

Now, as I mentioned, this is the second time in as many Congresses we have been on the brink of systemic reform. We are going to make it through the reform this time. I am so pleased at that. The students of America, whatever age, will benefit from this legislation. We talk about the need for education from the time you are born until the time you retire. We have some other pieces yet that we need to do, such as the Workforce Investment Act, but we are on course to get that done too.

The American system of higher education is renowned throughout the world. America's students will now be provided with the tools and assistance contained in both bills to complete their higher education and training to acquire the necessary knowledge and skills to be competitive in a 21st-century economy.

I supported reporting both bills out of committee. I did ask they be considered together and had that expectation. So I am very pleased that the Senate Democratic leader has worked with us and provided an opportunity to have an open and full debate on the aspects of the Higher Education Act.

As debate on this bill comes to a close, it is necessary to thank those who worked long and hard on this bill. First and foremost, I thank Chairman KENNEDY. The bill we will be doing Monday is virtually a bill the two of us worked out last year, for which we got to that brink of getting done, and then it did not get done. So now we are presenting it again. I thank him for his commitment to keeping this process bipartisan.

Education is bipartisan. There is no partisanship in that. I think that will be displayed throughout the process. And I appreciate his working with me and my Republican colleagues on the HELP Committee throughout this entire process. We have a different process than some of the other committees. We use the markup to kind of find the direction, the intent and the intensity of the feelings on the issue, and then we actually keep working with people through that time to either correct the situation or to get an understanding of what it is we are really doing. Sometimes that even requires coming up with a third way. But that is what has happened in both of these bills, and it gets us to this point.

Now, it involves a tremendous amount of work on the part of members of the committee, but it also involves a tremendous amount of work by our staff. They work through weekends. They work late into evenings trying to resolve a lot of these things so it can get to the decision at the Member level.

So I particularly thank Katherine McGuire, my legislative director; Beth Beuhlmann, who heads up the education shop; Ann Clough; Adam Briddell; Amy Shank; Ilyse Schuman; Greg Dean; Kelly Hastings; and Lindsay Hunsicker.

I also thank the members of Senator KENNEDY's staff for their hard work: Michael Myers, who is doing a marvelous job of coordinating with us; Carmel Martin; J.D. LaRock; Missy Rohrbach; Emma Vadehra; Erin Renner; Raquel Alvarenga; and David Johns.

Finally, I thank all the members of the HELP Committee and their staffs for all their hard work throughout this process. It has been hard work making sure everybody had an understanding of all of these difficult issues and getting us to this point.

So again I thank the chairman for his hard work and cooperative work to be able to get this done for the kids of America.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The majority leader is recognized.

#### AMERICA COMPETES ACT

Mr. REID. Mr. President, there is a lot of good news today legislatively.

I now ask unanimous consent that the Senate proceed to the consideration of Calendar No. 159, H.R. 2272, the House competitiveness bill; that all after the enacting clause be stricken and the text of the Senate companion, S. 761, as passed by the Senate, be inserted in lieu thereof; the bill be read a third time and passed, the motion to reconsider be laid on the table, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees.

Mr. President, let me say this is the end of a long haul to do a bill that is extremely important. This is a bipartisan bill. There are a number of people who have worked extremely hard on this legislation but no one harder than Senators BINGAMAN and ALEXANDER. I apologize for only mentioning their names. I am sure there are many others who worked just as hard as they did. I remember they were the first two who talked to me about it, and there has been a lot of time spent on this legislation.

It is a bill that was passed in the Senate with little opposition. I am so happy we can now go to conference. The House has already passed something. We can come back with a bill that I think will really help productivity in our country and help the educational aspects of students, especially in the scientific fields.

The PRESIDING OFFICER. Is there objection?

The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, reserving the right to object—and I will not object—there have been a number of people on both sides of the aisle who have been deeply invested in this America COMPETES Act. Several of them will be shortly announced by the Chair as conferees.

Particularly, I want to single out Senator STEVENS, Senator ENZI, Senator ENSIGN, and Senator COLEMAN, all

of whom will be named conferees, and, of course, Senator ALEXANDER and Senator DOMENICI, who were really the leaders on our side, in conjunction with Senator BINGAMAN, in developing this important bipartisan legislation.

Senator ALEXANDER kept pushing others forward. But, in fact, we all knew who the real leader on our side was on this issue. He, in a very selfless way, helped move a bipartisan group together to form this important legislation. I commend Senator ALEXANDER in particular for the role he played in all of this.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 2272), as amended, was read the third time and passed.

The Presiding Officer appointed Mr. BINGAMAN, Mr. INOUE, Mr. KENNEDY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. KERRY, Mr. NELSON of Florida, Mr. DOMENICI, Mr. STEVENS, Mr. ENZI, Mr. ALEXANDER, Mr. ENSIGN, and Mr. COLEMAN conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join the two leaders in thanking our colleagues and thank them for moving this process forward in naming these conferees on the America COMPETES Act. I wish to underline the excellent work that was done under the bipartisan leadership of Senator BINGAMAN and Senator ALEXANDER, and the other members of our committee. They have worked long and hard on this legislation.

A very distinguished leader in business, Norm Augustine—who has been the head of many of our defense industries and is a real statesman in terms of defense policy—was enormously important in helping guide the bipartisan group, to get recommendations from the National Academy of Sciences, the National Academy of Engineering, the National Science Foundation, and others, to help prepare this legislation, and to make recommendations to the House and the Senate.

This is an enormously important effort to ensure that the United States can continue to be competitive in the world economy for years ahead. I think this is a very solid and important bipartisan effort. I join with our two leaders, thanking them for their recommendations in terms of conferees, and join in commending the bipartisan effort that has seen this as continuing progress.

#### COLLEGE COST REDUCTION ACT OF 2007—Continued

Mr. KENNEDY. Mr. President, I think with the consent agreement we are prepared to yield back the time we still have. I want to join, first of all, in thanking my friend and colleague from Wyoming, as I did in the opening of the discussion and debate on education. This reauthorization legislation—the

one we will consider on Monday—is legislation that had Senator ENZI's name on it until the change in the makeup of the Senate. We had worked on it in a bipartisan way. I think with the exception of the ethical issues, which have been developed more recently, it is by and large a reflection of a really strong bipartisan effort, as our reauthorization on the Head Start Program is as well.

That is the way we worked when Senator ENZI was the chairman. We have tried to follow that pathway. As he mentioned, there has been a long history of leaders in education who work on a bipartisan basis in the Senate, going back with the Republicans with Senator Stafford and with our friend Claiborne Pell, as well as Judd Gregg when he was chairman of the committee.

So we want to see this passed. Hopefully, by Tuesday sometime, we will be able to look back on these past days and see a job well done. But we still have work to do.

I want to take a moment of time, though, to join in thanking the staff. Senator ENZI has said it so well. There has been tireless work and a real willingness to find common ground. These staffs have worked very closely with all of us. These issues are of prime concern to every member of our committee. Every member of our committee is involved in these education issues. We have good exchanges on that, and they have all been interested for a long period of time.

But I wish to thank, certainly, on my staff Michael Myers, who heads our committee staff and does such a wonderful job, Carmel Martin, and Missy Rohrbach. Missy even managed to get married during this period of time. I don't know how she found that time. J.D. LaRock, Erin Renner, Emma Vadehra, David Johns, Liz Maher, Parker Baxter and Nick Bath. For Senator ENZI, Katherine McGuire and Ilyse Schuman and Greg Dean, Beth Buehlmann and Ann Clough, Adam Briddell and Lindsey Hunsicker. There are many others, and I will include those as we go through the evening.

Mr. President, I was concluding the earlier remarks but I think many of our Members are ready to move ahead now.

The other major provisions of this legislation were the loan forgiveness for those in public service for 10 years, the ceiling on loan payments so they don't exceed 15 percent of monthly income, which assist people in repaying their loans in a responsible way. It is very solid legislation. It is good legislation. As I mentioned earlier, it deserves to be passed. We know the House is ready to move forward together on this bill. They have addressed this issue in the committee and they are ready to move ahead. I think the country is ready for us to move ahead.

As we have been willing and able to deal with education issues, I join in the plea of my friend and colleague from

Wyoming in the hope we will not extend these amendments that have no relevance to the education of the young people in this country. They are entitled, I believe, to the kind of respect they should receive with an important piece of legislation that has been bipartisan, it has been worked through, and reflects the Nation's judgment in terms of understanding the importance young people can play and must play in our country and in our democracy, in our economy and in our national security. This legislation deserves, I believe, to have a quick and speedy passage.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I am glad to yield.

Mr. DORGAN. Let me thank the chairman and ranking member for their work. I would like to understand, as we apparently go into some votes, what the requirements and circumstances are. There is no limitation on amendments at this point as I understand it; is that correct?

Mr. KENNEDY. The Senator understands correctly.

Mr. DORGAN. Let me ask, under reconciliation, I have watched the proceedings this afternoon, and I have heard discussions on the amendments that have nothing to do with this subject and are far afield. Is there a germaneness test with respect to amendments on the reconciliation portion of this bill?

Mr. KENNEDY. Yes, there is. So there will be points of order raised on amendments where those points of order should be raised.

Mr. DORGAN. If I might, let me thank again the chairman and the ranking member. My hope is we will deal with those amendments that deal with the education of the children in this country and move on and finish this bill. There will be plenty of other opportunities to address subjects well beyond that. I appreciate their work, and I hope we can finish this in due course.

Mr. KENNEDY. I thank the Senator because this is important legislation. There are a lot of other items which all of us are concerned about that the Senate should address. But we have had good discussions, good debate. This is very important legislation, and it reflects the best judgment of the members of our committee and I think the Senate as a whole as well. Hopefully, we can get it passed.

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

Mr. KENNEDY. I yield.

Mr. ENZI. Is the Senator going to be yielding back and then propounding a request for 1 minute on each side on each amendment and 10 minutes after the first vote?

Mr. KENNEDY. Yes, I will.

The PRESIDING OFFICER. The Senator from Vermont has a question for the Senator from Massachusetts.

Mr. SANDERS. My question was similar to Senator DORGAN's. I was

going to say that if there was a substantive debate, we are prepared to offer several second-degree amendments. I hope I don't have to do that because I agree with the Senator from Massachusetts that we are dealing with higher education now, a very important issue, and I think we should keep it clean and move forward. But if something else evolves, we are prepared to offer several second-degree amendments.

Mr. KENNEDY. Mr. President, I thank the Senator for his very important contributions during the development of this legislation and his excellent statement on the floor.

I am prepared to yield back the time, if my colleague is prepared to yield back. I think also for any amendments, can we request that we have the opportunity for 2 minutes of debate on any amendment that is going to be offered to be evenly divided. Furthermore, I ask unanimous consent that after the first vote, the time on each succeeding amendment be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, if it is all right with the Senator from Wyoming, we would indicate the first vote then would start at 6:30. I see the leader. That gives people at least some notice, if that would be agreeable.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, with the first vote to begin at 6:30 then, we have 8 remaining minutes. I am glad to divide that with the Senator from Wyoming. Does the Senator from Alabama wish to be—I would be glad to divide that time with the Senator from Alabama, if he wishes to speak on his amendment.

Mr. SESSIONS. I would be pleased.

Mr. KENNEDY. I ask unanimous consent that we divide the time, the 8 minutes.

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

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, the provision in this bill that creates an entirely new loan forgiveness program for Government public service workers I believe is unprincipled and can only get worse in the years to come. Actually, it has some pernicious aspects to it.

For example, it says if you are any Government worker or social service worker, it appears that as long as you are not in the private sector, after 10 years, the Government will forgive your loan debt. I think that is an odd thing for us to do, to have that many people have their loans forgiven.

I think, No. 1, when people go to college and they make up their mind about how they are going to pay for college and whether they will work, this will be an inducement for people not to work and to borrow; it will encourage borrowing for loans. No. 2, it

does not have any limit on the amount of money involved, so those who go to more expensive colleges will obviously get more of the taxpayers' money than those who don't go to more expensive colleges in terms of the loan forgiveness. I think that is not a healthy thing.

Eighty percent of the colleges and universities in America don't use the Direct Loan Program. Eighty percent do not. You don't get this loan forgiveness unless you are part of the Direct Loan Program, or consolidate your loans with it. I think that is an odd bias in the system that I am not comfortable with. So I will say, again, I think this is creating a new bureaucracy, an unwise way to help workers. I would suggest if we want to help people, we should expand our Pell grants—as we have dramatically and I support—and the loan programs in general but not to target a forgiveness program to people who have been working for the Government for 10 years who are probably better able to pay off the loan than they were the first 2 or 3 years they started to work. It doesn't make sense to me. I don't like this new program and all its ramifications.

I think our focus should be on Pell grants, on improving the loan program for everybody equally, and I don't think the plumber who is taking business courses so he might one day run his own business, or the nurse who is advancing her skill level so she might one day reach a higher level of pay, that one ought to be favored over the other.

I strongly believe our resources should be directed to overall strengthening of the loan program and not focusing on just Government employees. I am not putting down Government employees, but I will ask you about two Government employees, one who goes to a community college and works their way through and ends up with no debt and another one who incurs a good bit of debt, one gets benefits under this program, whereas the other one doesn't. I don't think that is a good principle. I think that is hard to defend.

How much time remains?

The PRESIDING OFFICER. The Senator has 17 remaining seconds.

Mr. SESSIONS. I thank the Chair, and I thank Senator KENNEDY. I know the bill does do some good things with regard to Pell grants and to focusing more of our loan money on some of the professions and areas of our economy that need more students involved, so I salute that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand we have 4 minutes. Earlier in the day, we had a good exchange with the Senator from Alabama. I pointed out that Alabama, under this legislation, gets an additional \$442 million over the next 5 years in grant aid. My own State of Massachusetts gets \$317

million. Alabama does exceedingly well, and that is under the need-based provisions of this program, the need-based provisions of this program.

The Senator from Alabama has raised I think three important points, and they should be addressed. First of all, the loan forgiveness is applicable to those who are on the Direct Loan Program or those who are on the Pell Grant Program. That is spelled out on page 14 of the legislation. That is spelled out on page 14.

Secondly, there is a cap—spelled out on page 30, that requires the borrower's annual adjusted gross income or annual earnings to be less than or equal to \$65,000 for eligibility. So if they make more than \$65,000, there is no loan forgiveness. So this is for those individuals who are working—the working middle class and the working poor.

Third, we believe, as this chart points out, that there is a value in terms of public service employment. We have heard the announcement about the COMPETE Act and about those who are going to go to conference on the COMPETE Act. That bill addresses math and science education and many other important areas. Try to find a good math teacher to serve the public schools of Boston—it's extremely difficult—a good science teacher, a good chemistry teacher to work in a high-need school. Try to find individuals who are going to work with the disabled population. Increasingly, we are finding challenges in meeting the needs of our elderly population so they can have independent living. We have listed the range of what we consider to be public service fields in this bill, and it is extensive. There is enormous need in America. There is an enormous desire of young people to work in those areas. The principal barrier is their indebtedness. They know that if we provide some help and assistance, which this legislation does, to provide some forgiveness, if they work 10 years—10 years—10 years they have to work in these areas in order to be eligible for some forgiveness. That is what the amendment of the Senator from Alabama wants to eliminate.

I have mentioned many times, and in traveling around to schools and colleges in my State of Massachusetts, the number of young people who want to do public service and work and make a contribution to their community, to their local communities, to their State or to the country. We were reminded earlier today by the excellent statement of the Senator from Maryland the difficulty in getting law enforcement people to work in many of the areas in the communities in Baltimore. There are important public responsibilities and services. We have a generation of young people who are prepared to do it. The principal thing that is blocking them is the limitation on their salaries. As we have seen, this chart gives you a pretty good example. A starting salary for teachers is \$35,000, and the loan debt is \$18,000. What this will do is

provide some relief annually, up to \$732, but if that teacher is a starting teacher in Massachusetts, at the end of 10 years of working with students in the public school system, they are going to get some loan forgiveness.

They are going to get a \$10,000 forgiveness. This is not taxpayer money, Mr. President; this is the lenders' money. I hope the amendment will not be accepted.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHN-SON) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

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

The result was announced—yeas 42, nays 55, as follows:

[Rollcall Vote No. 257 Leg.]

#### YEAS—42

Alexander	Crapo	Lott
Allard	DeMint	Lugar
Barrasso	Dole	Martinez
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Bunning	Graham	Roberts
Burr	Grassley	Sessions
Chambliss	Gregg	Shelby
Coburn	Hagel	Stevens
Cochran	Hatch	Sununu
Collins	Hutchison	Thune
Corker	Inhofe	Vitter
Cornyn	Isakson	Voinovich
Craig	Kyl	Warner

#### NAYS—55

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

#### NOT VOTING—3

Brownback	Johnson	Obama
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The amendment (No. 2333) was rejected.

Mr. KENNEDY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand the Senator from Wyoming has an amendment we are going to hopefully accept on a voice vote, if it is the way I understand it to be.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. On behalf of Senator COLEMAN, I send an amendment to the desk.

Mr. COLEMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

#### AMENDMENT NO. 2334

Mr. COLEMAN. Mr. President, I call up amendment No. 2334.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. COLEMAN], for himself, Mr. INHOFE, Mr. DEMINT, Mr. THUNE, Mr. MCCONNELL, Mr. CORNYN, Mr. ISAKSON, Mr. ALLARD, Mr. CRAIG, Mr. LUGAR, Mr. ROBERTS, Mr. GRAHAM, Mrs. HUTCHISON, Mr. COCHRAN, Mr. HAGEL, Mr. GREGG, Mr. ENSIGN, Mr. MCCAIN, Mr. BENNETT, Mrs. DOLE, Mr. BROWNBACK, Mr. ALEXANDER, Mr. CRAPO, Mr. BUNNING, and Mr. CORKER, proposes an amendment numbered 2334.

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

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

The amendment is as follows:

(Purpose: To prevent the Federal Communications Commission from repromulgating the fairness doctrine)

At the end of the bill, insert the following:

#### SEC. \_\_\_\_ FAIRNESS DOCTRINE PROHIBITED.

(a) SHORT TITLE.—This section may be cited as the “Broadcaster Freedom Act of 2007”.

(b) FAIRNESS DOCTRINE PROHIBITED.—Title III of the Communications Act of 1934 is amended by inserting after section 303 (47 U.S.C. 303) the following new section:

#### “SEC. 303A. LIMITATION ON GENERAL POWERS: FAIRNESS DOCTRINE.

“Notwithstanding section 303 or any other provision of this Act or any other Act authorizing the Commission to prescribe rules, regulations, policies, doctrines, standards, or other requirements, the Commission shall not have the authority to prescribe any rule, regulation, policy, doctrine, standard, or other requirement that has the purpose or effect of reinstating or repromulgating (in whole or in part) the requirement that broadcasters present opposing viewpoints on controversial issues of public importance, commonly referred to as the ‘Fairness Doctrine’, as repealed in *General Fairness Doctrine Obligations of Broadcast Licensees*, 50 Fed. Reg. 35418 (1985).”.

Mr. COLEMAN. Mr. President, this bill is about educating young people. Let them have unfettered access to information. This bill would prohibit the Government from monitoring ideas on our public airwaves and penalizing broadcasters who don’t meet the Government’s definition of fair and balanced. There is a reason why our first amendment is freedom of speech because all freedoms are at risk when Government monitors and controls the broadcast of ideas.

Since the end of the fairness doctrine in 1987, talk radio has flourished because of consumer-driven market demand, not because of Government command, not because of Government control.

That is why I am offering this amendment which will protect America’s constitutionally granted right to

free speech. It will prohibit the FCC from reinstituting the fairness doctrine.

At the end of the day, there is nothing fair about the fairness doctrine. This issue is not which broadcaster is fair and which is not. The issue is who decides. I believe fairness is what the American public decides is fair, not some Washington politician or bureaucrat. Americans love a fair fight, but there is nothing fair if the intent is to silence debate because a politician disagrees with it.

I ask for my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this has nothing to do with the underlying legislation. Young children in this country want this legislation, and this amendment has nothing to do with it.

The pending amendment is not germane. Therefore, I raise a point of order pursuant to sections 305(b)(2) and 310(e)(1) of the Congressional Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. The question is premature. No motion has been made.

Mr. COLEMAN. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHN-SON) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

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

The yeas and nays resulted—yeas 49, nays 48, as follows:

[Rollcall Vote No. 258 Leg.]

#### YEAS—49

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

#### NAYS—48

Akaka	Byrd	Conrad
Baucus	Cantwell	Dodd
Biden	Cardin	Dorgan
Bingaman	Carper	Durbin
Boxer	Casey	Feingold
Brown	Clinton	Feinstein

Harkin	Lieberman	Reid
Inouye	Lincoln	Rockefeller
Kennedy	McCaskill	Salazar
Kerry	Menendez	Sanders
Klobuchar	Mikulski	Schumer
Kohl	Murray	Stabenow
Landrieu	Nelson (FL)	Tester
Lautenberg	Nelson (NE)	Webb
Leahy	Pryor	Whitehouse
Levin	Reed	Wyden

#### NOT VOTING—3

Brownback	Johnson	Obama
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The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Republican leader.

#### AMENDMENT NO. 2351 TO AMENDMENT NO. 2327

(Purpose: To express the sense of the Senate on the detainees at Guantanamo Bay, Cuba.)

Mr. MCCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 2351.

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ SENSE OF SENATE ON THE DETAINEES AT GUANTANAMO BAY, CUBA.

(a) FINDINGS.—The Senate makes the following findings:

(1) During the War on Terror, senior members of al Qaeda have been captured by the United States military and intelligence personnel and their allies.

(2) Many such senior members of al Qaeda have since been transferred to the detention facility at Guantanamo Bay, Cuba.

(3) These senior al Qaeda members detained at Guantanamo Bay include Khalid Sheikh Mohammed, who was the mastermind behind the terrorist attacks of September 11, 2001, which killed approximately 3,000 innocent people.

(4) These senior al Qaeda members detained at Guantanamo Bay also include Majid Khan, who was tasked to develop plans to poison water reservoirs inside the United States, was responsible for conducting a study on the feasibility of a potential gas station bombing campaign inside the United States, and was integral in recommending Iyman Farris, who plotted to destroy the Brooklyn Bridge, to be an operative for al Qaeda inside the United States.

(5) These senior al Qaeda members detained at Guantanamo Bay also include Abd al-Rahim al-Nashiri, who was an al Qaeda operations chief for the Arabian Peninsula and who, at the request of Osama bin Laden, orchestrated the attack on the U.S.S. Cole, which killed 17 United States sailors.

(6) These senior al Qaeda members detained at Guantanamo Bay also include Ahmed Khalfan Ghailani, who played a major role in the East African Embassy Bombings, which killed more than 250 people.

(7) The Department of Defense has estimated that of the approximately 415 detainees who have been released or transferred from the detention facility at Guantanamo Bay, at least 29 have subsequently taken up arms against the United States and its allies.

(8) Osama bin Laden, the leader of al Qaeda, said in his 1998 fatwa against the

United States, that “[t]he ruling to kill the Americans and their allies—civilians and military—is an individual duty for every Muslim who can do it in any country in which it is possible to do it”.

(9) In the same fatwa, bin Laden said, “[w]e—with God’s help—call on every Muslim who believes in God and wishes to be rewarded to comply with God’s order to kill the Americans and plunder their money wherever and whenever they find it”.

(10) It is safer for American citizens if captured members of al Qaeda and other terrorist organizations are not housed on American soil where they could more easily carry out their mission to kill innocent civilians.

(b) SENSE OF SENATE.—It is the sense of the Senate that detainees housed at Guantanamo Bay, Cuba, including senior members of al Qaeda, should not be released into American society, nor should they be transferred stateside into facilities in American communities and neighborhoods.

**THE PRESIDING OFFICER.** The Republican leader.

**Mr. McCONNELL.** Mr. President, 6 years ago no one would have thought about deliberately bringing terrorists into American communities, but some of our friends on the other side of the aisle feel differently. The senior Senator from California actually has proposed that we require the President to move terrorist detainees held at Guantanamo Bay to the continental United States and to keep them here. That means moving them into facilities in cities and small towns in places such as California and Illinois and Kentucky. I can guarantee that my constituents don’t want terrorists housed in their backyards in Fort Knox, Fort Campbell or, for that matter, anywhere else in the Commonwealth.

My amendment would allow the Senate to express its view that it is better for the safety and the security of the American people that the terrorists at Guantanamo Bay are not moved into American communities.

The amendment does not prohibit moving the terrorists elsewhere. It does not rule out closing Guantanamo Bay, although my personal view is that is a bad idea. All it does is say to the American people the Senate does not want these terrorists housed on our soil in our communities.

**THE PRESIDING OFFICER.** The time of the Senator has expired.

Madam President, there has been no shortage of public debate about the detention facilities at Guantanamo Bay. Unfortunately, much of the public debate seems somewhat at odds with what is really going on. As Morris Davis wrote in a recent editorial in the New York Times, “critics liken Guantanamo Bay to Soviet gulags, but reality does not match their hyperbole.” Indeed, after an inspection last year by the Organization for Security and Cooperation in Europe, a Belgian police official said, “At the level of detention facilities, it is a model prison, where people are treated better than in Belgian prisons.”

My trip to Guantanamo confirmed what Mr. Davis and many others have concluded. When I visited Guantanamo,

the first detainee I came across was working out on a recumbent exercise bike.

It is worth listening to some of the complaints registered by detainees themselves. One high-value detainee has alleged that he and others were given “cheap branded, unscented soap.” Perhaps the U.S. military should have provided the detainees with St. Ives Apricot Scrub or Bath & Body Works Sun-Ripened Raspberry shower gel.

Mr. President, concerns over scented soap aside, the fundamental question is, what do we do with the detainees? There are several options I am willing to consider. I am willing to consider more aggressive repatriation efforts, for example. Or perhaps modifying the current facility or moving the detainees housed there to another overseas facility. One approach I oppose, however, is shipping these terrorists to our own shores. I am confident that most Kentuckians would not want al-Qaida housed down the street from them, and I would assume citizens from other States feel the same way.

To me, the fundamental question in taking any action regarding Guantanamo should be: does this step make the American people safer? Accordingly, does bringing al-Qaida to America constitute the best way to protect the American people? I myself am heartened that 528 miles of ocean separates these dangerous men from the United States.

It is perhaps worth recalling that these al-Qaida detainees take their instructions from Osama bin Laden. These are the words of their leader in his 1998 fatwa against the United States: “The ruling to kill the Americans and their allies—civilians and military—is an individual duty for every Muslim who can do it in any country in which it is possible to do it.”

Here is more guidance from bin Laden to his supporters: “We—with God’s help—call on every Muslim who believes in God and wishes to be rewarded to comply with God’s order to kill the Americans and plunder their money wherever and whenever they find it.”

It is because of words like these and actions like 9/11 that our policy in the global war on terror has been to keep al-Qaida out of this country. Better to fight them abroad than in the U.S. Yet now some on the other side of the aisle would require that we bring terrorists to the heartland of America and house them near our very own citizens.

Lest we forget, these Guantanamo detainees include Khalid Sheikh Mohammed. As most of us know, KSM, as he is called, was the mastermind behind the attacks of September 11, 2001. This attack killed approximately 3,000 innocent men, women, and children.

These detainees also include Majid Khan. Mr. Khan was tasked to develop plans to poison water reservoirs inside the United States and was responsible

for studying how to carry out a gas station bombing inside America. He also recommended Iyman Faris to al-Qaida. Iyman Faris, it will be recalled, was the man who plotted the destruction of the Brooklyn Bridge.

These detainees also include Abd al-Rahim al-Nashiri. Mr. al-Nashiri was responsible for orchestrating the attack on the USS *Cole*, which killed 17 U.S. sailors.

These detainees also include Ahmed Khalfan Ghailani. Mr. Ghailani played a major role in the East African Embassy bombings which left over 250 people dead.

Nor should we forget that approximately 415 detainees have been transferred out of Guantanamo. Of these, no less than 29 have subsequently taken up arms against the United States and its allies.

The senior Senator from California and other Democratic colleagues, however, proposed an amendment to the Defense Department authorization bill just last week that would mandate that we bring these terrorists into our own communities all across America, in cities and small towns in States like California and Illinois and Kentucky. There, they could either escape or litigate their way to freedom and then be among the innocent Americans they have sworn to kill. I guarantee you my constituents do not want terrorists housed in their backyards in Fort Knox, Fort Wright, or anywhere else in the Commonwealth.

The Feinstein proposal reflects a pre-9/11, “criminal justice” approach to fighting terror. The amendment I offer today to H.R. 2669, the Education Reconciliation bill, reflects quite a different view; a post-9/11 understanding of terrorism; a view that recognizes the profound and enduring peril that terrorism poses to the U.S. and its citizens. My amendment is simply a sense of the senate that the detainees housed at Guantanamo should not be released into American society or transferred stateside into facilities near American communities and neighborhoods.

For those who wish to close or modify the detention facility at Guantanamo Bay, however, my amendment is not a status quo amendment. As I discussed, my amendment would permit the administration to handle the detainees in other ways. All my amendment would do is to assure the American people that the United States Senate does not want these terrorists housed on our soil, in our communities.

**Mr. KENNEDY.** Mr. President, I suggest the absence of a quorum.

**THE PRESIDING OFFICER.** Without objection, the clerk will call the roll.

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

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

**Mr. REID.** Mr. President, we have reviewed this. This side will be willing to accept the amendment.

**THE PRESIDING OFFICER.** Is there further debate on the amendment?

The Republican leader.

Mr. McCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

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

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHN-SON) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

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

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—94

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

NAYS—3

Byrd Leahy Sanders

NOT VOTING—3

Brownbback Johnson Obama

The amendment (No. 2351) was agreed to.

AMENDMENT NO. 2352 TO AMENDMENT NO. 2327

(Purpose: To amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board)

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 2352 to amendment No. 2327.

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

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue reading.

The bill clerk continued with the reading, as follows:

At the appropriate place, insert the following:

#### TITLE—SECRET BALLOT PROTECTION

##### SEC. 01. SHORT TITLE.

This title may be cited as the “Secret Ballot Protection Act of 2007”.

##### SEC. 02. FINDINGS.

Congress makes the following findings:

(1) The right of employees under the National Labor Relations Act (29 U.S.C. 151 et seq.) to choose whether to be represented by a labor organization by way of secret ballot election conducted by the National Labor Relations Board is among the most important protections afforded under Federal labor law.

(2) The right of employees to choose by secret ballot is the only method that ensures a choice free of coercion, intimidation, irregularity, or illegality.

(3) The recognition of a labor organization by using a private agreement, rather than a secret ballot election overseen by the National Labor Relations Board, threatens the freedom of employees to choose whether to be represented by a labor organization, and severely limits the ability of the National Labor Relations Board to ensure the protection of workers.

##### SEC. 03. NATIONAL LABOR RELATIONS ACT.

(a) RECOGNITION OF REPRESENTATIVE.—

(1) IN GENERAL.—Section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) is amended by inserting before the colon the following: “or to recognize or bargain collectively with a labor organization that has not been selected by a majority of such employees in a secret ballot election conducted by the National Labor Relations Board in accordance with section 9”.

(2) APPLICATION.—The amendment made by paragraph (1) shall not apply to collective bargaining relationships in which a labor organization with majority support was lawfully recognized prior to the date of enactment of this Act.

(b) ELECTION REQUIRED.—

(1) IN GENERAL.—Section 8(b) of the National Labor Relations Act (29 U.S.C. 158(b)) is amended—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(8) to cause or attempt to cause an employer to recognize or bargain collectively with a representative of a labor organization that has not been selected by a majority of such employees in a secret ballot election conducted by the National Labor Relations Board in accordance with section 9.”

(2) APPLICATION.—The amendment made by paragraph (1) shall not apply to collective bargaining relationships that were recognized prior to the date of enactment of this Act.

(c) SECRET BALLOT ELECTION.—Section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)), is amended—

(1) by striking “Representatives” and inserting “(1) Representatives”;

(2) by inserting after “designated or selected” the following: “by a secret ballot election conducted by the National Labor Relations Board in accordance with this section”; and

(3) by adding at the end the following:

“(2) The secret ballot election requirement under paragraph (1) shall not apply to collective bargaining relationships that were recognized before the date of the enactment of the Secret Ballot Protection Act of 2007.”

##### SEC. 04. REGULATIONS AND AUTHORITY.

(a) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the National Labor Relations Board shall review and revise all regulations promulgated prior to such date of enactment to implement the amendments made by this title.

(b) AUTHORITY.—Nothing in this title (or the amendments made by this title) shall be construed to limit or otherwise diminish the remedial authority of the National Labor Relations Board.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, as our Nation's college graduates head out into the workforce, many of them will be faced with the question of whether they should join a union. Some will get to make that decision by secret ballot, while others will not.

My amendment is very simple. It guarantees that every American worker will get a secret ballot election when deciding whether to join a union. This is especially important because there are some in this body who want to take this right away and conduct union elections by card check. This approach would open workers to harassment, intimidation, and other forms of union pressure. We need safeguards to allow employees to freely choose without intimidation and coercion from union bosses.

Recent polls have shown that 87 percent of American people agree that every worker should have the right to a secret ballot election. I urge my colleagues to protect workers' rights and vote for this amendment.

I ask for the yeas and nays.

Mr. KENNEDY. Mr. President, time has not been all yielded to ask for the yeas and nays. Point of order. Is it in order to ask for the yeas and nays on whether the amendment is passed?

The PRESIDING OFFICER. There is a request for the yeas and nays.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

Mr. KENNEDY. Mr. President, I make a point of order.

I withhold that. I have a minute, do I not?

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I do not know what bothers the Senator from South Carolina, being antiworker, anti-union. We know this is the most antiworker, anti-union administration. This has nothing to do with education. We see what is happening over on this side. Slow the process down so we cannot vote on Iraq. Slow the process down so we cannot vote on energy. Slow the process down so we cannot vote on giving the young people of this country an opportunity to go to college. When is it going to end?

The students of America and the families of America ought to know exactly what is happening out here on the floor of the Senate. This has nothing to do with education. It is an insult to the workers' committees of this country.



We know this repeals existing law—existing law, which permits, if an employer wants to have a card check, respect for it, can go along. He is repealing that provision.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, the pending amendment is not germane, and I raise a point of order pursuant to sections 305(b)(2) and 310(e) of the Congressional Budget Act.

Mr. REID. If the Senator will withhold, we are going to try to work our way through these amendments. We will see how many more people have to offer. We are not going to try to match the amendments offered by the minority. They have a right to offer these amendments. This is a very important piece of legislation. We think we should work our way through it. We are going to work on this for a little while longer. I have already indicated through the floor staff to my distinguished friend the Republican leader that if we don't finish this pretty soon—it is 8 o'clock now—we will just come back tomorrow and work on it. This could complicate things; people should understand that. Tomorrow we are obligated to have a vote on the motion to proceed to Homeland Security appropriations. If that is granted, that 30 hours will run through until the weekend. That is the process we are in. So if people want to continue offering these amendments, we will do it for a while tonight until people feel that they have offered enough in a way to get attention and focus attention away from this very good bill.

I have come to the floor several times to talk about what a great bill this is and how well it was worked by the two managers. I hope we won't spoil it. We are not going to offer any amendments. Our imagination is as good as yours, but we are not going to do that. The decision has been made. We are going to work on this bill and try to get it completed.

There has been a point of order made. My friend from South Carolina wishes to make a motion.

Mr. DEMINT. Mr. President, parliamentary inquiry, please: Will the Chair confirm how many votes are required on a motion to waive the Budget Act?

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn.

Mr. DEMINT. How many is that?

The PRESIDING OFFICER. If my arithmetic is as good as yours, it is about 60.

Mr. DEMINT. I thank the Chair for confirming that the rules require 60

votes on this matter, and I understand that controversial matters require 60 votes in the Senate.

I move to waive the applicable provisions of the Congressional Budget Act with respect to my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

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

The yeas and nays resulted—yeas 42, nays 54, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—42

Alexander	DeMint	Lott
Allard	Dole	Lugar
Barrasso	Domenici	Martinez
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Bunning	Graham	Murkowski
Burr	Grassley	Roberts
Chambliss	Gregg	Sessions
Coburn	Hagel	Shelby
Cochran	Hatch	Stevens
Corker	Hutchison	Sununu
Cornyn	Inhofe	Thune
Craig	Isakson	Vitter
Crapo	Kyl	Warner

NAYS—54

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

NOT VOTING—4

Brownback  
Feinstein

Johnson  
Obama

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Maine.

AMENDMENT NO. 2340 TO AMENDMENT NO. 2327

Ms. COLLINS. Mr. President, I call up amendment No. 2340 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, Mr. KYL, and Mr. LIEBERMAN, pro-

poses an amendment numbered 2340 to amendment No. 2327.

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

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

The amendment is as follows:

(Purpose: To provide limited immunity for reports of suspicious behavior and response)

At the appropriate place, insert the following:

SEC. \_\_\_\_ IMMUNITY FOR REPORTS OF SUSPICIOUS BEHAVIOR AND RESPONSE.

(a) IMMUNITY FOR REPORTS OF SUSPICIOUS BEHAVIOR.—

(1) IN GENERAL.—Any person who, in good faith and based on objectively reasonable suspicion, makes, or causes to be made, a voluntary report of covered activity to an authorized official shall be immune from civil liability under Federal, State, and local law for such report.

(2) FALSE REPORTS.—Paragraph (1) shall not apply to any report that the person knew to be false at the time that person made that report.

(b) IMMUNITY FOR RESPONSE.—

(1) IN GENERAL.—Any authorized official who observes, or receives a report of, covered activity and takes reasonable action to respond to such activity shall be immune from civil liability under Federal, State, and local law for such action.

(2) SAVINGS CLAUSE.—Nothing in this subsection shall affect the ability of any authorized official to assert any defense, privilege, or immunity that would otherwise be available, and this subsection shall not be construed as affecting any such defense, privilege, or immunity.

(c) ATTORNEY FEES AND COSTS.—Any person or authorized official found to be immune from civil liability under this section shall be entitled to recover from the plaintiff all reasonable costs and attorney fees.

(d) DEFINITIONS.—In this section:

(1) AUTHORIZED OFFICIAL.—The term “authorized official” means—

(A) any employee or agent of a mass transportation system;

(B) any officer, employee, or agent of the Department of Homeland Security, the Department of Transportation, or the Department of Justice;

(C) any Federal, State, or local law enforcement officer; or

(D) any transportation security officer.

(2) COVERED ACTIVITY.—The term “covered activity” means any suspicious transaction, activity, or occurrence indicating that an individual may be engaging, or preparing to engage, in—

(A) a violent act or act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be such a violation if committed within the jurisdiction of the United States or any State; or

(B) an act of terrorism (as that term is defined in section 3077 of title 18, United States Code) that involves, or is directed against, a mass transportation system or vehicle or its passengers.

(3) MASS TRANSPORTATION.—The term “mass transportation” means—

(A) has the meaning given to that term in section 5302(a)(7) of title 49, United States Code; and

(B) includes—

(i) school bus, charter, or intercity bus transportation;

(ii) intercity passenger rail transportation;

(iii) sightseeing transportation;

(iv) a passenger vessel as that term is defined in section 2101(22) of title 46, United States Code;

(v) other regularly scheduled waterborne transportation service of passengers by vessel of at least 20 gross tons; and

(vi) air transportation as that term is defined in section 40102 of title 49, United States Code.

(4) MASS TRANSPORTATION SYSTEM.—The term “mass transportation system” means an entity or entities organized to provide mass transportation using vehicles, including the infrastructure used to provide such transportation.

(5) VEHICLE.—The term “vehicle” has the meaning given to that term in section 1992(16) of title 18, United States Code.

(e) EFFECTIVE DATE.—This section shall take effect on November 20, 2006, and shall apply to all activities and claims occurring on or after such date.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, if I could ask the distinguished Senator from Maine to withhold for a brief statement.

Mr. President, I have talked to Senators on both sides of the aisle. I think it is appropriate we finish this legislation tonight, or in the morning, whatever the case will be. But we are going to continue working tonight. I think that is the most appropriate thing to do.

The one thing I have asked for—and I hope the minority can complete that—is that we should have a finite list of amendments, so we at least can get that done and find out how many amendments we have to work through. I would hope the minority would work on that to see if we can come up with a finite list of amendments before final passage.

I apologize to my friend for the interruption.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Thank you, Mr. President.

Mr. President, an alert citizenry is one of our best defenses against terrorist attacks. That is why the New York City subway system has signs saying: “See Something, Say Something.” That is just what a group of airline passengers did recently in reporting suspicious activity they thought represented a terrorist threat. What was the result? Those passengers, the pilot, the airline, and the airport were all sued. The Collins-Kyl-Lieberman amendment would protect individuals from lawsuits when they, in good faith, report reasonable suspicious behavior that may reflect terrorist activity.

The PRESIDING OFFICER. The Senate is not in order.

Ms. COLLINS. Thank you, Mr. President.

Our amendment would protect from lawsuits individual citizens who report suspicious activity. The report would have to be in good faith. It would have to be reasonable.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, this amendment is not germane. It is subject to the jurisdiction of the Judiciary Committee. I would be happy to hold hearings on it. This is so overbroad that you could have all kinds of problems. It could invite racial and religious profiling. Suppose somebody is wearing religious garb and it frightens somebody. They could immediately—or maybe it doesn't frighten them, but they could say it does. It broadly protects Government officials from potential misconduct. It sets a new standard for a government official responding to reports of activity, and it is basically a court-stripping bill.

If this is for more than a political point on this bill, fine, bring it to the Judiciary Committee. We will hold a hearing on it before the committee that has jurisdiction.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, anybody who sees something that looks different: Hispanic, Black, someone wearing religious garb, they have a reasonable ground to turn them in under this. This is far too broad. Let it go to the Judiciary Committee—I guarantee we will have a hearing—but not on this.

I make the motion that the pending amendment is not germane. I raise a point of order pursuant to section 305(b)2 and 310(e)1 of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

The yeas and nays resulted—yeas 57, nays 39, as follows:

[Rollcall Vote No. 261 Leg.]

#### YEAS—57

Alexander	Crapo	Lugar
Allard	DeMint	Martinez
Barrasso	Dole	McCain
Baucus	Domenici	McConnell
Bayh	Dorgan	Murkowski
Bennett	Ensign	Nelson (NE)
Bond	Enzi	Roberts
Bunning	Graham	Schumer
Burr	Grassley	Sessions
Chambliss	Gregg	Shelby
Clinton	Hagel	Smith
Coburn	Hatch	Snowe
Cochran	Hutchison	Specter
Coleman	Inhofe	Stevens
Collins	Isakson	Sununu
Conrad	Kyl	Thune
Corker	Landrieu	Vitter
Cornyn	Lieberman	Voinovich
Craig	Lott	Warner

#### NAYS—39

Akaka	Harkin	Murray
Biden	Inouye	Nelson (FL)
Bingaman	Kennedy	Pryor
Boxer	Kerry	Reed
Brown	Klobuchar	Reid
Byrd	Kohl	Rockefeller
Cantwell	Lautenberg	Salazar
Cardin	Leahy	Sanders
Carper	Levin	Stabenow
Casey	Lincoln	Tester
Dodd	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Mikulski	Wyden

#### NOT VOTING—4

Brownback	Johnson
Feinstein	Obama

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 2356 TO AMENDMENT NO. 2327

Mr. SALAZAR. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR] proposes an amendment numbered 2356 to amendment 2327:

At the appropriate place insert the following:

Since I. Lewis “Scooter” Libby previously served as Chief of Staff to Vice President Dick Cheney;

Since Mr. Libby was convicted in federal court of perjury and obstruction of justice in connection with efforts by the Bush White House to conceal the fact that Administration officials leaked the name of a covert CIA agent in order to discredit her husband, a critic of the Iraq War;

Since U.S. District Court Judge Reggie Walton sentenced Mr. Libby to 30 months in prison to reflect the seriousness of the offense, the sensitivity of the national security information involved in Libby's crime, and the abuse of Mr. Libby's position of trust in the United States government;



Since President Bush chose to commute Mr. Libby's prison sentence in its entirety, thereby entitling Libby to evade serious punishment for his criminal conduct;

Since President Bush has refused to rule out the possibility that he will eventually issue a full pardon to Mr. Libby with respect to his criminal conviction;

Now therefore be it determined that it is the Sense of the Senate that President Bush should not issue a pardon to I. Lewis "Scooter" Libby.

The PRESIDING OFFICER. The Senator from Colorado has 1 minute.

Mr. SALAZAR. Mr. President, it is, frankly, regrettable that as we work on this floor on an issue that is absolutely important to the people of this country; that is, the future of our children and their education and providing them with the opportunity to have the American dream, that we are having to have votes on politically motivated amendments that are coming forward from the other side. It would be in the best interest of this institution and the American people to stop this and not to go forward with these kinds of amendments.

Regrettably, if you are going to shoot this way, we have to shoot that way. I ask my colleagues to send the sense of the Senate to the President of the United States that he should not pardon Scooter Libby.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, I believe there is an opportunity for someone to speak against the amendment; is that correct?

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has 1 minute.

Mr. KYL. Mr. President, until this last amendment, I haven't seen politically inspired amendments before this body, and we don't have to vote on politically inspired amendments.

As the distinguished Presiding Officer knows, a suggestion of political motivation is a violation of the rules of the Senate, and I don't believe that any of these amendments have been politically inspired.

The next one offered by Republicans has to do with Pell grants. I think the senior Senator from California had a very serious amendment with respect to detainees at Guantanamo, and there was an amendment which related to that issue. We had an amendment on the fairness doctrine, another on the Secret Ballot Protection Act.

These are serious amendments. I am sure my colleague did not wish to suggest they were politically inspired. I hope that we don't get into politically inspired amendments and that our colleagues will vote against the amend-

ment that has been offered just for that reason.

The PRESIDING OFFICER. Time has expired.

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

The PRESIDING OFFICER. Is there a sufficient second?

(Subsequently, action on this amendment was vitiated.)

The PRESIDING OFFICER. The Republican leader is recognized.

AMENDMENT NO. 2357 TO AMENDMENT NO. 2327

Mr. MCCONNELL. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 2357 to amendment No. 2327:

Deploring the actions of former President William Jefferson Clinton regarding his granting of clemency to terrorists, to family members, donors, and individuals represented by family members, to public officials of his own political party, and to officials who violated laws protecting United States intelligence, and concluding that such actions by former President Clinton were inappropriate.

The Armed Forces of National Liberation (the FALN) is a terrorist organization that claims responsibility for the bombings of approximately 130 civilian, political, and military sites throughout the United States, and whereas, on August 11, 1999, President Clinton commuted the sentences of 16 terrorists, all of whom were members of the FALN, and whereas this action was taken counter to the recommendation of the Federal Bureau of Investigation, the Federal Bureau of Prisons, and two United States Attorneys;

Since, on January 20, 2001, former President Clinton commuted the sentence of Susan L. Rosenberg, a former member of the Weather Underground Organization terrorist group whose mission included the violent overthrow of the United States Government, who was charged in a robbery that left a security guard and 2 police officers dead;

Since, on January 20, 2001, former President Clinton commuted the sentence of Linda Sue Evans, a former member of the Weather Underground Organization terrorist group, who made false statements and used false identification to illegally purchase firearms that were then used by Susan L. Rosenberg in a robbery that left a security guard and 2 police officers dead;

Since, on January 20, 2001, former President Clinton pardoned Patricia Hearst Shaw, a former member of the Symbionese Liberation Army, a domestic terrorist group which also advocated the violent overthrow of the United States, and that carried out violent attacks in the United States;

Since, on January 20, 2001, former President Clinton pardoned his half-brother Roger Clinton, who had been convicted of conspiracy to distribute cocaine and of distribution of cocaine;

Since, on March 15, 2000, former President Clinton pardoned Edgar and Vonna Jo Gregory, who had been convicted of conspiracy to willfully misapply bank funds and to make false statements and who, according to news reports, were represented by the former President's brother-in-law, Tony Rodham;

Since, on January 20, 2001, former President Clinton commuted the sentence of Carlos Vignali, a convicted cocaine trafficker

who, according to news reports, was represented by the former President's brother-in-law, Hugh Rodham;

Since, on January 20, 2001, former President Clinton pardoned Almon Glenn Braswell, an individual convicted of money laundering and tax evasion, who according to news reports, was represented by former President's brother-in-law, Hugh Rodham;

Since, on December 22, 2000, former President Clinton pardoned former Democratic Representative Dan Rostenkowski, who had been convicted of mail fraud;

Since, on January 20, 2001, former President Clinton commuted the sentence of convicted sex offender and former Democratic Representative Mel Reynolds, who had been found guilty of bank fraud, wire fraud, making false statements to a financial institution, conspiracy to defraud the Federal Elections Commission, and making false statements to a Federal official;

Since, on January 20, 2001, former President Clinton pardoned his former Secretary of Housing and Urban Development Henry Cisneros, who had been convicted of making false statements about payments to his mistress;

Since, on January 20, 2001, former President Clinton pardoned Susan McDougal, who had been a key figure in the Whitewater investigation and who had been convicted of aiding and abetting, in making false statements, and who refused to testify against the former President in the investigation;

Since, on January 20, 2001, former President Clinton pardoned Christopher Wade, who was a real estate salesman involved in the Whitewater matter;

Since, on January 20, 2001, former President Clinton pardoned his former Director of Central Intelligence John Deutch for his mishandling of national security secrets; and

Since, on January 20, 2001, former President Clinton pardoned Samuel Loring Morison, a former Navy intelligence analyst who was convicted on espionage charges: Now, therefore, be it determined that it is the sense of the Senate that

(1) former President Clinton's granting of clemency to 16 FALN terrorists, two former members of the Weather Underground Organization, and a former member of the Symbionese Liberation Army was inappropriate;

(2) former President Clinton's granting of clemency to individuals either in his family or represented by family members was inappropriate;

(3) former President Clinton's granting of clemency to public figures from his own political party was inappropriate;

(4) former President Clinton's pardons of individuals involved with the Whitewater investigation, a matter in which the former First Family was centrally involved, was inappropriate; and

(5) former President Clinton's pardons of individuals who have jeopardized intelligence gathering and operations were inappropriate.

The PRESIDING OFFICER. The Republican leader is recognized for 1 minute.

Mr. MCCONNELL. Mr. President, if the Senate has decided to go into debating the appropriateness of future pardons, there is plenty of material to go around on past pardons. President Clinton's decision to pardon a host of individuals convicted of serious crimes then is certainly worthy of Senate comment as well.

Many of the individuals were convicted of the crime of terrorism. Some

were individuals who jeopardized intelligence gathering. Some were family members and represented by family.

My fundamental point is if the Senate wants to spend the evening commenting on the advisability of pardons that have not yet occurred, maybe we ought to go on record discussing the appropriateness of pardons that have already occurred.

The PRESIDING OFFICER. The senior Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, what in the world does the Republican leader have against this legislation? The legislation we have here before the Senate passed 17 to 3. The authorizing provision that changes policy was virtually unanimous. Young people all over the country are looking in on the Senate. This is about the future of this next generation, their hopes and their dreams. It is about our country and being able to compete in the world. It is about the quality of our Armed Forces, about getting well-trained, well-educated young people. It is about our institutions, whether they are going to be functioning and working.

Why can't we go ahead and vote on this legislation? We were here for 2 days waiting for different amendments on education and few of them came. Why in the world are you holding up this legislation that means so much to the future of our young people? We are prepared to vote. We didn't have amendments over here on our side. We want to get this legislation going ahead. We are looking forward to the reauthorization debate for next week, and we are looking forward to getting something worthy of this institution.

In the 45 years I have been in the Senate under the leadership of Stafford of Vermont, of Claiborne Pell of Rhode Island, of the Members whom we have had here—we have had true commitment.

Why are we disrupting this effort?

The PRESIDING OFFICER. The time of the Senator has expired.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that on the Salazar amendment, the vote be vitiated, stricken from the RECORD, and that we not have a rollcall vote on the amendment that was offered by my distinguished counterpart, Senator McConnell.

The PRESIDING OFFICER. The Republican leader.

Mr. McCONNELL. Mr. President, I very much agree with the consent agreement the majority leader propounded. I think we have a chance here

to wrap up this bill in the next hour, hour and a half. We are whittling down the amendments. I have given a list to the majority leader.

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

Mr. REID. Mr. President, I do say there has been—I say this with everyone here—I said a few things today when no one was here. But I complimented these two managers of this bill. They have been exemplary, the way they—with two different political philosophies, we all know that, but they have worked together, not just this year but for a number of years, to put out some good legislation in that committee.

I do not want to make any of the chairmen and ranking members feel bad, but this committee has a lot of good work they have finished and they will be able to bring to this floor things we have been waiting for for years. I appreciate the intensity of everyone's feelings on issues.

I ask unanimous consent that the only amendments remaining in order on this piece of legislation subject to second-degree amendments be the Coleman amendment, innocent child; Graham amendment, no Pell grants for drug dealers; Cornyn amendment, H-1B visas; Sununu amendment, tuition deduction permanence; DeMint amendment, adoption tax permanence; Ensign amendment, Social Security for illegal immigrants; Dole amendment, voter ID; Kyl amendment, AMT repeal.

We are going to be very selective in our second-degree amendments. We hope we can move through this very quickly.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Mr. President, reserving the right to object, I want to understand what the majority leader's position is with regard to the possibility of second degrees.

Mr. REID. I have told the Republican leader we definitely will have an amendment on No. 6. I told everybody that. You already have that amendment. We will look at these others. I haven't seen those. But you will have plenty of time to look at them. They will be relating to the subject matter of the amendment that is offered.

Mr. McCONNELL. Mr. President, my concern is to make sure these first-degree amendments do, in fact, get votes.

Mr. REID. Mr. President, we will not prevent votes on these, subject to second-degree amendments and points of order.

Mr. McCONNELL. Understood.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, I want to ask both of the leaders—I have not even given any speeches; you all are lucky. But let me ask, is it the intent now that we are at this point that we are not going to—whatever amendments are left, we do not intend to get back into the regime of amendments

we just got through taking out by unanimous consent? Those ideas are no longer—we are not going to consider them? I am not agreeing to unanimous consent unless you are agreeing to that. We are not just agreeing to these amendments and second-degrees, we are not going to have that kind of amendment.

Mr. REID. I would hope on this bill and any other bill.

Mr. DOMENICI. I am not talking about any other bill.

Mr. REID. On this bill, yes.

Mr. McCONNELL. If I may, the majority leader has the list. They do not include content of the kind we were dealing with in the last two amendments, so I think the Senator from New Mexico will be pleased.

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

AMENDMENT NO. 2357 WITHDRAWN

Mr. REID. If my friend would withhold.

Would the Chair withdraw the McConnell amendment?

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

Mr. ENSIGN. Mr. President, I ask the majority leader, because I have been waiting to offer my amendment, if my amendment would be allowed to be the first amendment.

Mr. REID. I think we have the list here. We do not personally care. We do not care what order, so it is up to you. You have the next amendment.

Mr. McCONNELL. Mr. President, I say to my friend from Nevada, I think he should proceed.

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

AMENDMENT NO. 2355 TO AMENDMENT NO. 2327

Mr. ENSIGN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. ENSIGN] proposes an amendment numbered 2355.

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

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

The amendment is as follows:

(Purpose: To reduce document fraud, prevent identity theft, and preserve the integrity of the Social Security system, by ensuring that individuals are not able to receive Social Security benefits as a result of unlawful activity)

At the appropriate place, insert the following:

**SEC. —. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION OR FOR ANY PERIOD WITHOUT WORK AUTHORIZATION.**

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end the following:

“(d)(1) Except as provided in paragraph (2)—

“(A) no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the

date of enactment of the Higher Education Access Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned; and

“(B) no quarter of coverage shall be credited for purposes of this section for any calendar year, with respect to an individual who is not a natural-born United States citizen, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement entered into under subsection (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

“(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).

“(e) Not later than 180 days after the date of the enactment of the Higher Education Access Act of 2007, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitations on crediting quarters of coverage under subsection (d). Nothing in this subsection may be construed as establishing an effective date for purposes of this section.”.

(b) **BENEFIT COMPUTATION.**—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking “and” at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting “; and”; and

(3) by adding at the end the following:

“(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of the Higher Education Access Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).”.

Mr. ENSIGN. Mr. President, I hate to be offering an amendment such as this on this bill, but as we know around here, a lot of times we do not get to offer amendments. I wanted to offer my amendment on the immigration reform debate, so we are offering it tonight because it is one of the only chances we will have to offer it this year.

My amendment denies Social Security benefits for illegal, fraud-based work. It also ensures an individual who is on a visa overstay, or someone who has a card in their name but is working here illegally will not get credit for that illegal work.

There have been many media reports recently about illegal immigrants stealing Americans' Social Security numbers. Last year I spoke about Audra, who was a stay-at-home mom since 2000. Over 200 different illegal immigrants stole her identity, used her Social Security number. She ended up owing the IRS over \$1 million. That is the kind of thing we have to have stopped. We should not reward those who have stolen people's identities with Social Security benefits.

I urge the adoption of this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first, this has nothing to do with our edu-

cation bill whatsoever. It is completely not germane.

Secondly, it says to every American citizen who was not born here in the United States of America, who might have been an American citizen for 30 years or 40 years, you are going to have to go back in your history and demonstrate and show you were authorized to be here for the last 30 or 40 years if you are an American citizen, if you are born outside of this country.

What in the world does that have to do with our education system? Absolutely nothing. This amendment would apply to Henry Kissinger, it would apply to Madeleine Albright, it would apply to Mel Martinez. It would apply to all American citizens who were not born in this country.

That is where we are.

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

AMENDMENT NO. 2358 TO AMENDMENT NO. 2355

Ms. STABENOW. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW] proposes an amendment numbered 2358 to amendment No. 2355.

The amendment is as follows:

Strike all after line 1, page 1 and insert the following:

**SEC. —. PROHIBITION ON ILLEGAL ALIENS QUALIFYING FOR SOCIAL SECURITY BENEFITS AND PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION OR FOR ANY PERIOD WITHOUT WORK AUTHORIZATION.**

(a) **PROHIBITION ON ILLEGAL ALIENS QUALIFYING FOR SOCIAL SECURITY BENEFITS.**—

(1) **IN GENERAL.**—Nothing in this Act, or the amendments made by this Act, shall be construed to modify any provision of current law that prohibits illegal aliens from qualifying for Social Security benefits.

(2) **ENFORCEMENT.**—The Attorney General shall ensure that the prohibition on the receipt of Social Security by illegal aliens is strictly enforced.

(b) **PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION OR FOR ANY PERIOD WITHOUT WORK AUTHORIZATION.**—

(1) **INSURED STATUS.**—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end the following new subsections:

“(d)(1) Except as provided in paragraph (2)—

“(A) no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of this Act, such quarter of coverage is earned prior to the year in which such social security account number is assigned; and

“(B) no quarter of coverage shall be credited for purposes of this section for any calendar year, with respect to an individual who is not a United States citizen if the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement entered into under subsection (e) or otherwise, that the individual was not authorized to be employed in the United States during such quarter.

“(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by

an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).

“(e) Not later than 180 days after the date of this Act the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitations on crediting quarters of cover under subsection, (d), however, this provision shall not be construed to establish an effective date for purposes of this section.”.

(2) **BENEFIT COMPUTATION.**—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(A) by striking “and” at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting “and”; and

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

“(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of this Act, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall be effective as of the date of enactment of this Act.

Ms. STABENOW. Mr. President, this amendment is very clear. It reaffirms that illegal immigrants cannot and will not receive Social Security benefits. It focuses the Attorney General to strongly and vigorously enforce this provision, and it focuses enforcement efforts against those who are here illegally, not American citizens who are naturalized and here legally.

Unfortunately, whether intended or not, the Ensign amendment would threaten the Social Security benefits of millions of Americans. It makes no sense. We need to focus the Attorney General on those who are here illegally, and make it very clear that no one who is here illegally can receive Social Security benefits, period.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. ENSIGN. Mr. President, first I want to address what Senator KENNEDY said in case there is misinformation out there in what he said, that MEL MARTINEZ and others would not qualify for benefits under my amendment. That is absolutely false. We have cleared this, we have run the traps on it. It is necessary to make sure that not just someone who is here illegally now who is stealing someone's identity but it is when they become legalized that we want to prevent them from getting Social Security benefits.

That is the problem with the Stabenow amendment, that illegals cannot get benefits now. What we want to do is prevent them, if they become legalized—that the work they did when they stole someone's Social Security number, we don't want them to have benefits.

Mr. President, is all time expired?

The PRESIDING OFFICER. All time is not expired.

Mr. ENSIGN. Mr. President, I yield back the remainder of my time.

I make a point of order that the second-degree amendment is not germane.

Ms. STABENOW. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable section of that act for the purposes of the pending amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

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

The yeas and nays resulted—yeas 53, nays 44, as follows:

[Rollcall Vote No. 262 Leg.]

#### YEAS—53

Akaka	Feinstein	Mikulski
Baucus	Graham	Murray
Bayh	Hagel	Nelson (FL)
Biden	Harkin	Pryor
Boxer	Inouye	Reed
Brown	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Salazar
Carper	Landrieu	Sanders
Casey	Lautenberg	Schumer
Clinton	Leahy	Snowe
Collins	Levin	Specter
Conrad	Lieberman	Stabenow
Dodd	Lincoln	Tester
Domenici	Lugar	Webb
Dorgan	McCain	Whitehouse
Durbin	McCaskill	Wyden
Feingold	Menendez	

#### NAYS—44

Alexander	Craig	Martinez
Allard	Crapo	McConnell
Barrasso	DeMint	Murkowski
Bennett	Dole	Nelson (NE)
Bingaman	Ensign	Roberts
Bond	Enzi	Sessions
Bunning	Grassley	Shelby
Burr	Gregg	Smith
Byrd	Hatch	Stevens
Chambliss	Hutchison	Sununu
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Coleman	Kennedy	Voinovich
Corker	Kyl	Warner
Cornyn	Lott	

#### NOT VOTING—3

Brownback	Johnson	Obama
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The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The majority leader is recognized.

Mr. REID. Mr. President, some of my Members have criticized we are not enforcing the 10-minute vote rule—10 minutes and a 5-minute leeway period. We are going to strictly enforce that. We have a lot to do tonight, so everyone should know if they are not here, after the 10 minutes, plus the 5 minutes, the vote will be terminated. The votes will be a total of 15 minutes.

AMENDMENT NO. 2355

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I raise a point of order that the amendment is not germane pursuant to sections 305(b)(2) and 310(e) of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I move to waive the applicable provisions of the Congressional Budget Act with respect to my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

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 Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

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

The yeas and nays resulted—yeas 57, nays 40, as follows:

[Rollcall Vote No. 263 Leg.]

#### YEAS—57

Alexander	DeMint	Martinez
Allard	Dole	McCain
Barrasso	Domenici	McConnell
Baucus	Dorgan	Murkowski
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Pryor
Bond	Graham	Roberts
Bunning	Grassley	Rockefeller
Burr	Gregg	Sessions
Chambliss	Harkin	Shelby
Coburn	Hatch	Smith
Cochran	Hutchison	Snowe
Coleman	Inhofe	Stevens
Collins	Isakson	Sununu
Conrad	Klobuchar	Tester
Corker	Kyl	Thune
Cornyn	Landrieu	Vitter
Craig	Lincoln	Warner
Crapo	Lott	Wyden

#### NAYS—40

Akaka	Feinstein	Murray
Biden	Hagel	Nelson (FL)
Bingaman	Inouye	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Salazar
Byrd	Kohl	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Specter
Carper	Levin	Stabenow
Casey	Lieberman	Voinovich
Clinton	Lugar	Webb
Dodd	McCaskill	Whitehouse
Durbin	Menendez	
Feingold	Mikulski	

#### NOT VOTING—3

Brownback	Johnson	Obama
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The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I see the Senator from South Carolina on his feet looking for recognition. I hope he will be recognized because I think he has an

amendment that we might be able to voice vote.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 2360 TO AMENDMENT NO. 2327

Mr. GRAHAM. Mr. President, this actually relates to the bill. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM] proposes an amendment numbered 2360 to amendment No. 2327.

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

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

The amendment is as follows:

(Purpose: To discourage drug use among college students)

Strike section 701 of the Higher Education Access Act of 2007, relating to student eligibility.

Mr. GRAHAM. Mr. President, I am going to do something else unusual. I think we have an agreement to voice vote this amendment. Quite frankly, the amendment is pretty simple. I think that is why we are all going to agree to it.

Under the current student loan application process you are asked: Have you ever been convicted of a drug offense? That question determines whether or not you are eligible for a period of time to get student loan money. If you have been convicted of simple possession, you are ineligible for a year; the second offense, 2 years; the third offense, indefinite ineligibility. If you sold, first offense, two years of ineligibility from date of conviction.

The application has a question that I think makes all this relevant: "Have you ever been convicted" is the question. That has been taken off the application. It needs to stay on. I would urge everyone to support this amendment to keep current law as it is.

Mr. KENNEDY. Mr. President, I urge our Members to support this amendment. Those who are ineligible because of drug usage, for the Pell grants, will be ineligible under our legislation. This clarifies it. We had simplified the application form. The Senator's amendment addresses that simplification, and we will accept that amendment.

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

The amendment (No. 2360) was agreed to.

Mr. KENNEDY. Mr. President, I see the Senator from Minnesota is seeking recognition.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

AMENDMENT NO. 2359 TO AMENDMENT NO. 2327

Mr. COLEMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. COLEMAN] proposes an amendment numbered 2359 to amendment No. 2327.

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

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

The amendment is as follows:

(Purpose: To protect innocent children)

At the end, add the following:

**SEC. \_\_\_\_ . INNOCENT CHILD PROTECTION.**

(a) IN GENERAL.—It shall be unlawful for any authority, military or civil, of the United States, a State, or any district, possession, commonwealth or other territory under the authority of the United States, to carry out a sentence of death on a woman while she carries a child in utero.

(b) DEFINITION.—In this section, the term “child in utero” means a member of the species *homo sapiens*, at any stage of development, who is carried in the womb.

Mr. COLEMAN. Mr. President, my amendment, the protection of the innocent child, will prohibit any level of government—Federal, military, and State governments—from carrying out a death sentence on a pregnant woman.

In existing law, the Violent Crime Control and Law Enforcement Act of 1994 already prohibits Federal executions of a woman while pregnant. However, this law does not apply to the military or States. In fact, most executions are carried out by States. Additionally, the existing law does not recognize the principle of the unborn child is innocent and, therefore, must be shielded from wrongful execution.

My amendment does not reflect any point of view on the desirability or appropriateness of capital punishment. This amendment is grounded in the undeniable fact that a human being is being carried by the pregnant woman and cannot possibly be guilty of a crime and, therefore, should not be subject to the death penalty itself.

Women do become pregnant in prison, even at maximum security facilities, from sad and unfortunate situations involving rape or having relations with a guard. Congress should prevent the government at any level from taking the life of an innocent human being by prohibiting within all U.S. jurisdictions any death sentence from being carried out when a woman convicted of a capital crime is pregnant.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, we could accept this antideath penalty amendment, and we are going to accept it, so we would rather avoid a vote, if we might. We are willing to accept it.

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

The amendment (No. 2359) was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, let me ask unanimous consent to proceed for

30 seconds. We have three tax amendments and one voter ID. They are still remaining on the list, so that is what we will try to address next.

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

**AMENDMENT NO. 2341 TO AMENDMENT NO. 2327**

Mr. SUNUNU. Mr. President, I call up amendment No. 2341 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SUNUNU] proposes an amendment numbered 2341 to amendment No. 2327.

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

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

The amendment is as follows:

(Purpose: To permanently extend certain education-related tax incentives)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . PERMANENT EXTENSION OF CERTAIN EDUCATION-RELATED TAX INCENTIVES.**

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to title IV of such Act (relating to affordable education provisions).

Mr. SUNUNU. Mr. President, I am pleased to offer this amendment that has a great deal to do with education. That is the underlying issue that we are debating tonight. We have an important bill that tries to address accessibility of higher education for millions of Americans, and my amendment addresses that very subject by extending a number of important provisions that are currently in tax law, but they expire in 2010. These are provisions that have broad bipartisan support, provisions that many in this Chamber have voted for time and again; allowing a \$2,000 contribution to educational savings accounts, having an exclusion for your employer if they provide you with education assistance to encourage those employers to foster additional education for their employees; having tax exempt bonds for qualified education facilities; giving deductions, tax deductions for tuition to millions of Americans across the country seeking higher education, and allowing a deduction of student loan interest, not just for those who itemize on their taxes but for all Americans.

I hope my colleagues will support me in this effort to extend these existing provisions in law, and I urge the adoption of the amendment.

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

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, certainly the sentiments of this amendment are absolutely correct. We certainly want to increase deductibility.

As my friend from New Hampshire knows, I have worked long and hard on

this and was able to work with some others—the Senator from Maine and some others—to actually get into law and then get extended a \$4,000 tuition deductibility for the vast majority of families.

But the trouble with this amendment, of course, is not only is it not paid for, but if it were to be added to this bill, it would rob from Peter to give to Paul because it would undo all of the good things in the underlying bill—not just the Pell grants but the excellent provision that says that no one, even of middle income and higher middle income, should pay more than 15 percent of their adjusted earnings when they pay back their student loans.

So I will be offering a second-degree amendment that says we certainly agree with increasing tuition deductibility but not at the expense of what the Senator from Massachusetts and the Senator from New Hampshire are trying to do.

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

**AMENDMENT NO. 2361 TO AMENDMENT NO. 2341**

Mr. SCHUMER. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 2361 to amendment No. 2341.

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

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

The amendment is as follows:

In the amendment strike all after the first word and insert the following:

It is the sense of the Senate that Congress should provide tax relief to help families afford the cost of higher education, including making tuition deductible against taxes, and eliminate wasteful spending, such as spending on unnecessary tax loopholes, in order to fully offset the cost and avoid forcing taxpayers to pay substantially more interest to foreign creditors; and that such relief should be provided on an appropriate legislative vehicle that won't jeopardize legislation providing greater access and affordability to higher education for millions of students by subjecting the bill to a “blue slip” by the House.

Mr. SUNUNU. Mr. President, is there time remaining on the second-degree amendment?

The PRESIDING OFFICER. Two minutes of debate equally divided.

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, this second-degree amendment expresses the sense of the Senate that Congress should provide tax relief to help families afford the cost of higher education, including making tuition deductible against taxes and eliminate wasteful spending such as spending on the necessary tax loopholes, in order to fully offset the costs and forcing taxpayers to pay substantially more interest to foreign creditors.

We do believe on this side in pay-go. We are going to pay for the worthy programs we want to enact and put our fiscal house in order. This amendment expresses that. It expresses the view also that we should not jeopardize that, because if this amendment were to be adopted, it being tax legislation, the bill would be blue-slipped by the House and sent back to the Finance Committee, and all of the good work we have done over the last day or two and the great things that would be done to help those who need Pell grants and those middle-class students who will have their loan repayments capped will be gone down the drain. That is what the second-degree amendment does.

I yield the remainder of my time.

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

Mr. SUNUNU. Mr. President, I have three quick points. I certainly trust the Finance Committee. If the Finance Committee believes in all these tax provisions, it could send the bill back expediently, and it could move on its merry way. But the suggestion that doing the right thing on taxes is incompatible with the Senate doing its work is wrong.

Second, this is a second degree. It is a sense of the Senate that we agree with all these tax provisions. But we don't quite agree enough to actually write them into law. I think that is a little disappointing and disingenuous. I think if we believe this is good policy, it is the right thing to encourage accessibility of higher education, if it is the right thing to do for the 75 percent of filers in that \$50,000 to \$65,000 range to take advantage of these provisions, we should put it in this bill and pass it into law, and we should make sure these provisions continue to be accessible to the Americans who use them.

I make a point of order that this second-degree amendment is nongermane, and I ask for the yeas and nays on the point of order.

Mr. SCHUMER. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. LOTT. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

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

The result was announced—yeas 48, nays 48, as follows:

[Rollcall Vote No. 264 Leg.]

#### YEAS—48

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

#### NAYS—48

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

#### NOT VOTING—4

Brownback  
Byrd

Johnson  
Obama

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

The majority leader is recognized.

Mr. REID. Mr. President, I have conferred with my Republican friends. It will be in everyone's interest if the votes be 10 minutes. That is the vote will be cut off at 10 minutes. I ask unanimous consent that be the case.

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

Mr. REID. Mr. President, I hope people will stay in the Chamber. It makes it very difficult for staff if they are in and out of here. We have as many as seven more votes, eight more votes. Probably seven. If they are willing to stay here, we can whip through them in an hour; otherwise, it is going to take a long time.

Let's proceed with the underlying amendment.

#### AMENDMENT NO. 2341

Mr. KENNEDY. Mr. President, I raise a point of order against the amendment pursuant to section 305(b)(2) and 310(e) of the Congressional Budget Act.

Mr. SUNUNU. Mr. President, I move that the applicable portions of the Budget Act be waived, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Mississippi (Mr. LOTT).

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

The yeas and nays resulted—yeas 47, nays 48, as follows:

[Rollcall Vote No. 265 Leg.]

#### YEAS—47

Alexander	DeMint	McCain
Allard	Dole	McConnell
Barrasso	Domenici	Murkowski
Bennett	Ensign	Nelson (NE)
Bond	Enzi	Roberts
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Smith
Coburn	Hagel	Snowe
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Inhofe	Sununu
Corker	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lugar	Warner
Crapo	Martinez	

#### NAYS—48

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

#### NOT VOTING—5

Brownback  
Byrd

Johnson  
Lott

Obama

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

#### CORRECTION OF VOTE

Mr. SHELBY. On rollcall vote No. 265, I was present and voted "yea." The official record has me listed as absent. Therefore, I ask unanimous consent that the official record be corrected to accurately reflect my vote. This will in no way change the outcome of the vote.

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

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

The PRESIDING OFFICER. The Senator from Texas is recognized.



AMENDMENT NO. 2339 TO AMENDMENT NO. 2327

Mr. CORNYN. Mr. President, I call up amendment No. 2339 at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN], for himself, Mr. ENZI, Mr. GREGG, and Mr. SMITH, proposes an amendment numbered 2339 to amendment No. 2327.

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

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

The amendment is as follows:

(Purpose: To provide interim relief for short-ages in employment-based visas for aliens with extraordinary ability and advanced degrees and for nurses)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . EMPLOYMENT-BASED VISAS.

(a) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106-313; 8 U.S.C. 1153 note) is amended—

(1) in paragraph (1)—

(A) by inserting “1994, 1996, 1997, 1998,” after “available in fiscal year”;

(B) by striking “or 2004” and inserting “2004, or 2006”; and

(C) by striking “be available” and all that follows and inserting the following: “be available only to—

“(A) employment-based immigrants under paragraphs (1), (2), and (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b));

“(B) the family members accompanying or following to join such employment-based immigrants under section 203(d) of such Act; and

“(C) those immigrant workers who had petitions approved based on Schedule A, Group I under section 656.5 of title 20, Code of Federal Regulations, as promulgated by the Secretary of Labor.”; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “1999 through 2004” and inserting “1994, 1996 through 1998, 2001 through 2004, and 2006”; and

(B) in subparagraph (B), by amending clause (ii) to read as follows:

“(ii) DISTRIBUTION OF VISAS.—The total number of visas made available under paragraph (1) from unused visas from fiscal years 1994, 1996 through 1998, 2001 through 2004, and 2006 shall be distributed as follows:

“(I) The total number of visas made available for immigrant workers who had petitions approved based on Schedule A, Group I under section 656.5 of title 20, Code of Federal Regulations, as promulgated by the Secretary of Labor shall be 61,000.

“(II) The visas remaining from the total made available under subclause (I) shall be allocated equally among employment-based immigrants with approved petitions under paragraph (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act (and their family members accompanying or following to join).”.

(b) H-1B VISA AVAILABILITY.—Section 214(g)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(A)) is amended—

(1) in clause (vi), by striking “and” at the end;

(2) by redesignating clause (vii) as clause (ix); and

(3) by inserting after clause (vi) the following:

“(vii) 65,000 in each of fiscal years 2004 through 2007;

“(viii) 115,000 in fiscal year 2008; and”.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. CORNYN. Mr. President, no one disputes that a key part of America's economy is our ability to innovate and retain the most qualified workers, especially in areas such as math, science, and engineering. There is one step Congress can take this year to help provide at least temporary relief. My amendment would allow the Department of State and the Department of Homeland Security to recapture unused employment-based visas. These unused visa numbers would go to nurses, physical therapists, and other key areas for people with extraordinary ability with advanced degrees.

This amendment would also include a one-time H-1B visa increase of 115,000 for fiscal year 2008 only, given if that cap was hit in the first day this year.

This amendment will go a long way to help provide the legal workers who are the lifeblood of the U.S. economy. I urge my colleagues to support this amendment.

Mr. DURBIN. Mr. President, this H-1B visa issue was debated during the course of the immigration bill. We decided to increase the number of the H-1B visas but also increase the safeguards against abuse. We know abuses are taking place. We wanted to be sure American workers have first chance at these jobs, No. 1; and, No. 2, we want to stop these foreign job shops that are using thousands of these H-1B visas to outsource jobs in the United States then back to their home country.

None of those reforms are included. All we have is an increase in the H-1B visa numbers. We need a balanced and coordinated approach that increases the numbers with the safeguards. Unfortunately, Senator CORNYN's amendment does not do that, and I urge my colleagues to oppose it.

Mr. President, the pending amendment is not germane. Therefore, I raise a point of order pursuant to section 305(b)(2) and section 310(e) of the Congressional Budget Act of 1974.

Mr. CORNYN. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of the Budget Act for the consideration of this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Mississippi (Mr. LOTT).

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

The yeas and nays resulted—yeas 55, nays—40, as follows:

[Rollcall Vote No. 266 Leg.]

#### YEAS—55

Alexander	DeMint	McCain
Allard	Dole	McConnell
Barrasso	Domenici	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (NE)
Bennett	Graham	Roberts
Bond	Grassley	Schumer
Bunning	Gregg	Shelby
Burr	Hagel	Smith
Cantwell	Hatch	Snowe
Chambliss	Hutchison	Specter
Coburn	Inhofe	Stevens
Cochran	Isakson	Sununu
Coleman	Klobuchar	Thune
Collins	Kyl	Vitter
Corker	Landrieu	Warner
Cornyn	Lieberman	Wyden
Craig	Lugar	
Crapo	Martinez	

#### NAYS—40

Akaka	Feinstein	Pryor
Biden	Harkin	Reed
Bingaman	Inouye	Reid
Boxer	Kennedy	Rockefeller
Brown	Kerry	Salazar
Cardin	Kohl	Sanders
Carper	Lautenberg	Sessions
Casey	Leahy	Stabenow
Clinton	Levin	Tester
Conrad	Lincoln	Voinovich
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	
Feingold	Nelson (FL)	

#### NOT VOTING—5

Brownback	Johnson	Obama
Byrd	Lott	

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

AMENDMENT NO. 2362 TO AMENDMENT NO. 2327

Mr. DEMINT. Mr. President, I call up amendment No. 2362.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 2362 to amendment No. 2327.

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

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

The amendment is as follows:

(Purpose: To repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO ADOPTION CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

“(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by section 202 (relating to expansion of adoption credit and adoption assistance programs).”.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 1 minute.

Mr. DEMINT. Mr. President, I may have an amendment that we can actually all agree on tonight.

As many of my colleagues know, the infant adoption tax credit is a powerful tool that is making it possible for thousands of American families to open their homes to children in need. I know everyone here agrees with me that there is nothing more important than for a child to have someone to call a mom and a dad. There is nothing more important to the success of education than a good family.

Unfortunately, the current adoption tax credit is scheduled to sunset in 2010. If we don't make this tax relief permanent, adoption taxes will go up and many American families will not be able to afford the expenses associated with adoption, which are now between \$10,000 and \$25,000. I wish to thank all the people in this Chamber who have done so much for the cause of adoption, especially Senator LANDRIEU, Senator CRAIG, and Senator BUNNING, whose amendment we are actually bringing up today.

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

Mr. DEMINT. Mr. President, I urge all my colleagues to vote for this amendment.

The PRESIDING OFFICER. The senior Senator from Massachusetts is recognized for 1 minute on this amendment.

Mr. KENNEDY. Mr. President, a very basic and fundamental issue. This is a constitutional issue. The taxes that are raised result in a blue slip, which effectively is automatically exercised. The chairman of our Budget Committee, the Senator from North Dakota, understands this and understands it well. It effectively ends the bill. It effectively ends the bill constitutionally.

I understand the Senator from Louisiana is going to have an alternative. There are only three tax provisions, but the tax provisions that are offered effectively result in what is a constitutional blue slip. I have not talked about killer amendments or poison pills, I am talking about this constitutionally.

I see the Senator from North Dakota, from the Budget Committee, agrees.

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

The Senator from Louisiana is recognized.

AMENDMENT NO. 2363 TO AMENDMENT NO. 2362

Ms. LANDRIEU. Mr. President, I would like to offer a second-degree amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 2363 to amendment No. 2362.

Strike all after the first word and insert:

It is the sense of the Senate that Congress should permanently extend the adoption tax

credit and eliminate wasteful spending, such as spending on unnecessary tax loopholes, in order to fully offset the cost and avoid forcing taxpayers to pay substantially more interest to foreign creditors; and that such relief should be provided on an appropriate legislative vehicle that won't jeopardize legislation providing greater access and affordability to higher education for millions of students by subjecting the bill to a "blue slip" by the House.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 minute.

Ms. LANDRIEU. Mr. President, I offer this second-degree. I appreciate the Senator's compliments about the work we have done to put this tax credit on the books. It is a very important tax credit, but if we are going to have it, we need to pay for it.

The problem with the first-degree amendment is it is not paid for and it is going to jeopardize the underlying bill. So, yes, we do need to extend this tax permanently but not on this bill and not tonight, and we need to find a way to pay for it. That is why I am offering this amendment as a second-degree.

I ask all of us who are supporting it to vote for the second-degree amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I thank the Senator for her comments as well. We all know adoption is an important issue. I wish the situation were such in the Senate that we could bring this up at a different time. As we look forward to between now and the rest of this year and, frankly, through 2008, it is going to be very difficult to get this amendment up. We know the process of getting back to the Finance Committee and then back as part of this bill will not bring this bill down. I encourage my colleagues to look at the greater good, the issue here. There is no reason we can't create some predictability with the adoption tax credit so we can continue to grow the number of adoptions in this country.

For that reason, I raise a point of order that the pending second-degree amendment is not germane.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections of the act for the purposes of the pending amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHN-SON) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. McCONNELL. The following Senators are necessarily absent: the Sen-

ator from Kansas (Mr. BROWNBACK) and the Senator from Mississippi (Mr. LOTT).

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

The yeas and nays resulted—yeas 48, nays 48, as follows:

[Rollcall Vote No. 267 Leg.]

#### YEAS—48

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

#### NAYS—48

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

#### NOT VOTING—4

Brownback	Lott
Johnson	Obama

The PRESIDING OFFICER. On this vote the yeas are 48, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I make a point of order that the amendment is not germane, and raise a point of order pursuant to section 305(b)(2) and section 310(e) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Madam President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable portion of the Budget Act, and ask for the yeas and nays on amendment No. 2362.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHN-SON) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. McCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and

the Senator from Mississippi (Mr. LOTT).

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

The yeas and nays resulted—yeas 48, nays 48, as follows:

[Rollcall Vote No. 268 Leg.]

#### YEAS—48

Alexander	Crapo	Martinez
Allard	DeMint	McCain
Barrasso	Dole	McConnell
Bayh	Domenici	Murkowski
Bennett	Ensign	Nelson (NE)
Bond	Enzi	Roberts
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Smith
Coburn	Hagel	Snowe
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Inhofe	Sununu
Corker	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lugar	Warner

#### NAYS—48

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

#### NOT VOTING—4

Brownback	Lott
Johnson	Obama

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from North Carolina is recognized.

AMENDMENT NO. 2350 TO AMENDMENT NO. 2327

Mrs. DOLE. Madam President, I have an amendment at the desk, No. 2350, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mrs. DOLE], for herself, and Mr. McCONNELL, proposes an amendment numbered 2350 to amendment No. 2327.

Mrs. DOLE. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Help America Vote Act of 2002 to require individuals voting in person to present photo identification)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ IDENTIFICATION REQUIREMENT.

(a) NEW REQUIREMENT FOR INDIVIDUALS VOTING IN PERSON.—

(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended—

(A) by redesignating sections 304 and 305 as sections 305 and 306, respectively; and

(B) by inserting after section 303 the following new section:

#### “SEC. 304. IDENTIFICATION OF VOTERS AT THE POLLS.

“(a) IN GENERAL.—Notwithstanding the requirements of section 303(b), each State shall require individuals casting ballots in an election for Federal office in person to present a current valid photo identification issued by a governmental entity before voting.

“(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of subsection (a) on and after January 1, 2008.”.

#### (2) CONFORMING AMENDMENTS.—

(A) Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking “and 303” and inserting “303, and 304”.

(B) The table of contents of the Help America Vote Act of 2002 is amended—

(i) by redesignating the items relating to sections 304 and 305 as relating to items 305 and 306, respectively; and

(ii) by inserting after the item relating to section 303 the following new item:

“Sec. 304. Identification of voters at the polls.”.

(b) FUNDING FOR FREE PHOTO IDENTIFICATIONS.—

(1) IN GENERAL.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 15401 et seq.) is amended by adding at the end the following:

#### “PART 7—PHOTO IDENTIFICATION

#### “SEC. 297. PAYMENTS FOR FREE PHOTO IDENTIFICATION.

“(a) IN GENERAL.—In addition to any other payments made under this subtitle, the Commission shall make payments to States to promote the issuance to registered voters of free photo identifications for purposes of meeting the identification requirements under section 304.

“(b) ELIGIBILITY.—A State is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

“(1) a statement that the State intends to comply with the requirements under section 304; and

“(2) a description of how the State intends to use the payment under this part to provide registered voters with free photo identifications which meet the requirements under such section.

“(c) USE OF FUNDS.—A State receiving a payment under this part shall use the payment only to provide free photo identification cards to registered voters who do not have an identification card that meets the requirements under section 304.

#### “(d) ALLOCATION OF FUNDS.—

“(1) IN GENERAL.—The amount of the grant made to a State under this part for a year shall be equal to the product of—

“(A) the total amount appropriated for payments under this part for the year under section 298; and

“(B) an amount equal to—

“(i) the voting age population of the State (as reported in the most recent decennial census); divided by

“(ii) the total voting age population of all eligible States which submit an application for payments under this part (as reported in the most recent decennial census).

#### “SEC. 298. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—In addition to any other amounts authorized to be appropriated under this subtitle, there are authorized to be appropriated such sums as may be necessary for the purpose of making payments under section 297.

“(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of this section shall remain available until expended.”.

(2) CONFORMING AMENDMENT.—The table of contents of the Help America Vote Act of 2002 is amended by inserting after the item relating to section 296 the following:

#### “PART 7—PHOTO IDENTIFICATION

“Sec. 297. Payments for free photo identification.

“Sec. 298. Authorization of appropriations.”.

Mrs. DOLE. Madam President, I am proposing a commonsense measure to uphold the integrity of Federal elections. My amendment to require voters to show photo identification at the polls would go a long way in minimizing potential for voter fraud.

When a fraudulent vote is cast and counted, the vote of a legitimate voter is cancelled. This is wrong, and my amendment would help ensure that one of the hallmarks of our democracy, our free and fair elections, is protected.

This provision was approved by the Senate in the 109th Congress when it was filed by Minority Leader McCONNELL, who I am proud to have as a cosponsor of this amendment.

Opinion polls repeatedly confirm that Americans overwhelmingly support this initiative. I strongly encourage my colleagues to stand with the American people and support this measure.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I rise to speak against this measure. If one would want to suppress the election, suppress the vote in the 2008 election, one would vote for this because this measure goes into effect January 1, 2008. It provides that everybody who votes essentially would have to have a photo ID. If you want to suppress the minority vote, the elderly vote, the poor vote, this is exactly the way to do it. I urge a “no” vote. Many of these people do not have driver’s licenses. This amendment would cost hundreds of millions of dollars to actually carry out. It is a grant program to the States, but it goes into effect—surprise—January 1, 2008. I urge a “no” vote.

The pending amendment is not germane. Therefore, I raise a point of order pursuant to sections 305(b)(2) and 310(e) of the Congressional Budget Act of 1974.

Mrs. DOLE. Madam President, I move to waive all applicable provisions of the Budget Act for the consideration of my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

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 Illinois (Mr. OBAMA) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Mississippi (Mr. LOTT).

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

The yeas and nays resulted—yeas 42, nays 54, as follows:

[Rollcall Vote No. 269 Leg.]

#### YEAS—42

Alexander	Crapo	Kyl
Allard	DeMint	Lugar
Barrasso	Dole	Martinez
Bennett	Domenici	McCain
Bond	Ensign	McConnell
Bunning	Enzi	Roberts
Burr	Graham	Sessions
Chambliss	Grassley	Shelby
Coburn	Gregg	Smith
Cochran	Hagel	Specter
Coleman	Hatch	Stevens
Corker	Hutchison	Thune
Cornyn	Inhofe	Vitter
Craig	Isakson	Warner

#### NAYS—54

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

#### NOT VOTING—4

Brownback	Lott
Johnson	Obama

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, we are coming to the final amendment. There will be one consent agreement that Senator ENZI and I have, and then final passage. I hope we will give the Senator from Arizona time so we can hear him.

The PRESIDING OFFICER. The Senator from Arizona.

#### AMENDMENT NO. 2353

Mr. KYL. Madam President, I have an amendment at the desk, No. 2353, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 2353.

Mr. KYL. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax)

At the appropriate place, insert the following:

#### SEC. \_\_. REPEAL OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 55(a) of the Internal Revenue Code of 1986 (relating to alternative minimum tax imposed) is amended by adding at the end the following new flush sentence:

“For purposes of this title, the tentative minimum tax on any taxpayer other than a corporation for any taxable year beginning after December 31, 2007, shall be zero.”.

(b) MODIFICATION OF LIMITATION ON USE OF CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—Subsection (c) of section 53 of the Internal Revenue Code of 1986 (relating to credit for prior year minimum tax liability) is amended to read as follows:

“(c) LIMITATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

“(A) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, over

“(B) the tentative minimum tax for the taxable year.

“(2) TAXABLE YEARS BEGINNING AFTER 2007.—In the case of any taxable year beginning after 2007, the credit allowable under subsection (a) to a taxpayer other than a corporation for any taxable year shall not exceed 90 percent of the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

Mr. KYL. Madam President, the AMT patch that protected most taxpayers from the alternative minimum tax expired on December 31 of last year. As a result, 15 million additional taxpayers on top of the 4 million taxpayers already subject to AMT are subject to the tax this year. This bill affords us an opportunity to correct the problem now, and we should. We are halfway through the year, and the tax is adding up. The AMT should be repealed as soon as possible.

The text of my amendment is identical to a bill introduced by Senator BAUCUS on January 4. It is S. 55. Very simply, the bill would repeal the individual AMT without any revenue offsets.

In his introductory statement, Senator BAUCUS noted that the AMT is a “monster that really cannot be improved. It cannot be made to work right.” I agree with him. That is why the Senate should vote to repeal the AMT now, before it overwhelms the middle class.

While I believe the Chair will rule it is not germane to this bill, I would suggest to my colleagues it is propitious; that this bill gives us the opportunity to act now to repeal this tax.

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

The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, I say to my colleagues, if you want to kill this bill, this is the way to do it. If your real intention is to eliminate the educational assistance for millions of young people in America, vote for this amendment.

Everybody knows what is at stake. The Constitution provides revenue bills must begin in the House of Representatives. To begin it here violates the blue slip process, violates the Budget Act, and will kill this bill.

All of us know the AMT has to be fixed. In the budget we have passed it is fixed. It will be fixed by consideration in the Finance Committee, which is where alternatives for fixing it should be considered.

This is not the time. It is not the place. It violates the Budget Act. It violates the constitutional requirement for the initiation of revenue measures. I hope my colleagues will resist the Kyl amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

#### AMENDMENT NO. 2364 TO AMENDMENT NO. 2353

Mr. KERRY. Madam President, I have a second-degree amendment to this amendment. I call it up.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 2364 to amendment No. 2353.

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

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

The amendment is as follows:

Strike all after the first word and insert:

It is the sense of the Senate that Congress should provide relief from the Alternative Minimum Tax to prevent the expansion of the AMT to nearly 23 million taxpayers in 2007 and eliminate wasteful spending, such as spending on unnecessary tax loopholes, in order to fully offset the cost of such repeal and avoid forcing taxpayers to pay substantially more interest to foreign creditors; and that such relief should be provided on an appropriate legislative vehicle that won't jeopardize legislation providing greater access and affordability to higher education for millions of students by subjecting the bill to a “blue slip” by the House.

Mr. KERRY. Madam President, if we are going to vote—and clearly this is blue slip material—No. 1., No. 2, it is not germane. And No. 3, it is not paid for. Madam President, \$872 billion is what is contained in that. So if we are going to do the AMT, which all of us believe we ought to do, we ought to do it in a responsible way that raises the question of unnecessary spending, closing tax loopholes, and doing what is necessary to try to pay for this. That is what my amendment suggests. If you want to vote somehow to do something about the AMT, let's vote in a responsible way, do it in a way that repeals those loopholes, looks at the Tax Code, and pays for that purpose.

So accordingly, Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Madam President.

I will suggest that under the Budget Act the proposed second-degree amendment is not germane. Let me make two comments about it first.

I think it is responsible for us to repeal the AMT in the way the distinguished chairman of the Finance Committee has proposed to this body in S. 55. I happen to be a cosponsor of that bill. I think it is a very good idea.

It is true it repeals the AMT without any revenue offsets. I happen to believe, as the chairman of the Finance Committee does, that is a responsible action, given the number of Americans who otherwise would be subject to the tax.

While I appreciate the notion that a sense of the Senate that we should do tax relief on AMT would be a good thing for this body to do, one of two things will happen. Either the blue slip issue will not be a problem because it will not be raised and we can, in fact, use this vehicle to accomplish this result now or it will and, in effect, my amendment would have been the equivalent of a sense of the Senate.

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

Mr. KYL. Madam President, I raise a point of order under the Congressional Budget Act that the proposed second-degree amendment is not germane.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, pursuant to section 904 of the Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the consideration of this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Mississippi (Mr. LOTT).

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

The yeas and nays resulted—yeas 48, nays 48, as follows:

[Rollcall Vote No. 270 Leg.]

#### YEAS—48

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

#### NAYS—48

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

#### NOT VOTING—4

Brownback	Lott
Johnson	Obama

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

#### AMENDMENT NO. 2333

The PRESIDING OFFICER. The question is on amendment No. 2333.

The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, the pending amendment is not germane; therefore, I raise a point of order pursuant to sections 305(b)2 and 310(e) of the Congressional Budget Act of 1974.

Mr. KYL. Madam President, I move that the applicable provisions of the Budget Act be waived, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

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 Illinois (Mr. OBAMA) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Mississippi (Mr. LOTT).

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

The yeas and nays resulted—yeas 47, nays 49, as follows:

[Rollcall Vote No. 271 Leg.]

#### YEAS—47

Alexander	DeMint	McCain
Allard	Dole	McConnell
Barrasso	Domenici	Murkowski
Bennett	Ensign	Nelson (NE)
Bond	Enzi	Roberts
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Smith
Coburn	Hagel	Snowe
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Inhofe	Sununu
Corker	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lugar	Vitter
Crapo	Martinez	Warner

#### NAYS—49

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

#### NOT VOTING—4

Brownback	Lott
Johnson	Obama

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 49. Three-fifths the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Wyoming is recognized.

#### AMENDMENT NO. 2338

Mr. ENZI. Senator KENNEDY and I need one more voice vote in order to clarify a definition. I ask unanimous consent to call up amendment No. 2338.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI], for Mr. COLEMAN and Ms. LANDRIEU, proposes an amendment numbered 2338.

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

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

The amendment is as follows:

(Purpose: To make a technical correction to the definition of independent student in the Higher Education Act of 1965)

In section 480(d)(1)(B) of the Higher Education Act of 1965 (as amended by section 604(2) of the Higher Education Access Act of 2007), insert "when the individual was 13 years of age or older" after "or was in foster care".

Mr. ENZI. Madam President, I ask for a voice vote on the amendment.

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

The amendment (No. 2338) was agreed to.

Mr. BYRD. Madam President, I opposed the Ensign and Stabenow amendments regarding Social Security and illegal immigrants, because those amendments violated section 313 of the Budget Act—the Byrd Rule—which prohibits extraneous matter on budget reconciliation bills.

I oppose providing Social Security benefits to illegal aliens. I have supported and will continue to support legislation to help ensure that Social Security benefits are not provided for work unlawfully performed by illegal immigrants.

Madam President, I opposed the McConnell amendment regarding detainees at the Guantanamo Bay facility in Cuba, because it violated section 313 of the Budget Act—the Byrd Rule—which prohibits extraneous matter on budget reconciliation bills.

Mr. SPECTER. Madam President, I voted to sustain the point of order that the DeMint amendment was not germane to the pending higher education bill. There is no doubt that the DeMint amendment on labor law involving secret ballots has nothing to do with education. Therefore, it is out of order on this bill unless 60 Senators vote to waive the Budget Act.

I recently voted to invoke cloture on the so-called card check bill for reasons detailed in a lengthy floor statement that was a vote on procedure in order to debate and consider the adequacy of the NLRB's handling of unfair labor complaints including elections for union certification.

That vote and tonight's vote do not signify my position on the substantive provisions of the entitled Free Choice card check Act or the DeMint amendment.

Mrs. CLINTON. Madam President, we must develop a visa system that is not only fair but also good for America. That is why tonight, I voted against an amendment that would have raised the cap on H-1B visas without providing many of the safeguards that are necessary to the H-1B visa system. While we must maintain our competitive edge in the world by bringing in the world's most talented and keen minds, we also must take steps to ensure that the program is not abused and does not displace U.S. workers. I look forward to working with my colleagues in the coming months to achieve comprehensive H-1B reform that will improve the program in a balanced and fair manner.

I also want to express my profound disappointment that this and other unrelated issues were permitted to slow down and distract from the important work of helping more students achieve the dream of a college education. The Higher Education Access Reconciliation Act was not the place to legislate these issues and only jeopardized our ability to help millions of students who await the passage of this bill and the \$17.3 billion increase in student aid that it provides.

Mr. OBAMA. Madam President, I first want to thank my colleague from

Massachusetts, Senator KENNEDY, for his leadership in bringing a bill to the floor to make college more affordable for millions of students. I also want to thank him for the example he has set over many years in standing up repeatedly to protect the interests of the students of America, and in so doing, to work tirelessly for the future benefit of our economy and our country. I am fortunate to now serve on the Senate HELP Committee and have seen first hand the efforts of Senator KENNEDY and his counterpart on the minority side, Senator ENZI. I appreciate their effort, the hard work of their capable staffs, and the bipartisan collegiality that allows us today to provide much needed support to the college students of America.

The success of our Nation's youth increasingly requires a college diploma. But that diploma is becoming, for many, ever more difficult to attain. That difficulty arises not from lack of ambition or lack of ability. Increasingly, the difficulty arises from lack of any realistic way for many American families to afford the college education needed for the success of their daughters and sons.

The math here is simple. College costs have increased, but family incomes have not, nor has the Federal commitment to provide financial aid. The cost of college continues to increase for many reasons. Over the past 5 years, the cost of a 4-year public college in my State increased 47 percent. At private colleges in Illinois, the increase was 27 percent. Incomes have increased little, and so even with financial aid, 35 percent of a family's income is needed each year to pay for attendance at a 4-year public university in my State.

Federal student aid has not kept pace with these increased costs. The proportion of college expenses met by Pell grants decreased from 47 percent to 29 percent over a recent 5-year period for students in my State. Students are increasingly forced to rely on loans, and college graduates are increasingly burdened by debt. Graduates from a 4-year college in Illinois owe, on average, over \$17,000 in student loan debt. That is the average.

The resulting difficulty in financing a college education impacts not only the dreams of millions of students but also the future of our country. Capable high school graduates from low- and moderate-income families are much less likely to earn a college degree than their wealthier peers. Yet competition in the global economy requires that our students attain a college degree, whether to become engineers or entrepreneurs, in order to maintain the creative and competitive workforce America needs. And for those students who do make it through college, their large debt loads make it difficult for them to choose occupations which might serve the public good but might not pay enough. Student debt is too often limiting options for those very

students who should have the greatest opportunities and whose talents might provide the greatest good to society.

We must change this. The bill we are considering here today is a step in that direction. With it, we expand loan forgiveness for graduates who enter public service, we increase the threshold for income that may be earned by students receiving financial aid, and we make other significant changes. But most importantly, we increase college access by increasing the amount of support for students through increased grant aid.

My support of this legislation today echoes the first piece of legislation I introduced in the Senate. That was the Higher Education Opportunity through Pell grant Expansion Act of 2005 the HOPE Act, which called for a significant increase in the maximum Pell Grant to \$5,100, financed by decreased Federal subsidies to banks and lenders. The bill we debate today would provide that increase to \$5,100 by next year and further increase the maximum to \$5,400 by 2011. I applaud Mr. KENNEDY and my colleagues on the HELP Committee for keeping this the main focus of the benefits provided in this package.

I realize that we are asking lenders to dig a little deeper to help students, to come up with innovative ways to continue to provide services students, even while receiving lower subsidies from the Federal Government. But I have faith that they can do this, to the benefit of our students and our country.

I look forward to soon considering the remainder of the comprehensive package to improve higher education contained in the Higher Education Amendments of 2007. But for today, I am proud today to support this bill to bring needed assistance to college students, and I urge my colleagues to join in this effort.

Mr. FEINGOLD. Madam President, I speak today in support of the Higher Education Access Act of 2007, a bipartisan piece of legislation that will increase student aid by billions of dollars by curbing Federal subsidies to private banks and lenders. This is a significant victory for students around the country and in my State of Wisconsin, which will receive over \$270 million dollars in new need-based grant aid by the year 2013. Wisconsin has a world-class higher education system, and I am pleased to support this much-needed legislation that will help open the doors to college for more students in my State.

I have long supported and led efforts in Congress to expand the availability of student aid and ensure that qualified students have access to a postsecondary education, including raising the individual Pell grant award. I was pleased to join with my colleagues in February to pass a significant increase in the maximum Pell grant award to \$4,310 from \$4,050, the first increase in 4 years. Earlier this year, I also joined with my colleagues, Senators KENNEDY,



COLLINS, and COLEMAN, to lead letters to both the Budget and Appropriations Committees that advocated for the highest possible increase in funding for Pell grants. The Pell grant program provides need-based aid to low income students, and I am pleased that the Higher Education Access Act retains the Pell grant's focus on need-based aid for low-income students.

Access to a higher education is increasingly important in the competitive, global environment of the 21st century workforce as an increasing number of jobs require education or training beyond high school. But while the importance of attending college continues to increase, the cost of attending college also continues to increase, which often causes financial strain on students and their families as they seek to finance the cost of higher education.

My colleagues and I have long fought against the declining purchasing power of the Pell grant by supporting substantial increases in the maximum grant award. According to data from the Department of Education, the maximum Pell grant covered half the cost of tuition, fees, room and board at public 4-year colleges 20 years ago but only covered a third of these same costs during the 2005 to 2006 period. The declining power of the Pell has impacted my State of Wisconsin as well. In 1986 to 1987, the \$2,100 maximum Pell grant covered 58 percent of college costs for Wisconsin students. In 2005-06, the \$4,050 maximum Pell grant only covered 38% of college costs in Wisconsin. This legislation seeks to address the declining purchasing power of the Pell grant by funding new Promise grants which will supplement the Pell grant awards received by students throughout the country and target need-based funds to Pell-eligible students.

In addition to the declining purchasing power of need-based aid like Pell, the availability of such need-based grant aid does not come close to meeting the demand for it. As a result, an increasing number of students turn to Federal and private loans to finance their education. According to the College Board, in the late 1970s, over three-fourths of the Federal aid to students were grants, while 20 percent of Federal student aid were loans. Recent data from the College Board indicates that the breakdown between grant aid and loans had switched by 2006, with grant aid only making up 20 percent of the federal student aid.

Students in my State of Wisconsin, like students in other parts of the country, are greatly affected by the Federal Government's increased reliance on student loans at the expense of grant aid. The Project on Student Debt reports that more than 60 percent of Wisconsin graduates in 2005 graduated with debt and the average student who graduated from a 4-year college in my State in 2005 owed over \$17,000. While the prospect of these large debt burdens impact many students' decisions

about whether to attend college, low-income students may be even less inclined to attend college if they have to take out large amounts of student loans. These students are understandably nervous about the significant debt burden they would have to undertake, and some students choose to forego college altogether for this very reason. This legislation's focus on increasing need-based grant aid for these very students takes a big step in the right direction toward promoting better access to higher education for low-income students.

Higher levels of debt can also influence the decisions students make about whether to take a job in the public interest sector or in the more-lucrative private sector after graduation. We have all heard about students who are interested in working in public interest jobs fields like teaching, law enforcement, legal aid, or State and local government but who decide against taking these public interest jobs because of their high debt loads. It is unfortunate that so many students are forced to consider their debt loads when deciding which jobs to take or pursue. The loan forgiveness and income-based repayment provisions of this legislation will help those graduating students in Wisconsin and around the country who want to pursue careers in public service.

While I applaud much of the policy included in this measure, I am disappointed that we are again seeing the reconciliation process used to advance legislation that is not primarily a deficit-reduction package. While there are better arguments for using reconciliation to consider this particular bill than there were for the reconciliation protection proposed for the legislation to open up the Alaska National Wildlife Refuge to drilling, I am still troubled by the use of this extraordinary procedure as a way to advance a significant policy change that is not primarily a deficit reduction package. Thanks to the efforts of our Budget Committee chairman, Senator CONRAD, the days when the reconciliation process could be totally subverted to protect legislation that actually worsened the deficit are over. I also commend Chairman CONRAD for insisting during the conference discussions on the budget resolution that this particular reconciliation instruction move closer to a more reasonable qualifying threshold of deficit reduction than was initially proposed. I hope that in future budget resolutions, we can further tighten the use of reconciliation to ensure that it is used for what it was intended, namely to advance significant deficit reduction.

A student's access to higher education should not depend on his or her family's income but, rather, on the student's desire to obtain a higher education. Passage of the Higher Education Access Act of 2007 moves our Nation in the right direction and represents a great victory for students in

my State of Wisconsin and around the country. I have long led and supported efforts to expand Federal higher education programs, including Pell and TRIO, and I am pleased to support passage of this legislation. I look forward to working with my colleagues in the coming months and years to continue to expand important need-based grant programs so that hard-working students will be able to take advantage of the full opportunities that access to a higher education offers.

Mr. LEAHY. Madam President, I wish to express my support for the Higher Education Access Act of 2007. I applaud Chairman KENNEDY and Ranking Member ENZI for their work on crafting this bill that will widen access to higher education by providing for increased funding assistance available to American students for their higher education studies.

The need for these improvements by now should be as clear to the Senate as it is to America's families. In recent years average college tuition rates have been rising faster than inflation and outpacing student financial aid. Skyrocketing tuitions are pricing our families out of their ability to afford higher education. This trend not only closes doors to opportunity in the lives of the Nation's young people; it also poses harsh consequences on our country and our communities, in ways that are evident across our economy. I am pleased that, in this new Congress, this bill has been brought forward to reverse the direction of recent budgets that have continued to erode the Federal Government's support of higher education with deep cuts in the funding support for colleges and universities.

The Federal Government must rise to the challenge and improve our financial aid programs to ensure that college is an affordable option for all qualified students. No student should be thwarted from enrolling and graduating from college because of financial concerns. This bill accomplishes this goal through need-based grant aid to students by raising the maximum Pell grant to \$5,100 next year, and up to \$5,400 by 2011.

Because tuition has increased well beyond the rate of student assistance, students today are graduating with staggering debt burdens. With the weight of this debt on their backs, recent college graduates understandably gravitate toward higher paying jobs that allow them to pay back their loans. Unfortunately, all too often these jobs are not in the arena of public service or areas that serve the vital public interests of our communities and of our country. We need to be doing more to support graduates who want to enter public service, be it as a child care provider, a doctor or nurse in the public health field, or a police officer or other type of first responder.

I appreciate that the chairman has included strong provisions in this bill that will forgive the debt of borrowers who continue in public service careers

such as nursing, teaching, or law enforcement for 10 years. Under this bill, a starting teacher in Vermont earning less than \$30,000, and with debt of \$20,000, could have his or her loan payments capped at 15 percent, reducing monthly payments by almost 40 percent.

The increases for student aid in this bill are paid for by reducing the subsidies the government provides to lenders. I believe that increasing student assistance should be our highest priority in this bill and that this offset is a worthy and sensible exchange. However, while this bill reduces the subsidies for lenders, I am pleased that it recognizes the importance of not-for-profit lenders, by differentiating between the size of cuts intended for for-profit and for nonprofit lenders. Several States have established not-for-profit State agencies to administer financial aid and to provide their residents and students attending their schools with quality counseling services and low-cost loans. Vermont pioneered this movement by creating the Vermont Student Assistance Corporation more than 40 years ago.

I do have concerns with the auction proposal contained within this bill. I am worried that it could potentially prevent Vermonters from exercising their right to choose where to borrow money by requiring the Secretary of Education to conduct an auction to select two lenders that will be permitted to make parent loans. Bids will be sealed, invisible to the public and to Congress, and awards will be made solely on the Secretary's determination of who offers the lowest cost to the government.

We do not want to crowd out the not-for-profit agencies from providing PLUS loans to families in their State. I am hopeful that the chairman and ranking member will be willing to work on this portion of the bill in order to continue to recognize the important role of not-for-profit lenders.

Mrs. FEINSTEIN. Madam President, I rise today in support of the higher education reconciliation bill that would increase critical grant aid to our Nation's neediest college students, help make loan repayment more manageable and encourage students to pursue careers in public service.

It is crucial that we help make college more affordable and accessible for students at a time when they are struggling to pay skyrocketing college costs and taking on more debt to pay for school.

In California alone, the cost of attending a 4-year public college increased 43 percent between the school years of 2000–2001 and 2005–2006.

Furthermore, 46 percent of California students graduating from 4-year colleges in the 2004–2005 school year had student loan debt—at an average of over \$15,200. Nationwide, almost two-thirds of all 4-year college graduates had loan debt.

What is even more concerning is that many students are being shut out of college altogether.

Each year, more than 400,000 low and moderate income high school graduates who are fully prepared to attend a 4-year college do not do so because of financial barriers.

It is imperative that all students seeking a college education have an opportunity to achieve their goals and this bill takes important steps to provide much-needed relief to students across the country.

Specifically, this bill would: Provide \$17.3 billion in new grant aid to low-income college students. Increase the maximum award for Pell grant recipients to \$5,100 in 2008 and to \$5,400 in 2011. The current amount is \$4,310 and this means low-income California students will be eligible for an additional \$290.9 million in need-based grant aid next year, and an additional \$2.5 billion over the next 5 years. Increase the family income level under which a student is automatically eligible for the maximum Pell grant from \$20,000 to \$30,000.

Eliminate the "tuition sensitivity" provision in the Pell grant program's eligibility formula that unfairly penalizes our neediest students who attend low-cost institutions, such as community colleges, from receiving the maximum Pell grant award. In California, over 260,000 community college students would benefit.

I was pleased to work with my friend and colleague, Senator BOXER, as the lead cosponsor of legislation to eliminate this unfair provision. Cap Federal student loan payments at 15 percent of a borrower's discretionary income providing needed relief to students with high loan burdens.

Provide new loan forgiveness under the Federal direct loan program for individuals in public service careers for 10 years, such as teaching, nursing or law enforcement. It would include Head Start teachers and expands on a proposal that I have been working on for several years to provide loan forgiveness to educators in this important field.

Eliminates the 3-year limitation on the period for which certain members of the Armed Forces may receive deferments on the interest on their student loans. It also extends this deferment period to cover 180 days after such a member of the Armed Forces is demobilized. Extends the amount of time student borrowers can receive a deferment for economic hardship from 3 to 6 years. Would apply to borrowers who take out their first loan after October 1, 2012.

This legislation would bring significant help to many low-income California students and those across the country who would otherwise not be able to afford a college education.

A college degree is more important than ever to ensure success in today's global economy and we must help provide students that need it most with the resources necessary to reach their highest potential.

I urge my colleagues to support this important legislation.

Mr. ROCKEFELLER. Madam President, I believe that we must provide access to higher education, which still too many hard-working American students cannot afford without the help of Federal financial aid.

I support the Higher Education Access Act because it will increase the access to education for many more students. In the 2005 to 2006 academic year, the average cost of a U.S. public college or university was \$12,108, with the average Pell grant covering 33 percent of tuition, fees, and room and board. For a West Virginia public college or university in the 2005 to 2006 academic year, the average cost was \$9,992, with the average Pell grant covering 41 percent of tuition, fees, and room and board. A senior in West Virginia graduating from college has an average of \$16,041 in student loan debt.

This bill will help offset that cost. The first provision of the bill will increase the aid available to those students who qualify for Federal assistance. By making changes to the current provisions of the Pell grant program, more low-income students will have the opportunity to pursue higher education that otherwise might have been out of their reach.

Another vital and helpful component of this legislation is the repayment cap and loan forgiveness program, which would help repay student loans of those individuals who have decided to enter the public sector. Those students who go on to become social workers, public defenders, or teachers in high-need subject areas deserve our help getting the education they need for these essential careers.

Too often, a college graduate who wants to pursue a career in social work or another aspect of public service may not be able to afford to choose that career because of the low salaries and their high student loan debts. The Higher Education Access Act will address this concern by placing a cap on Federal student loan payments at 15 percent of a borrower's discretionary income, which will bring much needed relief to graduates with excessive loan burdens.

For example, a social worker with one child in West Virginia earning \$26,800, with average loan debt of \$16,041 would have his or her monthly payments reduced by \$107, from \$185 to \$78, a reduction of 58 percent. We should encourage those willing to work in public service by offering relief from the high cost of student loans when they start off on their careers through the 15-percent cap and loan forgiveness.

Over 4 years ago, I sponsored legislation with the former Senator Mike DeWine to provide student loan forgiveness for social workers and attorneys in the child welfare system. This legislation reflects our goals and expands it to cover a broader range of public service careers—it is a strong, long-term investment in our communities and families.

The act is designed to keep rates for the lenders fair and direct as much help as possible to our students.

This year, 37,297 West Virginia students will receive \$103.3 million in Pell grants. If this legislation debated today is enacted into law, West Virginia students in the coming academic year will have access to \$19 million more in Pell grants and student aid.

Pell grants have not increased during the past year while the cost of education has increased exponentially. This bold increase in the Pell grant program is needed to keep pace with the changing financial demands of higher learning.

The Higher Education Access Act will provide hope and opportunity for students in West Virginia and across our country. It represents a commitment to education and a wise investment in our future. This legislation will also encourage public service, a cause to which I have long been dedicated. I am proud to support this bill and hope it will become law this year to improve student aid for the high school seniors who will begin their last year of classes in just a few weeks and all the students who will follow them.

Mr. McCONNELL. Madam President, as written, the higher education authorization bill takes us down a dangerous fiscal road. Democrats are using a privileged rule that was originally meant to cut the deficit to expand the government instead with more than \$19 billion in new mandatory spending.

Ironically, they're trying to paper over this by cutting existing programs that help teachers and students in States like mine to reach a net savings of less than \$1 billion. Compare that to previous Congresses, which used reconciliation rules to save nearly \$500 billion in 1990, \$433 billion in 1993, \$118 billion in 1997, and \$39 billion in 2005. The Democratic majority is using one of the few budget tools we have for shrinking government and using it to grow government instead.

This is surprising to say the least—given that the Senate just passed a resolution by unanimous consent saying we wouldn't use these rules for new spending. Democrats conveniently dropped that provision in conference.

Both sides have used reconciliation to move tax policy in the past—Republicans to cut taxes seven times; and Democrats to raise them four times. What's unprecedented here is using it for no other reason than to create new mandatory programs and expand the government—by tens of billions of dollars. These budget shenanigans are standard operating procedure for tax and spenders, but they set an extremely dangerous precedent.

Now, I would like to say a word about the programs this bill would cut. Democrats justify the cuts to lender subsidies in the higher ed bill with the old Robin Hood line that the money they plan to take from private lenders will go to students instead. But this just isn't true in places like Kentucky,

where the Federal loans of three out of every four borrowers are held by not-for-profits.

These are groups that don't have profits—they funnel their earning back to borrowers. When you cut subsidies to them, you're cutting subsidies to students, parents, nurses, and National Guard members throughout my State. To Kentuckians, this bill is a reverse Robin Hood: it takes money from our students and funnels it back to Washington.

They know what's going on, and they don't like it, regardless of their political affiliation. I just got a letter from the State Treasurer, Jonathan Miller, who also happens to chair the Kentucky Democratic Party. Here's what he wrote:

"If the additional Federal Family Education Loan Program cuts are enacted, the entire borrower benefits program will be seriously jeopardized, and the impact would be immediate and significant for thousands of Kentucky families who depend upon Kentucky's nonprofit higher education agencies to help make higher education affordable."

Teachers in Kentucky would also get hit: Last year, thousands of teachers in my state received \$15 million in student loan forgiveness from non-profit lenders like the Higher Education Student Loan Corporation and the Kentucky Higher Education Assistance Authority.

These benefits are targeted to teachers in high need subjects, like math, science, and special education. The President of the Kentucky Education Association, Frances Steenbergen, has informed me that if these cuts enacted, over 14,000 Kentucky teachers will be impacted immediately.

Republicans will have an opportunity to salvage this bill, but it won't be easy. It violates the intent of reconciliation to expand government, and slashes programs that are an enormous help to students and teachers. We'll also use the amendment process to repair some of the damage from yesterday. I think everyone was startled when the Democratic Leadership pulled the Defense Authorization bill from the floor. As the senior Senator from Arizona said, "He was more sad than angry."

Here's a bill that would authorize pay raises for the men and women in the military, Mine Resistant Ambush Protected, M-RAP, vehicles for Iraq, and a lot of other urgent military support. Just this week, the chairman of the Foreign Relations Committee issued a statement decrying delays in the delivery of these M-RAP vehicles—vehicles that have the potential of substantially reducing U.S. casualties in Iraq.

He sent a letter to the Defense Secretary in which he asked how it was possible "that with our nation at war, with more than 130,000 Americans in danger, with roadside bombs destroying a growing number of lives and

limbs, we were so slow to act" in getting this technology to the troops. He should be asking the Democratic leadership today how it could have pulled the plug on a bill that authorizes the production of M-RAP vehicles.

He should ask them how they could have complained about the shameful neglect at Walter Reed—and then pulled a bill that addressed the most critical failing in our treatment of wounded soldiers and marines returning from battle. He should ask them how they could pull a bill that delays a pay raise for military personnel.

Republicans have an opportunity today to restore this vital support for our military men and women, and we are going to seize it. It's unacceptable to wait: it's now late July and we haven't done a single appropriations bill—not one. The House has done six. At this rate, we won't have sent a single appropriations bill to the President by the time we leave here in August—an outrageous waste of time. These pranks and gimmicks guarantee we will have our backs to the wall in September.

Mr. KENNEDY. Madam President, as this debate comes to a close, I am reminded of the great moments in our Nation's history in which we look to the future and invested in future generations of Americans. We did it when we passed the GI bill. We did it when the Federal Government created the student loan program. We did it when we created Pell grants. And we do it again today with the largest new investment in student aid since the GI bill.

A vote for this bill is one we can cast with pride and great hope—pride in doing our part for the future of our great country and hope that our actions tonight will mean a better future for millions of young Americans. By passing this bill tonight, we will recognize that principle once again.

We know that our students today face significant challenges in paying for college. Each year, over 400,000 talented, qualified students do not attend a 4-year college because they cannot afford it.

In 1993, fewer than half of all students took out loans to finance their education, but today, more than two-thirds of students borrow for college.

Today, the average student leaves college with more than \$19,000 in student loan debt.

That is why this higher education legislation is so important. We will provide more than \$17 billion to help students and families pay for college. This legislation will help reverse the crisis in college affordability in several ways: It will immediately and dramatically increase the amount of aid for Pell grant recipients; it will help students manage their debt, by capping student loan payments at 15 percent of their monthly income; it will provide longer deferments in loan repayments for student borrowers facing economic hardship; and it will completely forgive

the loans of those who enter society's most needed professions. It will restore balance to our grossly unfair student loan system by reducing unnecessary subsidies for lenders.

Everything we know about the college affordability crisis tells us that low-income students and families are struggling the most. With this bill, we will increase the maximum Pell grant to \$5,100 next year—a \$790 increase—and to \$5,400 in 2011.

I am very pleased that our legislation will expand loan forgiveness to borrowers who stay in public service professions for 10 years. Our society needs more teachers, more emergency management and law enforcement professionals, more public health doctors and nurses, more social workers, more librarians, more public interest lawyers, and more early childhood teachers. Under our bill, we will produce more of them, because they—and all the groups I have just mentioned—will be eligible for loan forgiveness.

The bill before us will deliver long-overdue relief to students and families across the Nation who are struggling to afford college. But there is more we can—and must—do to improve higher education for students and families.

Next week, we will take up other important changes in our higher education amendments of 2007. In this bill, we take commonsense steps to improve higher education. We will address the rising cost of college, pursue needed sunshine ethics reforms to the student loan industry, and steps to simplify the federal financial aid application form.

These are critical reforms—but the most critical steps are the ones we take tonight to dramatically increase college aid for our Nation's students.

From our earliest days as a nation, education has been the engine of the American dream. We can look to the landmark success of the GI bill to see what a difference higher education makes.

The GI bill produced 67,000 doctors, 91,000 scientists, 238,000 teachers, and 450,000 engineers. It also funded the education of three Presidents, three Supreme Court Justices and about a dozen Senators who served in this very Chamber.

This bill is a big step in the right direction. It dedicates over \$17 billion for students and families to benefit from a college education and keep our country strong in the years ahead. It will help keep the doors to college open for all students, regardless of income level or background, just as the GI bill did half a century ago.

We can't let the engine of education stall today. More than ever college is the key to opportunity for students and the key to a strong America for the future. I urge the Senate to approve this important legislation.

The PRESIDING OFFICER. Is there further debate on the substitute amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2327) as amended, was agreed to.

Mr. KENNEDY. Madam President, I ask unanimous consent that upon passage of H.R. 2669, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, and that the HELP Committee be appointed as conferees, with the above occurring without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Reserving the right to object, I wonder if the majority whip would indicate whether there will be no votes tomorrow.

Mr. DURBIN. I think I will defer to the majority leader.

Mr. REID. Madam President, we have in wrap-up the agreement that we are not going to do the cloture vote on the motion to proceed to homeland security. We will proceed to that legislation as soon as we complete the additional education bill we are going to work on on Monday. We are working really hard to try to not have a lot of votes Monday night. The first vote will be 5:15. Under the order entered, there could be as many as 12 or 15 votes. We hope that doesn't occur, but it is possible. There will be multiple votes Monday. We may not be able to complete them all Monday. We hope we can, but that is where we are.

Tuesday, we will start the Homeland Security appropriations bill.

I tell all Members that we have now 2 weeks left in this work session. As I have indicated from the first day, we are going to do our best to have everybody out of here 2 weeks from tomorrow. We have a lot to do. We have to complete homeland security, work on SCHIP and complete that, we have two conference reports, one on which Senator LIEBERMAN today had a real conference. Democrats and Republicans appointed to the conference sat down to see what they could work out on the 9/11 Commission recommendations. Progress was made. Senator LIEBERMAN said he thinks that can be done early next week.

And then I had a number of conversations today with the distinguished Republican leader. We are where we are on the ethics lobbying reform. I wish we could approach it a different way. That is not going to work out, it appears. We are going to attempt to complete that also before we finish this work period.

We have a lot to do, and I know there are things people want to do a week from this weekend. We are going to try to see that they can do that. There are no guarantees. We have to finish this legislation or we will work into the August recess. Those are the choices we have. There will be no votes tomorrow.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. KENNEDY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHN-SON) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Mississippi (Mr. LOTT).

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

The result was announced—yeas 78, nays 18, as follows:

[Rollcall Vote No. 272 Leg.]

#### YEAS—78

Akaka	Dorgan	Murkowski
Alexander	Durbin	Murray
Barrasso	Enzi	Nelson (FL)
Baucus	Feingold	Nelson (NE)
Bayh	Feinstein	Pryor
Bennett	Graham	Reed
Biden	Grassley	Reid
Bingaman	Harkin	Rockefeller
Boxer	Hatch	Salazar
Brown	Hutchison	Sanders
Byrd	Inouye	Schumer
Cantwell	Isakson	Sessions
Cardin	Kennedy	Shelby
Carper	Kerry	Smith
Casey	Klobuchar	Snowe
Chambliss	Kohl	Specter
Clinton	Landrieu	Stabenow
Cochran	Lautenberg	Stevens
Coleman	Leahy	Sununu
Collins	Levin	Tester
Conrad	Lieberman	Thune
Corker	Lincoln	Voinovich
Cornyn	Lugar	Warner
Dodd	McCaskill	Webb
Dole	Menendez	Whitehouse
Domenici	Mikulski	Wyden

#### NAYS—18

Allard	Crapo	Kyl
Bond	DeMint	Martinez
Bunning	Ensign	McCain
Burr	Gregg	McConnell
Coburn	Hagel	Roberts
Craig	Inhofe	Vitter

#### NOT VOTING—4

Brownback	Lott
Johnson	Obama

The bill (H.R. 2669), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Chair appoints Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, Mr. REED, Mrs. CLINTON, Mr. OBAMA, Mr. SANDERS, Mr. BROWN, Mr. ENZI, Mr. GREGG, Mr. ALEXANDER, Mr. BURR, Mr. ISAKSON, Ms. MURKOWSKI, Mr. HATCH, Mr. ROBERTS, Mr. ALLARD, and Mr. COBURN conferees on the part of the Senate.

The PRESIDING OFFICER. The majority leader is recognized.