little bit about what I am speaking of today, and this chart essentially shows what is included in that \$900 billion tax

increase. As I said earlier, the Senate, in its budget resolution, adopted a position that restored about \$180 billion of the tax relief that would expire under the House-adopted budget resolution. As we can see, this is the amount taxes will go up if this budget is adopted. This is the amount the Senate said we will put back with the Senate budget resolution here, which our colleagues on the other side were able to get through the Senate. It puts back \$180 billion.

I will give the House credit because the House voted yesterday on a motion to instruct their conferees to adopt the Senate language. That makes sense because I think they heard what a lot of people said when they went home and met with their constituents; that is, we don't want to see the largest tax increase in American history. We don't want another \$900 billion in taxes imposed on the American economy at a time when the economy is growing and expanding and creating jobs.

Just look at the last few years here: 7½ million new jobs, unemployment at 4.5, 4.6 percent, the lowest historical average in the last three decades, 21 consecutive quarters of economic growth.

This is the counterintuitive part about this because, as was pointed out back in 2001 and 2003 when these tax cuts were being debated, if we reduce taxes the revenues are going to go down. Well, in fact, the opposite has happened. What has happened is what has happened throughout the course of history—under the Harding administration in the 1920s, the Kennedy administration in the 1960s, the Reagan administration in the 1980s, and now currently; that is, when you reduce marginal income tax rates, capital gains income rates, what happens? People take their realizations, they pay their taxes, they reinvest, and you get not less Government revenue but more Government revenue—in this case, dramatically more Government revenue.

Between 2004 and this year, we have seen Government revenues increase by \$300 billion; that is, revenue coming into the Federal Treasury between 2004 and 2005 was up almost 15 percent, 14.7 percent; between 2005 and 2006, around 13 percent; and in this current fiscal year, the first 7 months of this current fiscal year, Government revenues are up 11.3 percent over last year. In fact, in the month of April, we have \$70 billion more Government revenue than April a year ago.

These tax cuts are working not only to stimulate the economy and to create jobs but, as I said before, miraculously, to generate more Government revenue. We have \$300 billion more Government revenue coming in as a result of reducing taxes, which again proves the historical fact that when you reduce marginal income tax rates and capital gains tax rates on the American people, they take their realizations, they pay taxes, they invest, they create more jobs, the economy continues to

expand, and you get not less Government revenue but more Government revenue.

So I think what is happening here in the Senate is an attempt to provide a fig leaf of cover when it comes to this issue of taxes. The problem with that is this particular cover is a cover not for the taxpayers in this country, it is perhaps a cover for the tax raisers in this country. It is a small cover, however, because if you take \$180 billion of tax relief that is restored under the budget resolution adopted here in the Senate, you can cover some of this stuff.

What they propose is that we are going to put back some of the marriage penalty that would come back into play under the House-passed version, and we are going to restore some of the 10-percent tax rate—the lowest tax rate, which applies to people making \$15,000 and less—and we are going to provide some death tax relief. We will lower the top death tax rate from 55 percent to 45 percent. Well, what does that do? What do you do, then, about the alternative minimum tax, which is going to hit 20 million additional taxpayers if this budget is adopted? What about the child tax credit, which under the Democratic plan is slashed from \$1,000 back to \$500? What about lower tax rates throughout the rest of the rate schedule? Even if you fix, as they attempt to do with this small amount of tax relief, the 10-percent tax bracket, the lowest tax bracket, you still have tax increases in every other tax rate on the schedule. In fact, those who are paying 25 percent taxes are now going to go up to 28 percent. Those who were paying at the 28-percent rate currently will see their tax rate going up to 31 percent. Those paying at the 33-percent rate are going to see their tax rates go up to 36 percent. Those fortunate few paying at the 35-percent rate, the highest marginal tax rate today, are going to see their tax rates go up to 39.6 percent.

My point is, you can provide a fig leaf to say that we are doing something to allow for some of these tax cuts, this tax relief which has benefited our economy and the American people into the foreseeable future, but what about the rest of all these tax breaks that are going to expire, which means the largest tax increase in American history?

If we look at what the motion of the Senator from New Hampshire does, it says we want to extend these tax breaks to include the deduction for student loan interest. There are a lot of working families trying to put their kids through college who are taking advantage of that tax break.

How about the earned-income tax credit, which is helping a lot of our military families, many of them serving in Iraq and Afghanistan?

As I said before, the child tax credit is being slashed from \$1,000 down to \$500, essentially cutting in half the amount of credit a working family can get for their children when they file their tax returns. That was something

which was put in place to help working families.

I can go right down the list. Let's take senior citizens' dividend income—currently taxed at the capital gains rate of 15 percent, but under this proposal it goes up to 39 percent. We have a lot of seniors in this country who have invested and now have dividend income, capital gains income. Their capital gains income rates are going to go up as well. If they have capital gains income they are going to show, that will go up from 15 percent to 20 percent.

My point very simply is that if you pay taxes in America today, the prescription in this budget resolution which was adopted here by the Senate, put forward by our colleagues on the other side and the one adopted by the House, has one prescription: higher taxes. Every working American who pays taxes today is going to see their tax bill go up. In fact, in my State of South Dakota, which I will use as an example, the average tax increase on a working family in South Dakota would be \$2,596 under this budget, with 2,840 jobs being lost and \$262 million lost in our economy. That is in my State of South Dakota, and probably, if you take any other State, you would find the numbers to be dramatically higher in terms of job loss, in terms of the loss to the local economy and the impact it is going to have on taxpayers.

Again, just in an attempt to summarize what I am saying here, the Democrats have attempted, in the form of a fig leaf, to provide some amount of tax relief cover in this budget. What they do not tell us is that the amount of tax relief does nothing to cover the increase in taxes that will occur under this budget. They take about \$180 billion off the table and say to the American people: Keep that. But they are still going to be raising taxes by over \$700 billion, even if the Senate version of this budget resolution is adopted in conference. If the House version ends up being adopted, it will be over a \$900 billion tax increase—the largest tax increase in American history by three times in the House, over two times in the Senate.

Again, if you take this amount, this fig leaf, and you say: We are going to put the 10-percent rate back, we are going to do something to provide some marriage penalty relief because we think married couples ought not to be penalized for being married, which I happen to agree with, and that was part of the tax relief passed in 2001 and 2003, and I think they realize that is a popular piece of tax relief, so they are going to attempt to restore some of these things—that still doesn't do anything about capital gains and dividends, which will hit seniors, or anything about R&D tax credits or the per-child tax credit or anything on the rate structure, the rates which go from 25 percent up to 28, from 28 to 31, from 33 to 36, and from 35 to 39.6. Every rate on the rate schedule is going up under this particular proposal.

So I am here today to support the motion of the Senator from New Hampshire to instruct the conferees as they go into conference between the House and the Senate to leave these tax cuts alone. Don't allow them to expire. Don't permit the largest tax increase in American history at a time when the economy is growing and expanding and creating jobs and we are seeing not less Government revenue but dramatically more Government revenue, to the tune of a \$300 billion increase in Government revenues just in the past 3 years alone.

These tax cuts are working. They are having their desired effect. They are accomplishing what was intended in the first place when this Congress, in its wisdom, enacted these tax cuts in 2001 and 2003. It would be a shame to take a fig leaf and try to say to the American people, to the taxpayers of this country, that we are going to provide a little bit of cover for the tax raisers here in the Congress, but we aren't going to do anything to provide cover for the American taxpayer, those people who are going to pay higher rates in all these areas if this budget is passed and if the conference report comes back either with the Senate version or the House version, both of which increase taxes, it is just a question of by how much.

So I hope we can adopt and get the votes necessary to pass the motion of the Senator from New Hampshire to instruct our conferees to allow these tax cuts to stay in place. Don't allow them to expire, don't raise taxes, don't do something that would harm our economy and the jobs being created by passing the largest tax increase in American history.

With that, Mr. President, I yield the floor.

THE PRESIDING OFFICER. The Senator from North Dakota.

MR. CONRAD. Mr. President, this is the most amusing chart that has been presented in the Senate this year. The biggest block of the Senator's chart is about alternative minimum tax relief. He is talking about the Gregg amendment. Read the Gregg amendment. There is no mention of alternative minimum tax relief. That chart—I am glad he is taking it down because it is a complete concoction. It has no relevance to anything that is being suggested here.

The Senator says the biggest tax increase in history—not true. There is no tax increase in the proposal before us. Here are the facts.

The President, when he produced his budget, said, through his agency of Office of Management and Budget, an agency he completely controls, that his budget would produce \$14.826 trillion of revenue over the next 5 years. That is what the President said his budget would do. What does the budget I have presented do, according to the Congressional Budget Office? It produces \$14.827 trillion of revenue. That is \$1 billion of difference on an almost \$15

trillion base. And they are talking about the biggest tax increase ever? Come on.

It is a great speech. It is the same speech the Republicans have delivered for 20 years. They are so used to it, they keep giving it. It doesn't matter what the facts are or what the budget is before us. There is no big tax increase that is in this budget. In fact, there is no tax increase that is contained in this budget.

I don't know what the Republicans are going to say next year when there has been no tax increase, after all these speeches about the biggest tax increase in history. What are they going to say? I can hardly wait until next year. I am looking forward to that.

There is a little more revenue in our plan. As I say, the President said his budget would produce \$14.826 trillion of revenue. The CBO says ours will produce \$14.827 trillion. That is virtually no difference.

On a straight CBO score, apples-to-apples comparison, there is a 2-percent difference between our budget and the President's budget. Our friends on the other side come here with no budget—none. They have no budget for the country this year. Amazingly enough, they had no budget last year. They never agreed on a budget. They never agreed on a budget the year before. So they come here complaining about a budget that actually will exercise some discipline. It is pretty easy to be here with no budget, but of course they produced no budget when they controlled everything. They controlled the House of Representatives, they controlled the Senate, they controlled the White House—no budget. It is no wonder the debt is up, up, and away.

According to a CBO analysis of the two budgets, the President's budget and our budget, there is a 2-percent difference in revenue.

How could you get 2 percent more revenue with no tax increase? That is a good question. That is a fair question. I submit it is pretty easy to do. First, we have a tax gap in this country that the Internal Revenue Service says in 2001 was \$345 billion. Today that tax gap, I believe, is in the range of \$400 billion a year. That is the difference between what is owed and what is paid.

To collect taxes that are already owed is not a tax increase. That is simply insisting everybody pay what they legitimately owe. That is the first place we ought to look. Now \$400 billion a year times 5 years of this budget is \$2 trillion. We would only need 15 percent of that to get the revenue that is called for in this budget with no tax increase.

But it does not stop there, because the Permanent Subcommittee on Investigations says we are losing another \$100 billion a year to offshore tax havens. I have showed this building before. This building is in the Cayman Islands. It is a five-story building. This building is the home to 12,748 companies that say they are doing business



out of this building. That is the most efficient building in the world. Are they really doing business out of this little building? Twelve thousand companies? No. They are engaged in an enormous tax dodge out of this building. We ought to shut that down. That is \$100 billion a year, according to the Permanent Subcommittee on Investigations.

It does not stop there. Here is what the Permanent Subcommittee said:

Experts have estimated that the total loss to the Treasury from offshore tax evasion alone approaches \$100 billion per year, including \$40 to \$70 billion from individuals and another \$30 billion from corporations engaged in offshore tax evasion.

If our friends on the other side of the aisle want to protect these abusive tax havens, let them do it. Let's see what the American people say about that. Let's see what the American people think about having wealthy individuals and wealthy corporations avoiding what they legitimately owe in this country by going off to these tax havens and claiming they are doing business out of this five-story building down in the Cayman Islands—12,700 companies—come on.

It doesn't end there. I say go onto the Internet. If you wonder whether this thing is real on tax havens, enter in "offshore tax planning," Google it, and what do you get? You get 1,260,000 hits. What do you find out there? Here is my favorite:

Live worldwide on a luxury yacht, tax free.

That is what our friends over here are defending.

Live worldwide on a luxury yacht, tax free . . . Live tax free and worldwide on a luxury yacht . . . Moving offshore living tax free just got easier . . . Live tax free and worldwide on a luxury yacht—exciting stuff.

Indeed it is. It is costing us \$100 billion a year, and it doesn't end there. We have these other scams that are going on.

I guess this is my favorite. This is a sewer system. It is a sewer system in Europe. What does that have to do with the budget? It turns out it has a lot to do with the budget. Why? Because we have now learned through an investigation that wealthy investors, corporations in the United States, have bought European sewer systems and are depreciating them on the books in the United States to reduce their tax obligation here and then leasing them back to the countries that paid for them in the first place.

This assertion that there is a big tax increase here is mumbo jumbo. There is no tax increase here.

Yes, we do have modestly more revenue, 2 percent more—although in the President's estimates we have virtually no change in revenue. But let's take the CBO numbers we use here in Congress. We have 2 percent more revenue. We say let's go after the tax gap, let's go after these tax havens, let's go after these abusive tax shelters.

My colleague from New Hampshire talked about the explosion of tax rev-

enue, but he didn't tell the whole story. He didn't go back to when this story started, in 2000, because here is the whole story. The revenue of the United States back in 2000 was just over \$2 trillion for the year. Then we had big tax cuts put in place in 2001 and revenue went down. Revenue went down the next year. Revenue went down the next year. Revenue stayed down in 2004—which is the fifth this year. Revenue stayed down in 2005.

Only in 2006, 6 years later, did we get back to the real revenue base we had all the way back in 2000. Is it any wonder the debt of the country exploded? Is it any wonder?

When they talk about the extraordinary economic performance of this administration, that is not the record I see. Let's compare it to the previous administration. The previous administration, in the first 75 months, produced 18.7 million new jobs. This administration in the same period of time: 5.2 million, less than one-third the job creation of the previous administration in the same period.

But it doesn't end there. If you compare this economic recovery to the nine recoveries since World War II, here is what you see. On job creation, the dotted red line is the average of all of the recoveries, the major recoveries since World War II. That is the dotted red line, job creation.

The black line is this recovery. It is lagging 7 million private sector jobs compared to the average recovery since World War II. That is job creation.

On business investment, again the dotted red line is the average of the nine largest recoveries since World War II. The black line is this recovery. In every one of these you see the same pattern: This recovery is tepid compared to every one of the other major recoveries since World War II.

Here on business investment we are 69 percent below the average recovery.

It doesn't end there. If you look at revenues, revenues lag by \$127 billion, the average of the nine major recoveries since World War II.

If you look at real median household income—why is it our friends on the other side talk about how good things are, yet the significant majority of the American people say things aren't so good? The big reason is people at the top, all of us, we have done very well. The people at the top in this society—and, of course, there are many who are far above us who have done really well. But you know the majority of people in this country have not done really well. Their position has stagnated. For many of our countrymen, their position has dropped. And this shows it.

Here is real median household income from 2000—it was \$47,599—to today, it is \$46,326. That is why people, when they are asked, say they don't see this economy performing in the splendid fashion described by our friends on the other side.

It has been splendid for the top 1 percent in this country. The top 1 percent

has seen an explosion of their income. They have also enjoyed a disproportionate share of the tax cuts granted by our friends on the other side. That is what has happened.

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

Mr. CONRAD. I am happy to yield.

Ms. STABENOW. Mr. President, I first thank our esteemed budget chairman for raising what is so important in the context of this debate. I thank him for raising the chart that actually shows the majority of Americans are not seeing their incomes go up. They are seeing them go down.

As the chairman knows, we have lost 3 million manufacturing jobs in the last few years under this administration—3 million good-paying jobs with health care and with pensions. The reality is that, in listening to the debate with my colleagues on the other side, I don't know what they are describing. They certainly are not describing what is happening to the majority of Americans.

I did also want to thank the chairman for bringing up a building in the Cayman Islands he has shown us a number of times, a picture of a five-story building where there are over 12,000, I believe, different businesses that have filed that they are part of that building. In the Finance Committee, I used the chairman's chart and asked—I don't know if the chairman will remember this, but in the Finance Committee I actually asked the IRS and the Treasury if they had sent anybody down to look at that building. Has anybody walked through that building?

We have seen our distinguished leader on Budget point out a specific address, a specific address where we know there are not 12,748 different companies in that building. Yet, Mr. Chairman, to your knowledge, has anybody taken any legal action on this even now? You have raised this time and again.

This is the way we ought to be focusing on what happens on taxes. But the majority of people see their incomes going down, and what do we see? Ships, yachts where people can go offshore to live to avoid paying their taxes and avoid contributing to the war and the economy and schools and roads and everything that is important to us.

Then you have a building. I don't know if the chairman would want to speak to this. Has there, to the Senator's knowledge, been any action taken on this building and what is happening with over 12,748 companies?

Mr. CONRAD. Well, the Senator asked the witnesses before the committee. They seemed totally flummoxed by the question. It was pretty amazing. Here we have this building in the Cayman Islands, this five-story building. We have got 12,748 companies that claim it as their home.

Now, why did they do that? They do it because the Cayman Islands has no taxes. So guess what they do. They have subsidiaries in the United States

that report no earnings in the United States. Then they sell to a subsidiary in the Cayman islands at a reduced price, and they show their profits in the Cayman Islands.

When I was tax commissioner, I found this kind of tax abuse going on repeatedly. It was quite amazing. This was 20 years ago that companies were engaged in this kind of activity. It has absolutely exploded. That is what the Permanent Subcommittee on Investigations is telling us, that we are losing \$100 billion a year to this kind of scam. Of course, the abusive tax shelters are on top of that. The tax gap, the difference between what is owed and what is paid, is on top of that.

But when you ask the relevant officials: Have you audited these companies to see if they really are doing business out of this building? Well, you got sort of—they were sort of in a trance. They had no answer.

I would say let's go after these people who are not paying what they owe legitimately and fairly in this country.

Ms. STABENOW. Well, I just want to thank the chairman again. I am very proud of this budget because it focuses on hard-working, middle-class families, people I represent in Michigan who will get the tax cuts in this budget. It addresses the kind of things we are talking about here. I am not interested in a tax policy that rewards this kind of tax evasion or folks moving offshore in their yacht to avoid being part of America and contributing to our way of life. I just want to thank the chairman.

Mr. CONRAD. Let me make one other point, if I can, that is with reference to the Gregg amendment. I will provide an alternative that insists on the tax relief that is provided in the budget resolution and asks our Senate conferees to fight for the tax relief that is provided. The tax relief that is in the budget resolution that passed the Senate provides for every dime required to extend the middle-class tax cuts, the 10-percent tax bracket, the child credit, the marriage penalty relief. Every dime of those middle-class tax cuts is provided for in the resolution that passed the Senate.

In addition, we provided for reform of the estate tax, to have \$7 million a couple exempt from any estate tax. We index it for inflation. That will exempt 99.8 percent of the estates in America from paying any estate tax.

In addition, we provided for extension of the adoption tax credit, the dependent care tax credit, the treatment of combat pay for purposes of the earned-income tax credit. In addition, we insist that the Senate conferees support section 303 of the Senate resolution that provides for additional tax relief, including extensions of expiring provisions and refundable tax relief provided that such relief would not increase the deficit over the period of the total fiscal years 2007 to 2012.

In other words, we provide for all of the middle-class tax relief. We provide

for estate tax reform. We provide for the appropriate treatment of combat pay. We provide for the dependent care tax credit, the adoption tax credit. And we say: You can have other tax relief if you pay for it. There is an interesting idea. Start paying for things around here.

The difference between my amendment and the amendment of the Senator from New Hampshire is he puts another \$250 billion on the charge card, adds to the debt, sticks it on our kids. We say: No, let's start paying for things. That is the difference. We insist on the Senate position that any additional revenues meet these tax policies that are achieved by closing the tax gap, shutting down abusive tax shelters, addressing offshore tax havens, and without raising taxes. That is the resolution that passed this body. That is the resolution that is before the conference committee. It does not raise taxes by one thin dime.

#### MOTION TO INSTRUCT CONFEREES

Mr. President, I call up my motion.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two houses on the House amendment to the concurrent resolution S. Con. Res. 21 (setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012) be instructed to—

(A) insist on the Senate amendment with regard to to relief, which cuts taxes in the resolution by \$180 billion to provide for extension of the child tax credit, marriage penalty relief, and ten-percent bracket; reform of the estate tax to protect small businesses and family farms; extension of the adoption tax credit, dependent care tax credit, treatment of combat pay for purposes of EITC; and other tax relief;

(B) insist on Section 303 of the Senate resolution that provides for tax relief, including extensions of expiring tax relief and refundable tax relief, provided that such legislation would not increase the deficit over the total of the period of fiscal years 2007–2012; and

(C) insist on the Senate position that any additional revenues to meet these tax policies are achieved by closing the tax gap, shutting down abusive tax shelters, addressing offshore tax havens, and without raising taxes.

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

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I have referred to this as the Wizard of Oz budget because there is someone behind the curtain somewhere on the other side of the aisle who is going to pay for all of those proposals they have put into the budget. No matter how you do the numbers, it works out that this budget has in it, as proposed by the Democratic Party, the largest tax increase in the history of the country.

It is interesting that the Senator from North Dakota continues to bring

forward the chart that says his tax revenues are about the same as the administration's, failing to mention—well, he did mention it, he just did not highlight it—that he is using one accounting scheme to get to one number, and another one to get to the other.

But when you do compare apples to apples and oranges to oranges, you realize that under CBO scoring the difference is very significant between the two. Under OMB scoring the difference is significant between the two.

The fact is, there is a dramatic increase in taxes in both packages. In the Democratic package, if you score it consistently the difference is about \$300 billion if you do not take into effect the AMT. So you have got a \$300 billion tax increase in this bill.

Now, if it were not there, why would they have cut taxes to begin with as their first amendment? Their first amendment was a \$180 billion revenue reduction. They were at the House number of \$900 billion in new taxes. They cut that by \$180 billion, which the Senator from South Dakota has ably laid out in his chart with his fig leaf, that \$180 billion was their first amendment out of the box.

They obviously needed that amendment to reduce the tax burden which they had in their budget. Yet they claim they don't have a higher tax burden in their budget. Totally inconsistent on its face. Not defensible. If they were at the House number, which they were when they originally proposed the budget, they had a \$900 billion tax increase. They are now at the new number, which is a \$700 billion tax increase. If you take out the AMT number, they are at a \$300 billion tax increase.

If it looks like a duck and walks like a duck, talks like a duck, it is a duck. This is a tax increase. This budget has a major tax increase. It is incredible to me that they can argue they do not have a tax increase and then oppose my motion, which basically says do not increase taxes. If they are not increasing taxes, they did not have to oppose my motion. They should be supporting it on its face. So the inconsistency is palpable. Palpable.

Then the idea that they are going to cover this \$300 billion of new taxes, plus the AMT, of an extra \$500 billion out of one building in the Grand Caymans—oh, yeah, that is where it is. That is where all of the money is. They are going to get \$1 trillion dollars of new taxes out of this building.

Granted, we all accept the fact that there is obviously something wrong, when you have 12,000 companies filed there, and they are in a tax haven. But to represent that they can generate this type of revenue by closing tax loopholes on overseas tax activity is absurd on its face; or that they can collect this from unpaid taxes is absurd on its face.

The Commissioner of the IRS came to us, the Commissioner. He said the most they can collect over what they

are already collecting over the next 5 years is about \$20 to \$30 billion of unpaid obligated taxes. They have obviously put in place, they believe, a very robust effort to try to collect unpaid obligated taxes.

They think the incremental increase they can get, no matter how much more money it gave them, would be \$20 to \$30 billion, not \$300 billion, not \$700 billion. That was the testimony before the committee.

The Senator, the former chairman and present ranking member of the Finance Committee, came down and spoke at length about the effort to close overseas loopholes and what they have been able to recover. Yes, there may be more dollars there, but there is nothing in the realm of \$300 billion, \$700 billion, which is what this tax bill—what this tax bill, which is what you should call this budget; it is a tax bill—proposes.

No, this is a budget which has in it a huge tax increase. That is simply the way it is. If it did not, people would not be opposing my motion. They would be accepting it, taking it, because it is a reasonable motion. My motion continues tax cuts for the child credit, for the marriage penalty, 10 percent bracket, the lower marginal rates for Americans and small business, earned-income tax credit, relief for military families, adoption tax credit, dependent care tax credit, college tuition deduction, deductions for student loans, \$2,000 Coverdell IRAs, 15 percent capital gains and dividend rate, and the Kyl-Landrieu death tax reform.

It is a very reasoned approach. It is what we should be doing. We should not be raising taxes on the American people. Now, the argument is that raising taxes won't have an effect on the economy; that passing this budget, if it were put in full operation, will not have an effect on the economy. Of course, it will. It will have a dramatic effect on the economy.

You cannot put \$700 billion of new taxes on this economy and not expect this economy to adjust rather dramatically to a slowdown as a result. You cannot ask people who are entrepreneurs, who are taking risks, who are creating jobs, you cannot say to them: We are going to raise your capital gains rate up to 30 percent. We are going to raise your dividends rate, potentially, up to 39 percent. You cannot say that to them and not expect there to be a reaction in the marketplace.

People are going to stop taking risks. One thing we have learned in this economy is, if you give people a fair tax system, one where they are taxed at a rate that is reasonable, they will go out and take risks. That is the great genius of the American economy.

But, if you give them a tax rate which is unreasonable, they are going to take action to avoid that tax rate, which will mean ineffective use of dollars, inefficient use of capital. It will also mean a lot more people thinking of ways like going to the Cayman Islands to try to avoid taxes.

The practical effect of that is you slow the economy, you contract the economy. This proposal will do that. This proposal increases spending over the period of 5 years by, I think it is \$147 billion.

They have to pay for that, so they raise taxes. It is the old approach. I don't know why it is denied by the other side of the aisle. Why don't they simply admit they like to spend money; they like to take tax dollars and spend money? That is what they are going to do, take people's taxes and spend on it their priorities. Our philosophy is, let people keep their money and they get to spend it on their priorities. They usually do a better job. It is more efficient. They create more jobs, and they create more economic activity. I thought the chart of the Senator from South Dakota was one of the better ones we have seen. It was a pretty good example of what the problem is. I call it the Wizard of Oz budget, where there is somebody behind a curtain who will pay for this. He calls it a fig leaf.

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

Mr. GREGG. I am many happy to yield.

Mr. THUNE. I understand my colleague from North Dakota. We both come from an area of the country where we have a lot of hard-working, plain-spoken people. They get this. If you have a bunch of tax cuts that are in law today and you allow them to expire, which is what this budget does, that constitutes a tax increase. People in my part of the country get that. If you are not trying to hide something, why would you put a fig leaf on it? The amendment offered to the budget by our colleagues on the other side said: We will take the more popular things, and we will allow those tax cuts to be extended, which to me and those I represent very simply implies that the ones you aren't extending are going to expire, which constitutes a tax increase. We can talk about whether that is \$300 billion or whether, if you include the AMT, it is \$700 billion. But the fact is, the House budget resolution allows the tax cuts to expire to the tune of \$916 billion. The Senate said: We are going to put a fig leaf on that, and we are going to allow \$180 billion in tax relief, which to me implies they understand exactly what they are doing. They are trying to hide this tax increase by putting a fig leaf on it.

To the people in my State and the people of New Hampshire and the people of North Dakota, this is a very simple thing. They get this. They understand what they tried to accomplish when this was debated in the Senate during the debate on the budget resolution was simply to put a fig leaf on this to offer up some tax cuts, some tax relief, and they wouldn't have had to do that, if they weren't raising taxes by \$916 billion. It is pretty straightforward.

The motion of the Senator from New Hampshire is very straightforward. All

it says is: Let's allow these tax cuts to be extended because they have created jobs, 7.5 million new jobs, 21 consecutive quarters of economic growth, 4.5-percent unemployment rate, and \$300 billion in additional Government revenue over the past 3 years. Government revenues have not gone down. They have gone up. We have not less Government revenue; we have more as a result. Why would you fix something that is not broken? That is something people in the part of the country I represented understand clearly. If you are allowing tax cuts to expire, if you are not extending them, you are raising taxes.

Mr. GREGG. That was an excellent question. I appreciated that.

Mr. THUNE. I am not sure it was a question.

Mr. GREGG. Why would you fix it, if it is not broken?

Mr. CONRAD. Under the rules, it has to be a question. We will permit a very generous reading of the rules.

Mr. GREGG. I wished to comment on a couple other points. We went through this when we debated the budget and the Senator from North Dakota used his charts and I responded with an occasional chart, not quite as many. But I think it is important to make these points in a couple of areas.

He says there is a 2-percent difference now between his tax revenues and the President's tax revenues over the 5 years. When he brought the budget out, it was 3 percent; 3 percent came out to \$½ trillion. He is at the 2 percent number now because he has factored in the fact that they reduced taxes or they at least allowed some of the tax extenders to go forward with the Baucus amendment which, basically, by accepting that amendment as a first amendment, the Senator from North Dakota made our argument for us, which was that they were raising taxes. That 2 percent would translate into about \$300 billion today, a lot of money. If you decide you are going to create a chart and you use small enough incrementals, you can end up with those two lines being together, but \$300 billion is big-time dollars. That is the American taxpayer having to pay a lot of money in order to cover new spending under the Democratic proposal.

In addition, this whole issue of economic expansion, the Senator from North Dakota pooh-poohs the last few years of economic expansion. He says it is not that good compared to the Clinton years. Nearly eight million jobs is a lot of jobs; 22 continuous quarters of economic growth is a lot of economic growth. Equally important, is the fact that we now have a revenue stream which exceeds the national average. Let's put that chart up there again because that is one of the most important charts we have. We have a revenue stream which exceeds the historic average of what we generate for revenues to the Federal Government. That is a critical issue and a critical point. We

have a tax law which has actually gotten lower rates in a lot of areas for working families, for families with children, for people who have dividend income and take capital gains and, thus, take risk. By the way, senior citizens who are on fixed incomes are by far the biggest receivers as a group of dividend income. When you start raising the rate on dividend taxes, you are hitting seniors who are on a fixed income.

The fact is, with these lower rates, which we put in place, we are generating revenues to the Federal Government today—we have been for the last 3 years—which dramatically exceed the amount of revenues which have historically been generated to the Federal Government. As a result, the deficit is coming down precipitously. We will be in balance. I said Humpty Dumpty could balance the budget by 2011. In fact, under CBO's scoring, the budget goes into a dramatic surplus by 2011. They don't take into account a couple of major issues, but it doesn't matter. The fact is, you can get to balance because revenues are coming in dramatically. Why are they coming in dramatically? Because we have a tax law that works today. What does the other side want to do with that? They want to throw it out. They want to go back to the old ways, when you just significantly increase the taxes on productive America, on working Americans, on Americans who unfortunately die and run small businesses and their families get wiped out. Why does the other side of the aisle want to do that? Why does the other side of the aisle want to say to a family who has a death, who runs a small restaurant or a small farm or small business: We are going to put you out of business; we are going to hit you with a 45-percent tax rate? That makes no sense at all. Why not agree to the Kyl motion which was a balanced approach, worked out by both sides of the aisle, a fair, bipartisan approach? Why not be willing to extend the capital gains and dividends rate which has generated so much revenue, so much economic activity?

In fact, capital gains has actually been a net winner for us. By reducing rates, we have now generated significantly more income from capital gains taxes than we did when the rates were higher. Why is that? It is called human nature. If you own an asset, a stock, a bond, a piece of real estate, and you know you are going to be taxed at 25 percent or maybe 30 percent, the odds of your selling that asset and realizing the gains are pretty slim. Maybe you are figuring, I will hold onto it. But when that tax rate went down to 15 percent, there was an immediate incentive for Americans to go out and sell those locked-up assets. What was the effect of that? The first effect was they got cash, which they then reinvested in something that was much more efficient. They put their capital into a better working situation so they created more economic activity. It is human

nature that they would go out and invest to try to earn more money, which means they are basically investing in taking maybe more risk or creating more opportunity for jobs.

In addition, they generated a huge windfall to the Federal Government which we are continuing to receive because those assets which were not going to get sold under the higher tax rates were getting sold. We were getting the revenues. The proceeds were being reinvested, and that generated more jobs, more economic activity, which generated additional revenues. That is why we have seen this dramatic increase in Federal revenues. In fact, the vast majority of the Federal revenue that we have seen jump has been a function of capital gains revenue. That is where most of this new revenue comes from. Yet the other side doesn't want to extend the rates on capital gains, doesn't want to extend the rates on dividends. They want to kill that goose that has been laying significant revenues for the Federal Government and giving people an incentive to be productive and helping senior citizens who are on a fixed income meet the challenges of living on a fixed income.

It makes no sense to me that they would oppose this amendment, if their argument is they have no tax increases in their budget. The only way you can oppose my motion is if you do have tax increases in your budget because the only way my motion has any impact is to address tax increases. So if you didn't have any tax increases in your budget, you would have to support my motion. If that is their position, that there are no tax increases in their budget, then my motion should be a nonevent and should be supported. But it appears they do have tax increases in their budget because they are opposing my motion. In fact, if we go back to the chart that shows the actual calculation of tax increases, the 3 percent chart or the apples to apples, it is true. There is a \$300 billion tax increase over and above the AMT, even after the Baucus language, and there is, in addition, an issue of where that \$300 billion is going to come from. The concept that it is going to come out of a building in the Grand Caymans or from uncollected taxes is not valid in the face of the testimony before our committee and the history of our attempts to try to close those, to address those two issues.

No more than 10 percent of that tax increase could possibly be gained out of those two accounts. The rest will have to come out of working Americans who today are benefitting from the tax cuts which are in place and using those tax cuts to significantly expand this economy and, as a result, generate significantly more revenues to the Federal Treasury.

That is obviously why I put this motion forward. The Senator has put forward his alternative, which is responded to by the summary I have given of mine and speaks to the fact

that his third paragraph, which is you are going to get the money from the tax gap and abusive tax shelters is not credible in the face of the facts and the situation. Although we certainly want to get as much as we can from those two accounts, we are not going to get anywhere near what is proposed, nowhere near the \$300 billion. Of course, he held up my motion. He said: It doesn't address the AMT to the Senator from South Dakota. I would note that his also does not address the AMT. At least we are consistent on that point.

It is my understanding that Senator CORNYN is going to be back in 10 minutes to offer his motion.

I yield the floor.

The PRESIDING OFFICER (Mr. OBAMA). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have enjoyed this presentation so much. It is perhaps the most creative presentation I have heard on the Senate floor. The Senator wonders why we aren't going along with the policies of this administration. Here is why. Here is what our friends on the other side never want to talk about. You will never hear this word leave their lips—debt. They don't want to talk about debt because that is what they have been running up. They have run up the debt of the country by \$3 trillion in 5 years. If their policy is followed, they will run it up another \$3 trillion, doubling the debt and doing it all before the baby boomers retire, putting us in a deep hole.

Here is the record. The debt at the end of the first year of this administration stood at \$5.8 trillion, the gross debt of the United States, \$5.8 trillion.

At the end of this year, the gross debt of the United States is going to be up to \$9 trillion because of the policies that our friends on the other side put in place. But you will never hear them talk about that part of the record. You will never hear them talk about where it is headed if we continue with their policies. They are going to add another \$3 trillion. You will never hear my colleague say the motion he has presented will cost another \$250 billion that is not paid for—not a dime of it. He will not tell you that our budget balances in 2012, but if we adopt his motion, it will not because he does not want to have to be under the constraints of making things add up.

I admit, it is tough. It is very hard to actually balance the budget. But our friends have not even had a budget for the last 2 years for the United States of America. Hard to believe, isn't it? They had been in charge of everything, and they didn't have a budget.

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

I will acknowledge there was no budget last year. But 2 years ago, there was a budget, if you recall, and it actually had a reconciliation instruction in it—a very significant instruction.

Mr. CONRAD. Yes, 3 of the last 5 years there has been no budget.

Mr. GREGG. I want the Senator to be correct. Was the third year the year you were in charge when we did not have a budget?

Mr. CONRAD. No. That was when we had split responsibility and could never reach agreement because we would not go along with running up the debt. I am proud that we would not go along with it. No, we insisted on having budgets that actually balance, which is a novel idea around here.

Let me show what the results have been of the fiscal policy that our friends on the other side have engaged in.

I have pictured on this chart all the other Presidents of the United States—all 42 of them—because it took all these Presidents pictured 224 years to run up \$1 trillion of debt held by foreign countries, and this President has exceeded them. This President, alone, in 6 years, has exceeded all the foreign debt run up by the previous 42 Presidents over 224 years.

Now, this is a fiscal record they are proud of? I would not be proud of that. What is the result of this? The result of this is, we owe the Japanese over \$600 billion. We now owe the Chinese over \$400 billion. We owe the United Kingdom over \$100 billion. We owe the oil-exporting countries over \$100 billion. We owe the Caribbean banking centers over \$60 billion. That is their record. Their record is plunging this country into deeper and deeper debt.

Now, let's go back to this question of taxes. I have heard over and over from the other side that somehow I have compared apples to oranges in the OMB scoring and the CBO scoring of the revenue of our proposals. Let me say this to you. I think it is relevant because the President said about his budget—nobody else's claim; it is his statement about his budget—that it would raise \$14.826 trillion over the next 5 years. Do you know what my budget will raise over the 5 years? Virtually the identical amount: \$14.827 trillion.

Now, my friends on the other side say there is going to be an economic calamity because I am raising virtually the identical amount the President called for. I do not think so. Was the President calling for an amount of revenue that would derail the economy? Was he? I do not think the other side would make that assertion. But the President's own statement about what his budget would raise said it was going to raise \$14.826 trillion over the next 5 years. My budget raises \$14.827 trillion.

The one thing I probably should do is reduce our revenue by \$1 billion. Then we would have absolutely the same amount of revenue the President said his budget would raise. Now, the point the Senator makes that has validity is that if you use Congressional Budget Office scoring on both, there is a 2-percent difference. I have 2 percent more revenue. Why? Because I actually want to balance the budget. The President's budget does not balance. Mine does. We

have 2 percent more revenue, although according to the President's estimates, we have almost identical revenue streams over the 5 years.

But under CBO scoring, we have 2 percent more revenue. I say, without hesitation, we can raise that amount of revenue with no tax increase. Why? Let's do the math. The tax gap—that is the difference between what is owed and what is paid—the tax gap is roughly \$2 trillion over 5 years.

Then we have the tax havens. The Permanent Subcommittee on Investigations said we are losing \$100 billion a year there. So \$100 billion times the 5 years of this budget is another \$500 billion. That is \$2.5 trillion of revenue that is out there that could be recovered with no tax increase—none—\$2.5 trillion. We would only need about 10 percent of that in my budget—about 10 percent—and you would have all the revenue you need to balance and to provide the middle-class tax relief and to provide the estate tax reform and to provide the increase to veterans health care that so desperately is needed and to provide the kind of investment in education that is critical to secure our future and to provide for law enforcement.

The President's budget cuts the COPS on the street program by over 90 percent. Why would we do that? Why would we cut the COPS Program 94 percent? We do not agree with that.

We also think that veterans, who have served so gallantly and at such great personal cost, deserve to have the promise kept to them about their health care. Our budget does that. You can do this without any tax increase—none.

The Senator from New Hampshire says: Well, the Revenue Commissioner says he can only recapture \$20 billion of the \$2 trillion that is out there. What is that percentage?

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

Mr. CONRAD. It is 1 percent. We have a Revenue Commissioner who acknowledges you have \$2 trillion out there that is not being collected. He says he can collect 1 percent of it. I would say, we better get a new Revenue Commissioner. In fact, the Revenue Commissioner is leaving. Maybe we can get a Revenue Commissioner who can do better than 1 percent. We ought to get a Revenue Commissioner who can do better than 1 percent. But that is one factor.

The tax havens: \$100 billion a year that is leaking out the backdoor because of these tax havens. That is not acceptable. We ought to close that door. If we closed that door, if we shut it halfway, we would provide for the revenue here.

There are no tax increases in the budget—none. In fact, there is dramatic tax relief. Of course, the reason we left AMT out of my motion is because AMT relief is in our budget. We do not have to put it in my motion. It is in our budget. We provide for 2 years

of AMT relief. The President provided for only 1.

If you were going to apply the same argument to the President's budget that they are applying to my budget, here is what you would find. You would find the President has a big tax increase in his budget. If you apply their same logic to the President's budget, what you find is the President has a \$500 billion tax increase in his budget. He has 1 year of AMT tax relief, which means he does not have any for the 4 following years. That would constitute a tax increase of \$328 billion. By our friend's logic, that means the President has a \$328 billion tax increase in the alternative minimum tax.

For the tax extenders, it is the same way. It provides for just 1 year. So you have \$104 billion in the succeeding 4 years he does not provide for. Under their logic, that is a tax increase.

His health tax proposal is another \$52 billion.

If you add it all up, the President has, according to their logic, a \$500 billion tax increase. Do you know what the Secretary of the Treasury said when we confronted him with this? He said: That is the law. That is the law. I guess I could give that same flip answer here. I do not do that. Instead, I provide in the budget that we would provide for the middle-class tax relief, we would provide for estate tax reform, and we would pay for it so we can balance this budget and stop the explosion of debt in this country. That is exactly what we should do.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, to respond quickly, we have been over this ground many times in our discussions, but I do think it is important to reinforce the differences.

First off, I ask unanimous consent to have printed in the RECORD the letter from Director Portman which reflects the fact that CBO scores the administration revenues significantly different than what is used as a chart by the Senator from North Dakota and reflects the fact there is a \$300 billion increase in the proposal of the Senator from North Dakota.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, March 16, 2007.

Hon. JUDD GREGG,  
U.S. Senate,  
Washington, DC.

DEAR JUDD: You asked for a comparison of the revenue levels in the Senate-reported budget resolution and the President's Budget under the Administration's economic and technical assumptions.

The Senate-reported budget resolution uses the Congressional Budget Office's (CBO) economic and technical assumptions and makes a policy assumption that tax relief enacted in 2001 and 2003—the child credit, marriage penalty relief, the 10 percent bracket, and other tax relief—ends in 2010,

unless offset by other tax increases. In addition, the resolution does not reflect the impact of other revenue proposals contained in the President's Budget. With these assumptions, the Administration has developed an estimate of the revenue levels in the Senate-reported budget resolution.

The table below compares the revenue levels in the President's Budget to the Senate-reported budget resolution based on the Administration's and CBO's economic and technical assumptions. While the resolution also includes 22 "reserve funds," a procedure that allows revenues to be increased above the levels set forth in the resolution for higher spending, the estimates below do not include higher revenue levels that could result from these reserve funds.

COMPARISON OF PRESIDENT'S BUDGET & SENATE-  
REPORTED RESOLUTION

(FY 2008–2012; revenue in billions)

	Administra- tion	CBO
President's Budget .....	14,826	14,568
End 2001/2003 tax relief .....	+374	+392
Drop other Administration revenue proposals .....	+225	+43
Other changes .....	.....	+4
Subtotal .....	+599	+439
Senate-reported budget resolution .....	15,425	15,007

Please let me know if you have any additional questions.

Sincerely,

ROB PORTMAN.

Mr. GREGG. He holds up the wall of debt chart. Let me hold up the wall of taxes chart which the Senator from North Dakota is showing in his budget. He is basically proposing dramatic increases in the tax burden on the American people. He claims it is going to come from this Grand Cayman building and that the Commissioner of Revenue is not doing his job in collecting the funds that are owed and obligated.

But the fact is, the Commissioner has aggressively pursued this. We have given him more money. He will continue to aggressively pursue this. Yes, there is more that can be collected, but the numbers are nowhere near what the Senator from North Dakota has represented they might be.

Mr. CONRAD. Mr. President, will the Senator yield on this chart?

Mr. GREGG. Not right now.

Mr. CONRAD. The Senator does not want to be able to answer questions on this chart?

Mr. GREGG. I will answer questions in a second.

Mr. CONRAD. I would look forward to the opportunity to ask a question about that chart.

Mr. GREGG. Well, let me finish my statement on the points which I am making; which is that the Grand Cayman building is not going to pay for the tax increases in the Senator's budget.

Now, the Senator says he has a 2-percent increase in the tax burden. Two percent translates into about \$300 billion. That has to come from somewhere. Do you know why that tax increase is in this budget? Because he spends the money. He spends that money.

In all the numbers that are being thrown out here on the floor, all the different ideas, all the different arguments about OMB and CBO and this and that and this and that and Grand Cayman buildings, the bottom line is that the budget of the Senator and the Democratic Party increases spending. In the discretionary accounts, the Democrats' budget is about \$145 billion above the President's request over the 5 years. It increases mandatory spending by nearly \$460 billion. It increases taxes, above the AMT issue, by about \$300 billion over 5 years. It does not extend those tax cuts and rates which have generated the huge explosion in revenue for this Government; specifically, things such as the dividend and capital gains tax rates and the rates that assist working Americans. So it is not necessarily—if it did extend those rates, you would think there wouldn't be so much resistance to my motion. You can't make the argument that you are not raising taxes on Americans and then oppose my motion, which essentially says: Don't raise taxes on Americans. That is the bottom-line inconsistency of the Senator from North Dakota's arguments when you get beyond all the numbers.

I will yield to the Senator from Iowa, but the Senator from North Dakota had a question, and I look forward to his question. Remember, it has to be a question.

Mr. CONRAD. Mr. President, I am ready with a question. I say to the Senator, I look at this "Building a Wall of Taxes" and the numbers don't match the visual. The Senator's chart shows under our budget that taxes would be 18.6 percent of GDP in 2007 and 18.8 percent of GDP in 2012, and it shows visually this huge increase in taxes. By his own chart, there is almost no difference. I would ask the Senator, how can it be that the Senator shows a chart that makes it look as though there is some big increase in taxes, when by the Senator's own designations, it is 18.6 percent of GDP in 2007 and 18.8 percent in 2012?

Mr. GREGG. Well, because—

Mr. CONRAD. How does this chart accurately depict the change?

Mr. GREGG. Because the tax burden is going up in the billions on the side there, the x-axis. Does my colleague see that on the side? It is the amount of tax in billions—the actual taxes you are taking from people, the tax burden, that is the problem.

Look at it this way: If you are taking \$2.5 billion from people today and then at the end of your budget you are taking \$3.15 billion from people, that is all coming out of those tax numbers.

Mr. CONRAD. But as the Senator's chart demonstrates, if you adjust that for inflation, what your GDP figure does, there is virtually no difference in tax burden—virtually none. There is 18.6 percent in GDP tax burden in 2007 and 18.8 percent in 2012.

Mr. GREGG. Mr. President, if I may reclaim my time, the Senator has made

my argument for me. My motion should not be opposed because my motion would accomplish what the Senator wishes, which is to maintain a reasoned tax law in this country and a tax burden on the American people which would be consistent. If you oppose my motion, you are saying you have to raise taxes. By definition you do.

Mr. CONRAD. Mr. President.

Mr. GREGG. I reclaim my time, Mr. President. As much as I would like to hear from the Senator from North Dakota, I have told the Senator from Iowa I would grant him some time.

Mr. CONRAD. But the Senator can't hand off the floor. This Senator enjoys the first right of recognition, Mr. President.

Mr. GREGG. But I have the floor.

Mr. CONRAD. If the Senator is yielding, at that point I will ask for recognition to respond. The Senator cannot hand off recognition, as the Senator knows, under the rules of the Senate.

Mr. GREGG. Well, I believe I control the time.

Mr. CONRAD. The Senator cannot hand off recognition from himself to another Senator. That violates the rules of the Senate.

The PRESIDING OFFICER. The Senator can only yield time. He cannot hand off the floor.

Mr. GREGG. Well, I believe the Senator from Iowa had a question.

The PRESIDING OFFICER. The Senator from New Hampshire controls the time.

Mr. GREGG. I believe the Senator from Iowa had a question. I heard him say he wanted me to yield for a question.

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

Mr. GREGG. I am sure the Senator from North Dakota has some succinct comment he wants to make before we turn to the Senator from Iowa.

Mr. CONRAD. I thank the Senator.

The good thing is we debate strenuously, but we do it in good humor and we like and respect each other. I might say I even extend that to the Senator from Iowa, the esteemed ranking member of the Finance Committee, whom I have grown fond of.

Let me say this: We don't have any tax increase in our proposal. The reason we resist the motion of the Senator from New Hampshire is because we would have a budget that would not be in balance. Our budget is in balance by 2012; with his motion it would not be. He has \$250 billion of tax expenditures not paid for. In our budget, we provide for the middle-class tax cuts, we provide for estate tax reform, and we say if you want to have additional tax cuts, you can have them, but you have to pay for them.

I thank the Senator for his courtesy.

Mr. GREGG. I yield to the Senator from Iowa such time as he may consume.

The PRESIDING OFFICER. The Senator from New Hampshire controls 1 minute on this motion.



Mr. GRASSLEY. I can only speak for 1 minute? Is that what you are saying? There is no point in my speaking if I only have 1 minute.

The PRESIDING OFFICER. The Senator also has 30 minutes of general time.

Mr. GREGG. I yield to the Senator from Iowa as much time as he may consume.

Mr. CONRAD. Mr. President, let me say to my colleague, I know Senator GREGG has another matter he has to attend to, and I have time remaining. We will try to be fair and work things out so people don't get shut out.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I speak in favor of the motion by the Senator from New Hampshire, the ranking member of the Budget Committee, to make sure we continue existing tax policy throughout the period of time of this budget resolution.

Considering the issue of taxes and this budget, press reports have indicated we may be in the ninth inning of this budget season. The President sent his budget to Capitol Hill 3 months ago. The Senate Budget Committee marked up a budget resolution. It passed the Senate. That resolution lays out the Democratic leadership's fiscal priorities for the next 5 years. As everyone knows, the American people spoke last November and as a result of that election, we have a new Democratic majority in both Houses of Congress. So for the first time in 12 years, Democrats have the privilege, but also the responsibility, for our budget.

The Senate spoke very clearly in support of some tax relief. The voice came in the form of Senator BAUCUS and his amendment. My friend, the chairman of the Finance Committee, secured \$180 billion to prevent part of the big tax increase that will go into effect January 1, 2011. Although the Baucus amendment only provides 44 percent of the tax relief room that is actually needed to keep existing tax policy in place so there is no tax increase, it is, in fact, far superior, though, to the position on the same issue by the other body, because the House position is zero tax relief. That is right: zero tax relief. What does zero tax relief mean? It means a total tax increase of \$936 billion over 5 years. That, in fact, is the largest tax increase in history, and it is a tax increase that will occur automatically without a vote of Congress. Of course, it is inconceivable that people say: Well, we aren't responsible for a tax increase. If you like the tax policy we have today and you don't do anything to stop it, and you automatically have a tax increase, then the people who let it automatically happen are responsible for increasing taxes—the biggest tax increase in the history of the country.

That tax increase means real dollars out of the wallets of real middle-income families. I have a chart here. The chart shows a wall of tax increases.

The chart shows a family of four at \$40,000 a year average income—the national average—will face a tax increase of \$2,052. Now, for a lot of my rich liberal friends, that may not seem like a lot of money, but for a hard-working family of four in my State of Iowa, a \$2,052 increase in taxes without even a vote of the Congress happening on January 1, 2011 is a lot of money, and it matters. That is why that wall of tax increases ought to be clear to everybody, and we ought to do everything we can to bring down that wall.

As a senior Republican member of the Budget Committee, I have not been consulted on the budget by our chairman, but I have made my views clear to our distinguished chairman. What I know about the budget I have learned from press reports. If those reports are true, I would encourage the chairman and the Senate leadership to stand strong for the Senate position, which is taking care of some of the tax increase that would have taken place—44 percent of it—not as good as it ought to be, but it is surely better than the other body.

Press reports indicate that the Democratic Budget Committee chairmen are working on a compromise that would condition the tax relief on a surplus. That is, the Baucus amendment would be subject to a trigger.

Now, what is a trigger? Well, I have another chart. This chart deals with perhaps the most famous trigger. The chart shows, as my colleagues can see, Trigger, the cowboy actor Roy Rogers' horse. You can see from the chart that Trigger is a pretty impressive looking horse. We would definitely like to have such a Trigger on my farm to help with the chores, and I am sure my grandkids would enjoy a ride with Trigger were he stabled on my farm. He is a beautiful horse.

As western movie buffs know, Trigger is no longer with us. Trigger is stuffed and on display at the Roy Rogers-Dale Evans Museum in Branson, MO. Although Trigger was an impressive looking horse, this trigger device the Democrat leadership is looking at is far from impressive. The trigger notion is something that has a long history with Democratic leadership. Back in 1996, as an example, the Clinton administration and the Democratic leadership argued for a trigger for the \$500 per-child tax credit and other family tax relief issues. They took this position after President Clinton had vetoed the bill containing the family tax relief proposals. If the Clinton administration and the Democratic leadership had prevailed, millions of American families would have received the \$500 per-child tax credit perhaps in 1999 through 2001—only in those years. If President Clinton and the Democratic leadership had won and the trigger were in place, then millions of families would have lost the child tax credit in the years 2002 until now. So why would anybody in Congress want to be so antifamily and put in a trigger policy, as the prac-

tice was at that time, that would deny families with children the child tax credit? It doesn't make sense, but that is the way triggers work.

The same dynamic occurred in 2001. With surpluses, the Democratic leadership opposed broad-based, bipartisan tax relief, including a doubling of the \$500 per-child tax credit. One of the ideas the Democratic leadership flirted with at that time was the trigger. There were a few Republicans attracted to the idea as well, I have to confess.

The trigger was debated somewhat, but it was never found to be workable. It wasn't workable. So if it wasn't workable 6 years ago, why are they bringing it out of the attic now for consideration? Because a trigger is a complicated matter. It could be suggested that the mechanics of a broad-based tax trigger are a little bit like trigonometry. Trigonometry is a division of mathematics that deals with triangles. It is simple on its face, but you can see from this textbook, it can become pretty complicated pretty easily. Look at this. That is complicated.

Interweaving the complexities and uncertainties of triggered tax relief with the vast American economy could lead to a new term. That new term would be "trigonometrics." As much as folks complain about the uncertainty and complexity of the tax policy, I don't think the Democratic negotiators should want us to take us to the land of trigonometrics.

To some degree, the current law sunset of 2001 and 2003 is a de facto trigger. If you look at those in opposition to permanence of the bipartisan tax relief, you will find that it is, with very few exceptions, the same folks who like triggers.

The tax system is a very complex, very pervasive force in our society.

It affects real Americans, all Americans, and it affects all economic activity. So creating conditional tax relief through a trigger mechanism would destabilize an already unwieldy tax system. How are families, how are businesses, how are investors supposed to plan their affairs with a trigger hanging over their current tax law rules that keeps taxes low? Think about that. What would we be doing to the hard-working American taxpayers?

Now, as an aside, those taxpayers, by the way, are sending record amounts of revenue to the Treasury Department. This very day, it is reported in the Wall Street Journal that more taxes came in in April than we have ever had in the history of our country—because the bipartisan tax relief plans of 2001 and 2003 are growing the economy. They are the goose that laid the golden egg, for 3 years in a row, bringing in massive amounts of revenue into our Federal Treasury, to a point where, by the end of this fiscal year, the annual deficit will be less than 1 percent of gross national product. When you are dealing with a \$13 trillion economy, 1 percent up or down is about as good as you can do 12 months ahead in planning a budget and tax policies for this

great country of ours. So the American taxpayer is doing his or her part to reduce the deficit.

I ask unanimous consent to have printed in the RECORD a couple of articles from the BNA Daily Report for Executives, one dated May 3, 2007, another dated May 7, 2007.

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

[From the Daily Report for Executives, May 3, 2007]

**ROBUST REVENUES LEAD TREASURY TO DROP THREE-YEAR, CONSIDER BUYING DEBT AGAIN**

The U.S. Treasury Department said May 2 it was scrapping sales of the three-year note and that it has discussed with Wall Street representatives the issue of debt buybacks, a finance management tool last seen when the government was in surplus, as tax collections continue to come in at a healthy pace.

"As you all know, receipts have been strong and largely consistent with our forecasts. Based on this and other factors, we're announcing this morning our decision to discontinue the issuance of the three-year note," Anthony Ryan, Treasury assistant secretary for financial markets, said at the department's quarterly press briefing. The change will allow Treasury to ensure auctions of remaining issues are large enough to attract active bidding, help balance its portfolio of debt and "manage the improving fiscal outlook," Ryan said.

The three-year note was revived in May 2003 after being discontinued previously when the government began posting surpluses from 1998 through 2001.

**TALKS WITH ADVISORY PANEL**

The discussion of debt buybacks was held with the Treasury's Borrowing Advisory Committee, a panel of private sector representatives from the securities industry. Treasury officials meet quarterly with the group to receive input on issues facing Treasury's debt managers, who aim to sell U.S. Treasuries to finance government borrowing at the lowest possible cost over time.

Treasury had asked the TBAC to address "what practices Treasury and market participants should consider in a significantly improving fiscal or surplus environment, given volatility in budget forecasts and the Administration's long-term plan to balance the budget," according to minutes of the meeting released by Treasury.

Ryan called the talks "an initial discussion" that did not signal any decisions and intended merely to broach the issue.

"We asked this question in an attempt to continue to be proactive and forward-looking," he said. "Given some of the volatility associated with our projections, it can't hurt to be prepared."

**RECENT SWINGS VOLATILE**

Budget swings over the past decade have been particularly volatile. In 1997, a Democratic White House and a Republican Congress reached agreement on a 5-year plan to bring the budget into balance. Thanks in large part to surging capital gains revenues, balance was reached in 1998.

On the other hand, few analysts expected the sharp drop-off in revenues that followed the relatively light 2001 recession and the enactment of President Bush's tax cut plan. Revenues have surprised on the upside in recent years, and that trend is expected to continue this year, according to analysts watching the early data on April tax returns, which bring in a sizeable chunk of the government's overall annual revenue.

A Treasury chart prepared for the TBAC showed the possible range of borrowing out-

comes if historic ranges of forecast error, either positive or negative, occurred. If the surprises kept to the positive side, the chart showed a potential need for a large paydown of debt as soon as 2010.

Asked if that implied a budget surplus in 2010, 2 years ahead of what Congress and the White House have targeted for a surplus, Matthew Abbott, deputy assistant secretary for federal finance, said, "What the chart illustrates is that it's possible. Not that it's expected, but that's possible."

**'PREMATURE' TO DISCUSS EARLIER SURPLUSES**

A Wall Street economist also warned that reaching surplus ahead of 2012 was unlikely, given uncertainty about what the government will do about the Alternative Minimum Tax as well as the temporary tax cuts that expire in 2010.

"I think it would be premature to think about buybacks because of expected budget surpluses," said Michael Moran, chief economist with Daiwa Securities. However, he said buybacks could be used instead as a tool to affect the maturity of outstanding debt, a factor that influences interest costs.

Moran also said the "excellent inflows in April" on the tax side were likely to lead him to revise downward his deficit forecast from \$175 billion in 2007.

**HOYER HOPEFUL ON BUDGET**

Democrats in Congress are continuing to work on hammering out the framework for a budget resolution that can pass both chambers of Congress and reach balance in 2012. With an informal deadline of May 15 for completing action on the budget, the House has yet to name members of a conference committee for its side.

Majority Leader Steny Hoyer (D-Md.) remained optimistic, telling reporters May 2, "We want to move ahead on the budget. The answer to your question is I'm hopeful we'll move the budget in the next couple of weeks, that we think that's important to do."

A House Democratic aide said conferees may not be named in the April 30 week, as had been expected, but could instead be named early in the May 7 week. "We can see our way to get there" to a resolution, the aide told BNA.

[From the Daily Report for Executives, May 7, 2007]

**CBO LOWERS PROJECTION OF 2007 DEFICIT TO \$150-\$200 BILLION RANGE ON TAX RECEIPTS**

The Congressional Budget Office said May 4 that the projected 2007 federal budget deficit could come in much lower than had been expected at the beginning of the year, possibly as low as \$150 billion, based on continued strength in tax revenues.

"Revenues have risen by about 11 percent compared with receipts in the same period of 2006, only slightly more than CBO anticipated when it prepared its most recent budget estimates in March; outlays have grown by only 3 percent," the CBO said in its projection issued ahead of the monthly financial statement to be released by the Treasury Department on May 10.

"CBO now expects that the government will end 2007 with a deficit of between \$150 billion and \$200 billion, assuming enactment of pending supplemental appropriations," the agency said.

In March, the agency had projected about a \$214 billion deficit, assuming an Iraq war supplemental is passed by Congress. In 2006, the deficit totaled \$248.2 billion.

**FURTHER RECEIPT GROWTH SEEN**

Healthy tax revenues were cited May 2 by Treasury Department officials in their decision to eliminate sales of the three-year note from their regular auctions of government debt (85 DER EE-2, 05/3/07). Treasury officials

also disclosed they had discussed the issue of debt buybacks with an advisory committee made up of private sector experts. While debt buybacks were seen when the government last ran a surplus, Treasury officials said the discussions with the panel were only made in an effort to be forward-looking and proactive.

Prior to the CBO release, Rob Portman, director of the White House's Office of Management and Budget, said the budget was benefiting from a healthy economy.

"Solid economic growth is pushing Federal tax receipts up, and will drive the deficit down even faster as we move toward balance," he said in a statement.

"We've just seen a record-breaking April tax collection, and the outlook is for further growth in tax receipts. That's good news for our federal budget, and underscores the need for making the pro-growth tax relief permanent and having spending restraint in place."

**LAWMAKERS AIM FOR BALANCE IN 2012**

On Capitol Hill, lawmakers are struggling to close the differences between House- and Senate-passed versions of the 2008 budget blueprint. Democrats have said they are aiming for a budget that can pass both chambers of Congress by May 15 and reach balance by 2012. However, negotiators have been stuck on several issues, including whether to allow room for extending some temporary tax cuts.

In its report, the CBO said it expected the government to post a \$176 billion surplus in April, well above the \$119 billion surplus seen in April 2006. Because of the mid-month deadline for individual tax payments, April is a crucial month for government revenues. If the April projection is correct, the year-to-date deficit will be about \$83 billion, or about \$101 billion less than in the first seven months of fiscal 2006, the said.

CBO said receipts from individual income taxes were up by about \$105 billion, or 17.5 percent, through April compared with the same period in the previous year, while payroll taxes were up by \$27 billion, or 5.5 percent in the same time frame.

"About 85 percent of the growth in total receipts through April occurred in receipts from individual income and payroll taxes, the two largest sources of revenues," the agency said. It noted, however, that some nonwithheld receipts appeared to be booked earlier by Treasury in 2007 than in 2006, shifting some receipts from May to April. If that factor is adjusted for, the agency said, overall receipts would have been up by closer to 9 percent, "only slightly more" than CBO had projected in March.

Mr. GRASSLEY. So then why trigger tax increases when the current law tax levels are bringing plenty of revenue into the Federal Treasury? Why would you want to mess with a policy that is bringing in what would now have to add up to \$750 billion more than what we anticipated would be coming into the Federal Treasury from that tax policy when we adopted it? And in the process, we would be punishing the American taxpayers, who are already working hard and paying additional revenue at a lower level of taxation, as we passed it in 2001 and 2003.

The biggest problem I have with a trigger is that it creates yet another budget process bias for higher Federal spending. If Congress decides to spend more than planned, the trigger gives the American taxpayer the shaft. Spending taxpayers' money then trumps future promised tax relief if a

trigger is in place. The American taxpayer need look no further than the budget resolution conference report that we are debating now to see triggered future tax relief's futility.

After winning the November elections by claiming to enforce fiscal discipline, Democrats have done three things with the budget in conference: One, they have guaranteed new spending of at least \$205 billion over the budget baseline. Secondly, with multiple reserve funds, they have set up many arenas of new spending and new taxes. Thirdly, for the first time in 6 years—I emphasize this—with a new majority in Congress, a tax hike on virtually every American taxpayer is built into the budget in future years. Now, did the American people know this was how the term "fiscal discipline" would be defined after the votes were counted last November? Higher taxes and higher spending. Did the American people vote for this definition of "fiscal discipline" after the last election? My guess is the answer is the American taxpayers didn't think "fiscal discipline" meant higher taxes and higher spending.

If fiscal discipline were the real goal of the new Democratic leadership, they would employ a trigger, then, on the new spending they baked into this budget cake. How about that. The new spending in this budget would only be triggered if the Federal budget were in surplus. Do I have any takers among the Democratic budget negotiators on that issue?

Before the Democratic leadership rolls out its budget, I challenge them to show a proposal with a single dollar of spending restraint dedicated to deficit reduction. It is a challenge I have issued for several years since bipartisan tax relief has been attacked on fiscal discipline grounds. My challenge has not been met. If you go back a decade, you will not find a proposal for spending restraint from the Democratic leadership. Check the record. You won't find anything on the spending side of the ledger.

The use of a trigger is more evidence of this obsession with higher taxes and more spending. Instead of accepting the Baucus amendment, which is supported by a strong bipartisan vote in both bodies because it passed here with only one dissenting vote and it had more than two-thirds on a motion to instruct in the House of Representatives—so instead of accepting the Baucus amendment, which is supported strongly by bipartisan votes in both Houses, the Democratic negotiators are taking a different path, ignoring the overwhelming votes of both the Senate and the House. They want to use a trigger as cover. The trigger will mean that future Democratic spending proposals will gut future tax relief, thereby guaranteeing a tax increase on virtually every American taxpayer, without even a vote of the people, because it is automatically going to happen.

I don't think it is too late. I suggest that if the Democratic budgeteers want

to talk the talk of fiscal discipline, then walk the walk of fiscal discipline, apply the trigger to spending, but apply it to the \$205 billion in brandnew spending. Don't build a wall of tax relief on the American people; build a wall of fiscal discipline against runaway Federal spending. In other words, we will tear down that wall of tax increases that are automatically going to happen.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, it is hard to debate the Senator from Iowa, the ranking member of the Finance Committee, because he has been a really good colleague and he has strong feelings about these issues. In many of these matters, I find myself in agreement with him.

I want to say to those who are listening that we don't believe there is any tax increase in our proposal. We believe there is significant fiscal discipline because we are balancing the budget by 2012. There has been no balancing of budgets around here during the 6 years of this administration. They have run up record deficits. They have run up record debt. It is not a matter of speculation, what they have done.

If you look at the record of this administration on debt, it is just as clear as it can be. This is what happened on their watch. They have been in control of everything—the House, the Senate, and the White House.

This is what has happened. They took the debt of the United States from \$5.8 trillion at the end of the President's first year—we don't hold him responsible for the first year because he was operating under the previous administration's budget. But look at what he is responsible for. He has taken this gross debt of the United States from \$5.8 trillion to \$9 trillion, and if his fiscal policies are pursued the next 5 years, he will have taken the debt to \$12 trillion. He will have more than doubled the debt of the United States.

One of the major consequences of that is, increasingly, this funding is from abroad. We are dependent upon the kindness of strangers. It took 42 Presidents 224 years to run up a trillion dollars of debt held by foreigners. This President, in just 6 years, has more than doubled that amount. Now, that is a fiscal train wreck, and this administration is responsible, along with his party in the House and the Senate. It is undeniable. They controlled things here, not the Democrats. It wasn't the Democrats who ran up this debt, it was the Republicans.

I don't like to be partisan, but the fact is, when I hear the other side claim that we are going to do something, they have already done it. It is not a matter of projection or of conjecture; it is a matter of fact. That is the debt they have run up. We are left to try to clean up the mess.

How do you clean up the mess? You spend less money. That is what we have tried to do here. We have controlled spending. We have a chart that shows this. Here is the spending under the budget resolution. We go from 20.5 percent of GDP in 2008 down to 18.8 percent of GDP in 2012. It is by having spending discipline that we get this budget moving in the right direction and we are able to balance the budget by 2012 and we are able to stop this dramatic expansion of the debt.

Here is what happens. Under our resolution, the debt, as a percentage of the GDP—which economists say is the best way to measure it—goes down each and every year after 2009. Finally, we get the debt going down instead of jumping up. That is what we should do. That is what is so defective about the Gregg motion. If it is adopted, the budget will not balance in 2012 because he has \$250 billion of tax expenditures not paid for. So he is, once again, going to return to the bad old days of borrow and spend, borrow and spend, borrow and spend.

Look, the spending on their watch has gone up dramatically. The revenue, as I have shown before, stagnated. All their revenue charts on which they talk about revenue increasing have one big problem: They only show the revenue from 2004 to now. They don't show the revenue in the previous years. Here is a chart here. Spending has gone up, and revenue has been stagnant. Look at all their charts. They only show the revenue from 2004. They want you to forget about these years. Yes, if you look at 2004, revenue has gone up since then. But go back to 2000. Quite a different picture emerges when you give people the whole story, when you give them all the years, not just a few of the years. No, no, no, give them all the years, tell them all the story, give them all the facts. Then you see something quite different.

We are just getting back now to the real revenue level we had 6 years ago. Yet spending under our friends has gone up more than 40 percent. The result has been to explode the debt of the United States.

We are going in a different direction. We are going to balance this budget, but not if the motion of the Senator from New Hampshire is adopted. Then there will be no balance. Then we will be right back in the same old deficit-and-debt ditch that we have been in for 6 years.

Let's climb out of that ditch. Let's stop it. If we are going to have spending on this war, let's pay for it. If we are going to spend money, as we should, to take care of our Nation's veterans, let's pay for it. If we are going to have educational initiatives to assure that America remains the dominant force in the world, let's pay for it. If we are going to insure children in this country so that every child has health insurance, and we should, let's pay for it. That is what our budget is about. It is about the values of the American people.

I can tell my colleagues, in my State, they believe if you are going to spend money, you ought to cover the spending and not just put it on the charge card.

I thank the Chair and yield the floor. My colleague is here, and I understand there is some time left on the Republican side. I recommend we use that, and then if Senator CORNYN comes, if we are out of time, I will extend time to him so he has time to present his motion.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I thank the Senator from North Dakota. I always appreciate his ability to find charts and give excellent explanations. We both have degrees from the George Washington University. My speech will not be nearly as adequate as his because I just have an undergraduate degree, whereas he has a graduate degree. I am sure that is where they covered the chartmaking. I usually don't use very many charts.

Mr. CONRAD. Madam President, I would be glad to lend some to the Senator.

Mr. ENZI. I don't think the ones the Senator has have quite the spin on them that I prefer. That is what we do during this process of the budget. I am always fascinated with the budget process anyway because the President sends us a bunch of suggestions on how we ought to spend money. I know the people back in Wyoming think that is the way it is all going to come out.

In Wyoming, we have just one process, and it is called the budget process. It is really the appropriations process. When the budget is done, balanced, and the money is spent, they think that is the point we are at right now instead of just suggestions from the President. We all know that Senators are going to change, and we are the ones in charge of making those changes. They really don't understand that the federal budget process puts in place some constraints on spending, some areas of spending, and some suggestions on spending that the Appropriations Committee may or may not pay any attention to anyway. But discipline can come from this part of the process.

I commend everybody on the Budget Committee for all the diligence they put in to covering a variety of issues. There is some good debate we have over issues, where we are, where things were, and where things are going.

I do note when the President came into office, he had no idea that September 11 was going to happen or that Katrina was going to happen. Both of those events put major dents in the budget.

There was also a little recession that was happening about the time he took office, which is one of the reasons there is a dip in revenue. We tried to figure out how to reverse that dip in revenue. If we have more revenue, unfortunately, we do more spending. It really is spending that is the problem.

It would be fascinating to see how the Democratic side of the aisle deals with that situation. I have noticed quite a change in rhetoric. People at one time were talking about No Child Left Behind, how it had a tin-cup budget. I hear those same people now saying: Yes, No Child Left Behind has to have a few targeted resources to make a difference. That is quite a bit different wording, and when you are in charge of spending it, it hits a little bit different than when you are on the criticism side of the spending. I am sure those in charge will appreciate that as time goes by.

I wish to address the way the Democrats balance the budget, though. This budget, as it is showing coming down to a more balanced position and even a little faster than what the President showed, does that because of the way the taxes are handled.

Without dealing with taxes at all, taxes for Americans will go up. There needs to be an extension of certain tax provisions or taxes will go up. When taxes go up, will that increase revenue? I don't think so. That is one of the problems with which we have to deal with.

We found that with the tax cuts, revenue has gone up, and it has gone up in excess of what was projected. That means the American people are excited over the ability to spend their own money for what they want to spend it on, and the spending of their money also results in additional taxes.

I have a chart that shows the projections—they are in blue—and the actual revenue. The growth in revenue is in red. In 2004, they projected a 2-percent increase and came in at 5.5 percent; 2005, 9.4 percent, came in at 14.6 percent; 2006, 7.3 percent, came in at 11.7 percent; 2007, the projection is 5.2 percent; to date it is 11.3 percent.

I am sure somebody else has mentioned this article earlier today, but the Wall Street Journal has an editorial titled "April Revenue Shower." It says:

Here's the "surge" you aren't reading about: the continuing flood of tax revenue into the Federal Treasury. Tax receipts for April were \$70 billion above the same month in 2006, and April 24 marked the single biggest day of tax collections in U.S. history, at \$48.7 billion, according to the latest Treasury report.

It goes on and explains that the IRS did process more returns than usual this year. Does that mean more people are paying taxes? Let me put up another chart. The tax cuts also resulted in additional jobs. The employment expanded for 44 consecutive months, generating 7.8 million jobs. People who have jobs pay taxes. More returns, more people working. I think that is one of our goals. We would like to have more people working, and we would like to have people who are working make more money. Then, of course, we would like them to keep a bigger percentage of the money they earn to spend the way they think it ought to be spent.

I mentioned there is more money coming in than what we had expected, than what was projected. That does affect the deficit. The more money we get beyond what was expected is a reduction in deficit, unless we spend it.

There are more ways of figuring out how to spend money around here than there are ways to save money. The President has had a number of proposals for different programs that have been evaluated. There is a process by which we do expect different programs and agencies to set their own goals, and then to report how they did on their own goals. The White House followed up on that process to see how they did on the report and how they did on their own goals and found 160 programs that were not doing what they said they would do. That is according to their own goals. He asked us to eliminate those programs.

We kind of did four. Now "kind of did" means they are still in existence, and they are flat lined. It doesn't mean we eliminated what was being spent on them because every program in the Federal Government has a constituency. Every time, even in the President's suggested budget, that he shows cutting an agency, all of us in this body have dozens of people come to our office to show how important that program is to them personally. A lot of them are the ones who work in that program. They have a job in that program, and if the program disappeared, they would have to get a job somewhere else. So they are definitely involved in the program and concerned with the program and feel the need to sell the program.

I have had experience with some of those programs in Wyoming. When the President says in his budget he is going to cut a program, they gang up on us at home, too. One of the programs dealt with children's preschool education. The moms and the kids showed up, and they visited with me a little bit. I asked them what they would be losing if the program went away. The answer was their daytime babysitting service.

The program in question was designed for an hour or two a week in conjunction with the parent, not with the parent absent from the program. It is a little bit of instruction on parenting education, as well as child education, preschool education. This is how the goals get a little skewed. They serve a purpose; it just doesn't happen to be the purpose we are funding. Probably the other purpose could be funded with a lot less money than with the requirements we have for education.

It is the spending that gets us into problems. The way we are going to balance the budget under the Democratic budget proposal, of course, is to allow decreases we have had in effect because they have a limited amount of time in place. It allows them to go up. For instance, there will be an increase in taxes of 33 percent for families earning less than \$15,000. It cuts the child tax

credit in half to \$500. It cuts the standard deduction by \$1,700 for married couples. It puts that marriage penalty back into effect.

For a family of four with \$50,000 in earnings, the tax bill for a family of four with \$50,000 in earnings would see their taxes go up 132 percent to \$3,675 in 2011 if the President's tax relief is not made permanent. Those taxes will reduce take-home pay by more than 6 percent.

Let's talk about a single parent with two children and about \$30,000 in earnings. The tax bill for a single parent with two children and \$30,000 in earnings will see their taxes go up by 67 percent in 2011 if the President's tax relief is not made permanent. Those taxes will reduce take-home pay by more than 4 percent.

So a family of four with \$50,000 in earnings, their take-home pay is reduced by 6 percent. A single parent with two children with \$30,000 in earnings, their take-home pay will be reduced by more than 4 percent.

What about the average family? What are they going to forego if the current tax policy is not extended? Some of the tax cuts have not been extended to 2011.

I am also distressed with the way the scoring happens on taxes versus spending because there is a lot of assumption built into the process. If they were corporate assumptions, the directors of the corporation would be in a lot of trouble.

For the average family under the current tax policy, if it is not extended, they might have to forego \$3,347. That could be spent on groceries, or a year's worth of home heating oil and electricity. It would be \$2,927 or almost 2 years of gasoline for two cars, \$3,196, and that was before last week's increases, and, yes, we need to be concerned about that issue. There are some policies that we can do that will make a difference in that situation.

It will also mean more than a year's worth of health spending, which is \$2,574 for the average family. Again, there needs to be some things done in the health area. Most of those cost money and those will add to the deficit too.

So it will be interesting to see how everyone gets around to balancing the budget in whatever number of years we talk about because all the spending happens in the next year. We are working on the 2008 spending right now, but we are spending the 2007 budget that went into effect last October and extends until this October. So there are some timelines that get into this that make it a little confusing.

It is wrong to balance the budget by increasing taxes on middle America, who is feeling the squeeze. The burden is placed onto low-income people. So I hope we will not balance the budget by eliminating the tax relief that has been put in place by the Republicans, which increased the number of jobs and brought the revenues back up.

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

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

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

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

Mr. CONRAD. Madam President, I am told Senator CORNYN is on his way, but I would ask my colleague, Senator STABENOW, if she would like to take a few minutes at this time to address her motion and then if we could have an agreement that when Senator CORNYN comes, we could interrupt your presentation at a reasonable point in time and then go to the Cornyn motion.

That is the order, but I think it would be unwise for us to waste any time here, given the fact we are very close to out of time. Would that be acceptable?

Ms. STABENOW. Yes.

Mr. CONRAD. Why don't we do that, and I thank Senator STABENOW very much for allowing us to proceed in that manner.

#### MOTION TO INSTRUCT CONFEREES

Ms. STABENOW. Madam President, I rise to offer a motion to instruct conferees to include section 307 of the Senate-passed budget resolution in the conference report.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW] moves to instruct conferees on S. Con Res. 21, the concurrent resolution on the budget for fiscal year 2008, to insist on including in the conference report the Deficit-Neutral Reserve Fund for Energy Legislation in Section 307 of S. Con. Res. 21 as it passed the Senate which would provide for legislation to reduce our Nation's dependence on foreign sources of energy and lower gas prices.

Ms. STABENOW. Madam President, this provision will clear the way for the Senate to pass legislation that will ultimately lower gas prices. This is an issue right now of great concern, I know, to people throughout Michigan and throughout the country, as we see prices going up and up and up. This provision does that by putting into place a reserve fund that will reduce our Nation's dependence on foreign sources of energy and expand production and use of alternative fuels and alternative fuel vehicles.

This is a very important part of the budget resolution, and I wish to commend the chairman for putting aside a reserve fund so we can create revenues to do a number of things that will create energy independence and that will create competition, frankly, for the oil companies in this country so we can lower gas prices.

Today, in Michigan, the average price of a gallon of gas is \$3.15, and it goes up as high as \$3.24. I know it is going to go up and up. We are constantly hearing, of course, it is not arbitrary, that it is all based on competi-

tion. Yet I will bet you that right before Memorial Day, in Michigan—a great tourism State, and people want to have an opportunity to travel and see our Great Lakes—the prices are going to continue to go up even further. This summer, again because we are a great tourism State, prices are going to go up, and they will go down when it is not a peak season for driving. We all know that this is a serious issue, and, frankly, it affects every single family in their wallet or in their pocketbook.

A couple years ago, I offered, successfully, a provision in the Energy bill that required the Federal Trade Commission to do a study, an investigation into whether there was price gouging. They came back basically and said there wasn't and that they didn't have the authority because we didn't define what price gouging was. I am pleased to say that as a result of our presiding officer and her legislation, we can address what is happening as it relates to the definition of price gouging, which anyone in Michigan can tell you what it is, and also to be able to give the authority to the FTC to do something about it.

I see my colleague on the floor whom I basically jumped ahead of, so I think if he is ready, I will turn it over to him and will later proceed to talking about gas prices and how we are going to bring them down and how the budget resolution lends itself to that.

I yield to my colleague from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

#### MOTION TO INSTRUCT CONFEREES

Mr. CORNYN. Madam President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] moves that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 21 (the concurrent resolution on the budget for fiscal year 2008) be instructed to insist that the final conference report include the supermajority point of order against consideration of any bill, resolution, amendment, amendment between Houses, motion, or conference report that includes a Federal income tax rate increase, in order to protect the pocketbooks of working and middle-class families, college students, seniors, farmers, small business owners and entrepreneurs, and to promote the elimination of government waste, fraud, and abuse to reduce the deficit and offset new spending, as contained in section 210 of S. Con. Res. 21, as passed by the Senate.

Mr. CORNYN. Madam President, this motion to instruct conferees should sound familiar to my colleagues. This actually was an amendment to the budget resolution that received 63 affirmative votes in a bipartisan show of support for what I believe is a common-sense provision. This provision says that before we raise income taxes, we need to have a 60-vote point of order to do that.

This made so much sense that my colleague, the distinguished chairman of the Budget Committee, said he would be willing to accept the amendment by voice vote, although we went ahead and had a vote. I thought the vote was necessary to demonstrate, and did demonstrate, the broad bipartisan support for this amendment. This amendment, which was section 210 of the Senate-passed budget, creates a 60-vote budget point of order against any legislation that raises income taxes on taxpayers, including, of course, hard-working, middle-class families, college students, entrepreneurs, and you name it.

As I pointed out, this was a bipartisan vote, which is an insurance policy of sorts so that Congress can look and make sure any increase in income taxes is justified and that it would require a vote of 60 Senators to overcome the budget point of order before proceeding. The reason I thought this was a good idea in the first place is that before we look at raising taxes on hard-working American taxpayers, we ought to look at ways to eliminate Government waste, fraud, and abuse.

We all know the power to tax is the power to destroy, and, indeed, it is a powerful tool at Congress's disposal but one we ought to use advisedly. This point of order puts in place a safeguard that will protect the pocketbooks of all of us.

Some, though, are now advocating that we pull the rug out from under our economy and roll back the kind of tax relief and low taxes—progrowth policies—that have resulted in an incredible blossoming and blooming of the American economy. The last thing we should do would be to throw a wet blanket over this kind of economic growth that has created so much prosperity, so much opportunity, and so many new jobs over the last few years.

The progrowth tax relief has helped this economy grow and particularly in the small business sector, which has created a lot of jobs. We should view this as a matter of great pride because it is one of the good things that this Congress has done in the last 4 years. These progrowth tax policies are working. As a matter of fact, we have some charts that demonstrate 22 straight quarters of growth and almost 7.9 million new jobs. That is nothing to be sneezed at. There have been almost 7.9 million new jobs over the past 44 consecutive months, with 22 quarters of growth.

As we move forward, the last thing we should consider doing is reversing the policies that have helped bring about America's booming economy, which has reduced the deficit by producing more money for the Federal Treasury and also put more money in the pockets of hard-working American taxpayers.

As a matter of fact, I think we ought to take a further step and make these tax relief provisions, which are set to expire unless we fail to act, I think we

ought to make them permanent. If we don't, we will not only jeopardize future economic growth but also the financial well-being of millions of Americans, all of whom will face higher tax bills unless we act.

Not making this tax relief permanent will result in a tax increase for every American taxpayer. For example, a family of four, with two children, making \$50,000 in annual income would see an increase of \$2,092 in their tax bill or a 132-percent increase.

This point of order will not hinder our efforts to close down illegal tax shelters or close perceived loopholes in the IRS Code, a concern that I know the chairman expressed. In the colloquy we had when the amendment was passed, I think I was able to satisfy him that we would still be able to do what we both agree needs to be done but not see a tax increase on American taxpayers virtually assured.

The point of order covers the tax tables contained in the 1040 form the IRS sends to taxpayers every year. It will not hinder efforts to overhaul the IRS Code. I support efforts to overhaul the IRS Code by making it fairer, flatter, and simpler. Any tax simplification and reform efforts will need bipartisan support in the Senate, so I ask my colleagues to support my motion to instruct the conferees to include the point of order against raising income taxes on hard-working taxpayers through the budget conference committee.

I might add, in closing, I have had conversations with the distinguished chairman of the Budget Committee. I know he has concerns as a result of conversations he has had with the Parliamentarian. There has been some suggestion that to include this provision in the conference report would render the conference report unprivileged. I believe there was demonstration of broad bipartisan support for this provision, which enjoyed a 63-to-35 vote on the Senate floor. While I certainly understand the budget chairman's desire to maintain a special privileged status for the budget resolution, I think in this case it would be warranted.

Including this provision will act as an insurance policy against undesirable and unnecessary tax increases, especially until such time as we do our dead level best to reduce the waste, fraud, and abuse that, unfortunately, is present in Government today and to try to save money there before we begin raising taxes. It is particularly important because we have this silent tax increase that is, unfortunately, included in this framework that will now occur if we do nothing. This will be the only tax increase I am aware of that will actually happen if we fail to act, but that is what, unfortunately, we are on course to do with this budget resolution.

So I would respectfully ask my colleagues to support the motion to instruct conferees on this matter.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, let me first thank my colleague for his service on the Budget Committee. He has been a valuable member there. We do not always agree, but he has been a very constructive member of the Budget Committee. He comes with a point of view and he does his homework. All of us appreciate that, I and the other members of the committee. I thank the Senator from Texas.

Let me say it would be fine with me that we adopt this motion because there is no contemplation in this budget resolution of a tax rate increase. There just is not. I want to make that clear.

We do have a problem. I want to be very direct with colleagues. This motion will not survive the conference committee. It will not. It has nothing to do with its merits. It has to do with the procedural ramifications of bringing this back from the conference. We have been informed by the Parliamentarian, if the conference agreement reflects this motion, the budget resolution would be in danger of losing its privileged status on the floor. That would be a very serious matter for all of us. That would be a serious matter for this institution.

We have a hard enough time getting a budget. If it were to lose its privileged status on the floor, I suggest to my colleague, we would never reach conclusion on a budget. That is in none of our interests. It is not in the interests of the country, it is not in the interests of the Senate, it is not in the interests of the House.

I regret that is the reality we confront, but it is. I don't want anybody to be under any misapprehension about that. It is fine with me if we adopt that as an instruction to the conferees because it reflects the will of the Senate. We voted very clearly: 63 votes, as the Senator has indicated.

I say to my colleagues, there is absolutely no intention in this budget of increasing tax rates, which is what the Senator is trying to guard against. But I do have to emphasize if we were to bring it back from conference, we have been informed that would put at risk the privileged nature of the budget resolution, and we simply cannot do that. If we did that, we truly will never agree on a budget here.

Does the Senator seek more time?

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, if I can respond briefly to the distinguished chairman of the Budget Committee, I appreciate his willingness to take this motion to instruct because he said it will not survive; it will not see the light of day; it is going to be killed in the dark recesses of the conference committee room.

Mr. CONRAD. Even in the lighted room.

Mr. CORNYN. So it is a very strange process we are engaged in here. I respect the distinguished chairman, but I



remind him, at the time we voted on this, to quote him, the distinguished chairman of the Budget Committee said, "It certainly will not do any damage to this resolution if it were to pass."

I understand there was a subsequent conversation with the Parliamentarian that raised this issue. But I suggest in most proceedings that I am familiar with, there is some notion of waiver, that you have a responsibility to speak early, rather than to create a false impression that we are going to do something here to keep taxes low, to create a 60-vote budget point of order, rather than lay low and then raise an issue late in the game that could have been raised and addressed earlier.

None of that is to impute any bad faith to the distinguished chairman of the Budget Committee. It is just to say this is a very strange process, one I think the American people, anybody who happens to be listening or watching, would say: This must be a Washington, DC phenomenon where we suspend reality, we accept amendments by a bipartisan vote and now a motion to instruct, only to ignore them even though they represent the will of the Senate. I think that does not enhance the image of the Senate or the Congress in the eyes of the American people. The fact is, if we do raise taxes, it will be like a wet blanket on the American economy.

I want to allude briefly to an article that was in the Wall Street Journal today that I think demonstrates my point. It is entitled "April Revenue Shower." It says:

Tax receipts for April were \$70 billion above the same month in 2006, and April 24 marked the single biggest day of tax collections in U.S. history, at \$48.7 billion.

It is the low taxes and the pro-growth policies that this Federal Government has embraced since roughly August of 2003 which has generated the economic activity which has resulted in a windfall to the Treasury. As a matter of fact, this article goes on to say:

The deficit this year could tumble to \$150 billion, or an economically trivial 1 percent of GDP.

That is the kind of benefit—one of the kinds of benefits—I think low taxes have produced. I think it would be a crying shame to raise taxes and jeopardize job growth and economic development in this country.

I understand what the Senator says, that he doesn't intend that there is going to be a tax increase, but we have seen proposals for dramatic increases in spending. The money has to come from somewhere. We have adopted a pay-as-you-go provision which has a built-in bias against tax cuts because it says before you can have a tax cut, you are going to have to have some way to balance it out, a revenue raiser, which means in the end we are going to see a dramatic increase in taxes, whether—and I take him at his word that is not his intention. But we are on a dangerous course to seeing a huge tax in-

crease, perhaps one of the biggest in our Nation's history. That, I believe, is against the best interests of the American people in this big economy.

I accept what the Senator has to say. He is willing to accept my motion to instruct, but it will not be to any effect. It will be ignored. I guess that is the way it is. But I think the American people, and particularly the hard-working taxpayers, are the losers. I think that is a shame.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, let me say to the Senator, I know he doesn't intend to impugn my motives. I hope that impression hasn't been left, because I operated in absolute good faith in the committee. I told him his motion would do no harm because there was no intention of increasing rates in this budget resolution. There truly is not.

I only learned subsequent to that that there was a procedural problem. As soon as I learned, I think the Senator will acknowledge, I came to him on the floor, some weeks ago, and told him of what we had learned and urged him to send his staff to the Parliamentarian to verify that what I was saying was in fact the case. I have been in communication with him subsequent to that, to confirm that he had heard the same thing. In fact, he told me that on the floor late this afternoon.

I regret that I told him it would do no harm. I absolutely believed that was the case when I told the Senator that. It was only subsequently that I learned from my staff that the Parliamentarian advised us of that. I should have known it. In the back of my mind I was worried about the Budget Committee overstepping its bounds.

It is very important for people to understand, we tell the Finance Committee how much money to raise. We do not have the authority to tell them how. Unfortunately, the motion of the Senator crosses that line.

We tell the Appropriations Committee how much money they have to spend. We do not have the authority to tell them how to spend it. If we exceed our authority, there are consequences.

I must say I was concerned at the time of the Senator's amendment in the committee that maybe we were crossing that line, and in fact it turns out we were. That is the fact of the matter. That is what we confront here. I say to the Senator, I hope he would acknowledge I have tried to communicate with him, as soon as I knew it, that these are the facts we confront.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. I said it once and I will say it again. The distinguished chairman of the Budget Committee, I am confident, is shooting as straight as he could possibly do with me. I do not question his motive or his actions. I express my profound regret that an amendment that reflects the will of 63 Senators, that is bipartisan, and one

that is so important to maintaining the prosperity of this Nation and relieving the burden on hard-working American taxpayers will not see the light of day in this budget resolution. I am expressing my regret to him. But he has been nothing but straight to me.

Mr. CONRAD. Madam President, I thank the Senator very much for that. I say I have so many regrets, as we go through this budget process, that we do not have authority that one might assume the Budget Committee does. But we simply do not. We are in this role of telling the Finance Committee how much money to raise, but we cannot tell them how to do it. We tell the appropriators how much money they spend, but we do not have the authority, as much as we might like it, to tell them how to spend it. If we cross that line, there are real consequences.

In any event, I very much appreciate the Senator from Texas.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I express my support for the efforts of the Senator from Texas. I understand the parliamentary situation. It has been ruled that if his amendment were accepted and finds its way through the entire process—it is going to be accepted, but if it were to come back, it would put in jeopardy the privileged status of the budget and that is obviously not appropriate.

But the fact is this amendment highlights an essential point. Even though it may not come back, it is important that we be on record as having supported it, as the 63 people did, and as we will be when we adopt this amendment in this motion to instruct, because it makes the statement, which the Senator from North Dakota has agreed with, that rates should not be increased.

Unfortunately, the structure of this budget, in my humble opinion, militates toward increasing rates. I do not see how it does anything else in the final analysis. That, of course, is why I have offered my own motion to instruct here, so the rates will not be increased, or at least we will have that statement.

But I think the Senator from Texas has hit the nub of the issue, which is we should not be increasing tax rates on the American people. No matter what the structure of this budget is when it comes back, even if it doesn't have this language, there will be a pretty clear statement by this Senate that rates should not be increased, and should at some point down the road there be a bill brought to the floor, which will be, I am afraid, reflective of the priorities of this budget, which does increase rates—or fails to maintain the rates which are presently in place and thus in the alternative is increasing rates—we can turn to the excellent amendment of the Senator from Texas and say that was not the position of this Senate. The position of the Senate was that would not happen.

I think his amendment, even if it may not return from conference because of the effect it would have on the privileged status of the budget resolution, is still a very effective statement and one that needs to be made.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, would it be appropriate at this moment to take the motion of the Senator?

Madam President, could we then consider the Cornyn motion on a voice vote?

The PRESIDING OFFICER. If all time is yielded back, the question will be put on the motion.

Mr. CONRAD. We yield back our time on this side.

Mr. CORNYN. We likewise yield back our time on this motion.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the motion.

Ms. STABENOW. Madam President, I have a question. The yielding back is time on this motion only?

Mr. CONRAD. Yes. We would not be yielding the good Senator's time.

Ms. STABENOW. I thank the Senator.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I would ask if we could have a report on the time remaining on the motion of the Senator from Michigan.

The PRESIDING OFFICER. The sponsor of the motion has 27 minutes remaining, and the opposition has 30 minutes remaining.

Mr. CONRAD. We have a problem. We have less time left than time allocated because the vote has been set at 7:30. So we will try to be reasonable so that both sides have a fair shot at the remaining time.

Madam President, I ask unanimous consent that on the motion of the Senator from Michigan, we divide the remaining time 15 minutes apiece before the vote.

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

The Senator from Michigan.

Ms. STABENOW. Madam President, first, following the debate we have just been engaged in, let me say that I am very proud of this budget resolution because we are not only not raising taxes, but we are focused on lowering taxes, tax cuts for the middle class. That is what I am most proud of in this budget. Our budget is focused on middle-class families, what families need who are feeling the crunch at every turn right now in their lives. So we specifically focus on tax cuts for middle-class families.

We also focus on what I want to talk about now as it relates to the motion to instruct; that is, an energy reserve fund that puts in place a set of policies and allows us to move forward to lower

gas prices. I mean, ultimately, that is what it is about. Let's get off of foreign oil. Let's become energy independent. Let's focus on alternatives.

We have a whole range of things we can and should do together, but the bottom line is what people are asking me about right now in Michigan is why in the world gas prices today are \$3.15 per gallon on average. They ask it in the context of another very important question; that is, since this President, President Bush, has taken office, gas prices in my State have increased by \$1.75 per gallon—\$1.75 per gallon, an increase of 123 percent. This is according to the Federal Highway Administration. Right now in Michigan, families, businesses, farmers will spend \$789 million more this month than they did in January of 2001. That is according to the Department of Energy motor gasoline consumption, price, and expenditures.

Now, what is happening, though? What is wrong with this picture? While I have been seeing my constituents, and I know the Chair shares this concern, that while we see these prices going up, what has happened on the other side with the oil companies? Well, last year, ExxonMobil had \$39.5 billion in profits, the largest annual corporate profit in U.S. history, the largest corporate profit in U.S. history, while the people in my State—the farmer planting in the fields, the businesspeople who are doing their jobs, the families, the folks going back and forth to work, taking the kids to childcare, the students trying to go back and forth to school—saw their gas prices go up.

In fact, they will go up higher right before Memorial Day. I will bet you they are going to go up higher in a beautiful State like Michigan, where we want everyone to come in and swim in our Great Lakes and boat and fish and enjoy what is beautiful about Michigan. When the tourism season comes—gas prices can count it on your watch—gas prices are going to go up.

We hear all about how there is competition when, in fact, we know there is not competition. When you are driving down the road, this gas station says one thing and the one on the other side says the same thing.

Now, this has to stop. We are seeing, not only last year—I am speaking about ExxonMobil, but let me just say there are others. Chevron had an 18-percent increase in the first quarter this year—an 18-percent increase. But we are seeing with Exxon that they kicked off a 10-percent rise in profits, the best ever first quarter, ever, in net profit. To put it another way, with Exxon, their take-home pay equals \$1,080 every time the second hand ticks on your clock—every second, \$1,080—while the folks in Michigan today are paying \$3.15. If you happen to be up north, it is \$3.24. This is not right. I know you agree with this. This is not right.

There are a number of things we need to do about it. In the short run, we

need to make sure the Federal Trade Commission has the authority—and understands that we expect them to use it—to define price gouging.

Now, in the Energy bill that passed in 2005, a requirement that I offered was put into the Energy bill that the FTC had to investigate price gouging. They came back and said they did not have the authority, we had not defined what it was. They made some general statements that really did not reflect what was going on. So now I am very pleased that Senator CANTWELL from Washington State and others have introduced legislation that will clearly define what price gouging is, although I have to say, after years and years of witnessing it, if it walks like a duck and quacks like a duck, I think most people in Michigan, anyway, would call it a duck. So we find ourselves in a situation where the FTC says they do not have the authority or the definitions to use. So we want to give them that. We want to give them that in the short run to make sure they can address what is clearly an unfair situation.

Families are seeing increases on all sides, not just gas prices; it is the cost of college; it is the costs that relate to health care in my State. In fact, I should just remind folks that when we hear about all of the rosy pictures in the last 6 years, we have lost 3 million manufacturing jobs since this President has taken office—3 million. Those were good-paying jobs with health care and pensions, and those families now, those workers, are out working other kinds of jobs. Maybe it is two jobs now to try to make up that salary or maybe it is three jobs. They are paying more for health care, if they have it, and worrying about whether they will have their pension.

So that is the backdrop to what I see now happening as it relates to gas prices. One more time, people see those prices going up as they are trying to get to work, as they are trying to take care of their families. This motion to instruct focuses on the fact that we have put aside a reserve fund that gives us the opportunity to address it throughout the budget.

In addition to the fact that we have legislation to stop price gouging right away, and that is very important, I am very pleased our majority is focused on going after those who are price gouging and bringing down gas prices, but we also know we have to look more long term.

There is some wonderful work being done in the Senate by our Energy Committee, Environment Committee, and Finance and Agriculture Committees as it relates to the farm bill and what can be done with alternative fuels, and so on. We are committed to that as well. The structure of this budget allows us to be able to do those things without procedural motions and hoops getting in the way to stop us from going forward. We all know we need to invest more in ethanol and cellulosic ethanol and biodiesel. We want to be

able to say: Buy your fuel from Middle America, not the Middle East. That is what I am hoping. I know we are committed to doing that.

We also know there is much we can do to together, and, in fact, there are many exciting things that are already happening. I am very proud of our American domestic auto companies that are moving very aggressively. In less than 5 years, we expect that our alternative-fuel vehicles will constitute more than 50 percent of the vehicles that are being produced. That is very positive. I commend them for that.

GM has installed displacement-on-demand technology where the cylinders shut off when not needed, consuming less fuel. DaimlerChrysler has taken the lead on clean diesel and biodiesel. There is excellent work being done in Michigan. Next Energy and other critical research organizations are doing excellent work that would deliver 20 percent to 40 percent more fuel efficiency than conventional automobiles. The Ford Escape hybrid and the work that is being done through hybrids is very significant. Our plug-in hybrids, technology we see being worked on that relates to plug-in electric vehicles, and so on, that is so important. I am excited about the Volt by GM, which will be configured in a way that it will be able to run on electricity, gasoline, E85, or biodiesel. The work goes on on hydrogen and other kinds of things.

But we know that in the end, in addition to focusing on these long-term strategies which are very significant, very important to the environment, to address climate change, to address energy independence, we have an issue right now we have to address; that is, the fact that we continue to see, quarter by quarter, record profits by the oil companies because of the lack of competition. We are seeing, quarter by quarter, increases that end up with those increases and profits, that do not cause them to lower prices for people. They are making more dollars. They do not lower the price. The price goes up as the profits go up.

More and more of our families, our workers, our businesses are feeling squeezed on all sides. We have to make sure the FTC has the ability to call price gouging for what it is, that it is defined and they are given the authority to do something about it.

The American people, unfortunately, are forced to be in a situation right now of choosing between stations and pumps where the prices look awfully much the same. We need to create more competition. We are going to do that in the long run. We are going to create competition in the short run. We need to start putting consumers first, our consumers first. That is what we do in this budget.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY.) The Senator from New Hampshire.

Mr. GREGG. Mr. President, how much time remains?

The PRESIDING OFFICER. The sponsor has 3 minutes 4 seconds; the Senator from New Hampshire has 14 minutes 30 seconds.

The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, let me say that we expect to accept this amendment. The issue of energy and its cost in this country is a pretty complex issue. It is not simple. There is no magic wand to resolve it. Obviously, the things which the Senator mentioned—alternative-fuel cars, lowering consumption, renewables—these are all a big part of the energy resolution. But it is a complex matrix.

One of the essences of it, which was not mentioned, is supply. The fact is that the world demand for energy has increased dramatically, especially as China and Southeast Asian countries have begun to have very robust economies. The demand for the supply is such that the price of oil has increased dramatically.

We in this country are going to have to accept the fact that we are going to have to look for other sources of energy. I regret that in the past domestic supply has been curtailed. For example, the opportunity to get supply from the northwest slope of Alaska or the opportunity to search for potential supply States which are willing to accept having oil exploration off their coasts—all of these opportunities to get more supply are being resisted, especially from the other side of the aisle. Yet this has to be part of the equation of how we resolve the energy issue. There is more than one element to the formula of resolution.

The bottom line is that we should do everything we can to get off of our dependance, as much as possible, on foreign sources of oil. We find ourselves purchasing oil from countries which have antipathy toward us and which create problems for us.

It would be good if we could supply the oil domestically or at least within the Western Hemisphere and not have to go beyond the Western Hemisphere in the manner we do. Another proposal is to get ethanol brought to the east coast out of Brazil. There is a 24-percent tariff on that ethanol. The last time we tried to repeal that tariff, it was opposed, opposed on both sides of the aisle but especially from the other side of the aisle. So there are a lot of different elements to the matrix of how we resolve the energy problem. I certainly am able to support the Senator's motion, but I don't think the answer is simply one or two items. It is a long list of items.

On the underlying bill, there is still this fundamental issue, which is going to be raised by three of the motions that were offered, of the effect on revenues and tax policy on the American wage earner of this budget. There has been a lot of representation, a lot of numbers thrown out. The bottom line

is pretty simple. Beginning in the year 2010, a number of tax rates which benefit Americans who create jobs and take risks and especially benefit senior citizens who live on fixed incomes, benefit people who have gone out and been entrepreneurs and created jobs, benefit people who have fixed incomes because they are living off of dividends to a large degree and they are retired, a number of these rate structures are going to expire, and the cost to those people who benefit from that rate structure is going to go up dramatically. Of course, it is always characterized by the other side that this is just a benefit to the wealthy. It is not.

More than 75 percent of those who claim dividend and capital gains income earn less than \$100,000. Yet under this budget, their taxes will double on those dividends and capital gains income. Thirty percent of tax-paying seniors claim capital gains income, and more than 50 percent of tax-paying seniors claim dividends income. Almost all those seniors are living on a fixed income. They are not extremely wealthy. They just happen to be at a point in their life where they are cashing in their assets in order to live. They have capital gains as a result. They sell their home. They sell their stock. Yet under this budget, their taxes are going to double on those items. In fact, dividend income accounts for 11 percent of the total income of seniors who earn less than \$30,000 and 14 percent of the earnings of those who earn \$30 to \$50,000. For moderate-income seniors, they are dependent on a dividend in many instances.

That is not unusual. Our society encourages people to invest in the stock market. Even though we have heard about the gloomy economic situation in this country, while we have added 7.4 million jobs and have had 22 quarters of recovery and we have had tax revenues exceeding historic levels, the stock market is now at a historic high and continues to go up. Obviously, some people don't think it is all that gloomy. The fact is, a lot of seniors throughout their earning career invest, either through an IRA account or a pension account. They invest in assets which are now subject to the benefit of a capital gains and dividends rate, which is very helpful to them in making ends meet because it is a fair rate. Yet those people's taxes are going to go up under this budget.

Fifteen million seniors would see their taxes increased if the current tax policy is not extended. This budget makes no room for the extension of the capital gains or dividend tax rate. That is an important point to remember. Equally important is the underlying philosophical difference. There is a belief on the other side that the Government should be able to take more money out of people's pockets and decide how to spend it. That is why the discretionary spending in this budget is significantly over the President's level, \$18 billion in the first year of the budget. It is why there is no effort in this

budget at all to discipline entitlement spending, which is clearly the most serious issue we face as an economy and as a society after the threat of Islamic terrorism, the problem of confronting the baby boom generation and the demands it will put on our society economically, to say nothing of the social change of having the largest retired population in the history of the country.

There is no attempt at all to get into that issue of how we are going to handle this fiscal meltdown we are facing if we don't address the impending retirement of the baby boom generation.

Those philosophical differences are very large. What we have tried to do through the motion to instruct is to highlight those differences, the fact that we believe these tax rates which benefit so many Americans should be extended, that we do not believe the spending should be increased well above the proposal of the President—and the President was rather generous, to say the least, in his increase in discretionary spending.

We also believe there should be an effort made to address expansion of entitlement spending, which is going to be a function of the retirement of the baby boom generation, and the fact that will simply overwhelm our capacity to support those programs in their present form, and our children and our children's children will be put in a position of having to pay so much in increased costs for the burden of the Government that they will be unable to benefit from the good life we have benefited from. They will have trouble sending their children to college, buying their first home, doing the discretionary things people want to be able to do with discretionary money because most of that discretionary money will have to be used to support the entitlement programs to support the retired baby boom generation which will double the number of people retired in this country. None of that is addressed in this budget. We think that is a failure that is unfortunate.

These are some of the concerns that remain at this time. However, I would be happy to ask unanimous consent that the motion of the Senator from Michigan be accepted and that the time remaining be divided between myself and the Senator from North Dakota so he can get some more time to respond to my comments which I am sure he will want to do.

The PRESIDING OFFICER. Is all time yielded back on this particular motion to instruct?

If so, the question is agreeing to the Stabenow motion.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. GREGG. Did we also agree that the time between now and 7:30 would be equally divided.

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

The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me indicate, on the motion just adopted, the strategy in the reserve fund is not just one item, as the Senator referenced, but involves all of these things—expanding production and use of alternative fuels and alternative-fuel vehicles to promote renewable energy development, to improve electricity transmission, to encourage responsible development of domestic oil and natural gas resources, and to reward conservation and efficiency. There is a production component of what is in the reserve fund. I want to emphasize that and thank the Senator from Michigan for her constructive proposal.

I also want to take a moment to respond to a number of points made by my colleague from New Hampshire. Once again, there is no tax increase in this proposal. The fact is, what the President said his budget would produce in revenue is virtually identical to what is in this budget. In fact, there is virtually no difference between what the President said his budget would produce in revenue over the 5 years. He said his budget would produce \$14.826 trillion of revenue. My budget produces \$14.827 trillion of revenue, virtually no change. If you look at a CBO basis, there is a 2-percent difference. We believe that can be easily accommodated with no tax increase by going after the tax gap, by going after abusive tax havens and fraudulent tax shelters.

When the Senator asserts there is no long-term savings, that is not accurate. We have \$15 billion of Medicare savings, and we have a reserve fund on health information technology and other health savings. Just on health information technology, the Rand Corporation estimates that if that were employed, we would save \$81 billion a year. We also have another health care reserve fund that relates to looking at best practices around the country so that we can ensure savings in the health care accounts in that way and many other proposals to address the long-term fundamental imbalances we have.

We all understand the only way those long-term entitlement challenges are going to be fully addressed is in a bipartisan approach outside a 5-year budget resolution because those are much longer term challenges.

How much time do we have on this side?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. CONRAD. Mr. President, I thank all my colleagues for participating in this debate. These instructions to the conferees will have attention paid to them, and we will do our level best to bring back a budget that will reflect the will of this body.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. How much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes 25 seconds.

Mr. GREGG. Mr. President, of course, there is a lot of back and forth. So many numbers are thrown out, nobody can keep up. The \$15 billion in Medicare savings is a nice number. The only problem is, it is coupled with about \$30 billion of new spending in the SCHIP program and, as a result, it is a net loss. So the long-term savings are not there. In fact, they are a long-term cost. Of course, the health care proposals, if they score, that would be great, but they don't score. So when you throw out a number of \$81 billion, you are throwing out a number that CBO won't support. If it did support it, we would immediately capture those funds and use them constructively to reduce the deficit or to give people a tax benefit. As a practical matter, they don't score so the number is not relevant.

I want to speak quickly to the Senator's response to my motion. My motion says: These tax reductions which are very important, which address issues which are important to the American people and which are not covered by the proposal which we have before us, unfortunately, need to be continued. These tax reductions cover the \$1,000 child credit, the marriage penalty, the 10-percent income tax bracket, all of which the Senator has said are going to be picked up by the Baucus amendment—maybe, maybe not—the lower marginal rates, definitely not. The earned-income tax credit relief for military families does not appear to be in here. The adoption tax credit is not in here. The dependent care tax credit is not in here. The college tuition deduction for student loan interest for \$2,000, Coverdale IRA, and the 15-percent rate on capital gains and dividends, which as I just went through, is very critical to seniors and to the economy generally and has been a huge revenue windfall for us as a government, and adjusting the death tax so that it properly reflects fairness to small businessmen and farmers, those are not in here.

All of those are not in the proposal of the Senator from North Dakota.

In addition, there is the operative language of the Senator's proposal which essentially is the fig leaf or the Wizard of Oz approach which says we are going to get this money from somewhere—we really don't know where, the tax gap or some building in the Cayman Islands—when, in fact, the practical effect is, you are going to have to raise taxes on the American people to accomplish what the Senator from North Dakota is proposing with his motion.

That is why I will be opposing this. I suspect some of my colleagues will support it because obviously the Baucus language makes sense, although it doesn't go far enough.

In light of that, I guess the time is probably used up, isn't it?

The PRESIDING OFFICER. It is.

The Senator from North Dakota has 10 seconds.

Mr. CONRAD. Mr. President, I would like to correct the record and indicate the motion I have offered, and which supports the underlying resolution, does contain the adoption tax credit, does include the dependent care tax credit, does include the \$1,000 child tax credit, the marriage penalty relief, the 10-percent income tax bracket and estate tax reform. So it is all in there.

Mr. GREGG. Mr. President, how much time do I have remaining? I don't have 10 seconds? I could fit everything into it.

Mr. President, I ask unanimous consent that the motions be voted in the following order and that the provisions relating to debate—I guess this is something you ask, I say to the Senator. It was just handed to me. You ask that.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank my colleague. I thank him for his good humor and for working through this as we have proceeded to be ready to vote.

Mr. President, I ask unanimous consent that the motions be voted in the following order and that the provisions relating to debate time and vote time limitation remain in effect: the Kyl motion to instruct regarding estate tax, the Conrad motion to instruct regarding certain tax cuts, the Gregg motion to instruct regarding certain tax cuts.

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

Mr. CONRAD. Mr. President, when I indicated that the vote time limitation remain in effect, I think we should probably send that signal to our colleagues. There will be 2 minutes equally divided on each of the motions, and after the first vote, the next two votes will be 10-minute votes.

Mr. GREGG. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the Kyl motion and all the other motions.

Mr. CONRAD. All three motions?

Mr. GREGG. All three motions.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask for the yeas and nays on all the motions.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on the motion to instruct conferees offered by the Senator from Arizona, Mr. KYL.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, we have in the resolution estate tax reform. Mr. President, \$3.5 million a person, \$7 million a couple is completely exempt from any estate taxation. That will exempt 99.8 percent of the estates, and it is paid for. The Kyl motion is not paid for, would blow a hole in the deficit,

would take us back to a failure to balance the budget.

I hope our colleagues will support what is in the resolution, what passed the Senate and which does reform the estate tax but does so in a fiscally responsible way.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the Kyl motion is a bipartisan proposal, or at least it was. Actually, the original language came from the Senator from Louisiana. It basically sets a rate of 35 percent—the proposal of the Senator from North Dakota sets a top rate of 45 percent—it sets that rate on estates, and on small estates and small businesses it sets a lower rate. It exempts estates of \$5 million or less. It is an extremely reasonable approach to the death tax.

People should not be taxed because they die, to begin with. But if we are going to tax them, let's not put them out of business. Let's allow families with small businesses to survive. That is what the Kyl motion does.

The PRESIDING OFFICER. Is all time yielded back on the motion?

If so, the question is on agreeing to the Kyl motion to instruct conferees. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 159 Leg.]

#### YEAS—54

Alexander	Dole	Martinez
Allard	Domenici	McConnell
Baucus	Ensign	Murkowski
Bayh	Enzi	Nelson (NE)
Bennett	Graham	Pryor
Bond	Grassley	Roberts
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burr	Hatch	Smith
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Specter
Cochran	Isakson	Stevens
Coleman	Kyl	Sununu
Collins	Landrieu	Tester
Corker	Leahy	Thomas
Cornyn	Lincoln	Thune
Craig	Lott	Voinovich
DeMint	Lugar	Warner

#### NAYS—41

Akaka	Clinton	Kerry
Biden	Conrad	Klobuchar
Bingaman	Dodd	Kohl
Boxer	Dorgan	Lautenberg
Brown	Durbin	Levin
Byrd	Feingold	Lieberman
Cantwell	Feinstein	McCaskill
Cardin	Harkin	Menendez
Carper	Inouye	Mikulski
Casey	Kennedy	Murray

Nelson (FL)	Salazar	Webb
Obama	Sanders	Whitehouse
Reed	Schumer	Wyden
Reid	Stabenow	

#### NOT VOTING—5

Crapo	McCain	Vitter
Johnson	Rockefeller	

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided on the motion to instruct offered by the Senator from North Dakota, Mr. CONRAD.

Mr. CONRAD. Mr. President, if I could prevail on colleagues to be quiet for 1 more minute. They can speak on my colleague's time.

I ask colleagues to support this motion. It says to the conferees: Let's insist on those provisions that are in the budget resolution to provide for extension of the \$1,000 child tax credit, the marriage penalty relief, the 10-percent bracket, the reform of the estate tax to protect small business and family farms, the extension of the adoption tax credit, the dependent care tax credit, and the treatment of combat pay for EITC purposes.

It also insists on section 303 which provides for tax relief, including extensions of other expiring tax provisions if they are offset.

This is a tax relief amendment. I hope my colleagues will support commonsense tax relief for middle-income taxpayers and for basic estate tax reform.

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

The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, this amendment is essentially a cover amendment, and it is to cover up the fact that it is the Wizard of Oz at work on the Democratic budget, and it doesn't work. If you spread pixie dust over this by Tinker Bell, it still wouldn't fly. The fact is, you cannot produce these funds in the manner in which the Senator from North Dakota has suggested by some building in the Cayman Islands and other proposals.

If you want to extend the tax cuts and you want to be concerned about the middle-income American who is benefiting from those tax cuts, you should vote for the next motion to instruct.

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

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 51, nays 44, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—51

Akaka	Dorgan	Mikulski
Baucus	Durbin	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Inouye	Obama
Boxer	Kennedy	Pryor
Brown	Kerry	Reed
Byrd	Klobuchar	Reid
Cantwell	Kohl	Salazar
Cardin	Landrieu	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Snowe
Clinton	Levin	Stabenow
Coleman	Lieberman	Tester
Collins	Lincoln	Webb
Conrad	McCaskill	Whitehouse
Dodd	Menendez	Wyden

NAYS—44

Alexander	Domenici	Martinez
Allard	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Feingold	Roberts
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burr	Gregg	Smith
Chambliss	Hagel	Specter
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Corker	Inhofe	Thomas
Cornyn	Isakson	Thune
Craig	Kyl	Voinovich
DeMint	Lott	Warner
Dole	Lugar	

NOT VOTING—5

Crapo	McCain	Vitter
Johnson	Rockefeller	

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on the motion to instruct offered by the Senator from New Hampshire, Mr. GREGG.

The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, this motion is the opportunity to speak out on behalf of seniors, working Americans, families, and children in this country. If you believe the tax rates should stay in place, which include the \$1,000 child tax credit, marriage penalty relief, the 10-percent income tax bracket, the lower marginal rates for working American families and small businesses, the earned income tax credit for military families, the adoption tax credit, independent care tax credit, the college tuition deduction, the deduction for student loan and interest, the \$2,000 Coverdell—

The PRESIDING OFFICER. The Senator will be in order.

Mr. GREGG. Mr. President, the next two are important—the 15-percent capital gains dividend rate, which helps seniors and people on fixed income and gives our economy a boost, and revenues to the Federal Government a boost, and the death tax, structured along the lines of what Senator KYL's motion put forward—if you believe in those proposals, you will want to vote for this motion to instruct the conferees.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, if you like debt, this is your amendment. This

will add \$250 billion to the debt. If you don't want to balance the budget in 2012, vote for this amendment, because we have a balanced budget in 2012 now. If you pass this amendment now, we will not.

The Senator says it is like the Kyl amendment on the estate tax. No, it is not. He preserved part of the estate tax for those at the very highest income level. This eliminates the estate tax.

Please, we have made so many strides to balance the budget by 2012. Let's not have another unbalanced budget, one that adds to the debt.

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

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Arizona (Mr. MCCAIN), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 44, nays 51, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—44

Alexander	DeMint	Lugar
Allard	Dole	Martinez
Bennett	Domenici	McConnell
Bond	Ensign	Murkowski
Brownback	Enzi	Roberts
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Smith
Coburn	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Thomas
Corker	Isakson	Thune
Cornyn	Kyl	Warner
Craig	Lott	

NAYS—51

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Biden	Inouye	Obama
Bingaman	Kennedy	Pryor
Boxer	Kerry	Reed
Brown	Klobuchar	Reid
Byrd	Kohl	Salazar
Cantwell	Landrieu	Sanders
Cardin	Lautenberg	Schumer
Carper	Leahy	Snowe
Casey	Levin	Stabenow
Clinton	Lieberman	Tester
Conrad	Lincoln	Voinovich
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	Wyden

NOT VOTING—5

Crapo	McCain	Vitter
Johnson	Rockefeller	

The motion was rejected.

The PRESIDING OFFICER. Under the previous order, the Chair appoints Mr. CONRAD, Mrs. MURRAY, Mr. WYDEN, Mr. GREGG, and Mr. DOMENICI conferees on the part of the Senate.

MORNING BUSINESS

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

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

The PRESIDING OFFICER. The Senator from Florida is recognized.

NATIONAL GUARD EQUIPMENT

Mr. NELSON of Florida. Mr. President, it is timely for me to make these remarks because there has been a conversation that has occurred in Kansas today between the Governor of Kansas and the President of the United States over the question of the adequacy of the National Guard and its equipment.

The reason I am making these remarks is that this Senator from Florida has sounded this alarm bell several weeks ago on the basis of a GAO report of the inadequacy of the equipment of the National Guard in each of the States. In my State of Florida, the GAO report says they only have 53 percent of their equipment. In the State of New Mexico, they only have 33 percent of their equipment. You now heard the commentary from both the Governor of Kansas, as well as the head of the National Guard, the adjutant general of Kansas, who state they are short of equipment.

I can tell you that, in Florida, we are 500 humvees short. We are 600 trucks short—that is both 5 ton and deuce and a half. We are 4,400 night vision goggles short. Why I am saying this today as a follow-on to sounding this alarm several weeks ago is we are not far from June 1, which is the beginning of hurricane season. The Florida National Guard is the best trained as a National Guard but especially so for taking care of the aftermath of a hurricane. If we only have category 1, 2, and 3 hurricanes, the Guard tells me they have the equipment. But if the big one hits—the big one being a category 4 or 5 hitting from the water—a highly densely urbanized area of the coast, they will be short. Then the Guard would rely on their compact with other Guard units to supply equipment.

For example, Pennsylvania is one of those States in the compact. But Pennsylvania is short of equipment as well. We are trying to put additional appropriations in this war funding bill for equipment for our National Guard units, but as Lieutenant General Blum, the head of the National Guard for the country, said, they are \$40 billion short of equipment. I will read you a statement from the Florida National Guard in case there is any doubt in anybody's mind:

It is true that we are short of equipment. We need these pieces of equipment to speed up our response to local emergencies and to help save lives.

And he continues:

They can draw on these additional units and equipment through that compact.