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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, November 16, 2004, at 2 p.m

Senate

MONDAY, OCTOBER 11, 2004

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Majestic and Holy God, we give You honor and praise. We thank You for the spiritual awareness that prompted statements about Sabbath rest in this Chamber yesterday. Thank You also for the love of the sacred that led Senators and staff to participate in a weekend worship service in this building. As You healed people on the Sabbath long ago, grant that our weekend work will bring healing to this great Nation.

Thank You, finally, for the treasure of superb staff, the wind beneath the wings of our lawmakers. Bless those unsung heroes and heroines who enable our leaders to succeed in their work. Help these supporters to see that their seemingly secondary role is really a primary one in freedom's cause.

Today, bless our Senators. Use them as instruments of Your will. Give them the humility to trust You and obey Your teachings. Give them traveling mercies in these dangerous times.

We pray in Your Holy Name, Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, a good Columbus Day to everyone.

We reconvene today for what I expect to be the final day of business before adjournment.

Yesterday, we invoked cloture on the conference report to accompany the FSC or JOBS bill. With that vote and the subsequent agreement from last night, we will be able to finish the remaining items before the close of business today. The agreement reached last night provides for a vote on adoption of the FSC conference report at 12 noon.

Following that vote, the Senate will vote on the adoption of the Military Construction appropriations conference report and the Homeland Security conference report, along with some other housekeeping matters.

As stated last night, we will conduct a rollcall vote on the FSC bill, and all other actions should be completed without the need for further rollcall votes. Therefore, the next vote will be at noon today. That should be the only vote of the day.

We will also continue to work through other legislative items that can be cleared by unanimous consent.

Again, I thank all Members who were here yesterday as well as Saturday allowing us to invoke cloture on the conference report so that we are now on a glide path to finishing our work today.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

AMERICAN JOBS CREATION ACT OF 2004—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 4520, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report accompanying the bill (H.R. 4520) to amend the Internal Revenue Code of 1986.

The PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am glad that Senator FRIST and other Senators were able to work out the parliamentary maneuvering that it takes to get us to finality on this JOBS bill.

We obviously want to encourage the creation of jobs and manufacturing in America. We want to reduce reasons for outsourcing. This bill deals with all of those and some others as well.

Throughout this debate, I feel as though I was whipsawed in arguments trotted out by opponents of this bill. They complain about accommodations we have made to Members. Some of these accomplishments and accommodations have even helped folks in States of the critics. Then they complain about what is not in this bill that should have been included in this bill.

First of all, I don't know how many times I have to say this, but I think it

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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needs to be continually said. This bill is revenue neutral. Yes, we decrease taxes for partnerships, family-owned businesses, and corporations that are involved in manufacturing, reducing that from 35 to 32 percent. Obviously, that brings in less revenue, but that does not mean the deficit of the United States is going to be increased. We pay for it by raising revenue from businesses, by closing corporate tax loopholes, and we collect that new revenue coming in to small businesses, especially to any size business that manufactures—large or small.

This bill is basically about manufacturing jobs. That is where the revenue in this bill goes.

There are those who talk about this bill as somewhat of a giveaway to business. You have some businesses not paying taxes because they are abusing the Tax Code through corporate loophole abuse, and they pay more money. Then you have the socially good provisions such as encouraging manufacturing in the United States to create jobs in the United States. I don't think people are correct in saying this is a giveaway to business because it balances out within the business sector of our country—some paying more and some not paying more. Because we are taxing them more, they are paying more because they can't cheat anymore. We are giving some benefits from that same revenue to create jobs in the United States.

Those who call this a giveaway for business need to put on their reading glasses and take a look at revenue tables produced by the nonpartisan Joint Committee on Taxation. These people aren't Republican or Democrat. They are professionals who decide how many changes are in the Tax Code, where revenue comes from. These tables show that this bill is revenue neutral; that financial reductions are paid for in new revenue coming in from the closing of corporate loophole abuse.

For those who are talking about this bill being a giveaway for business, I want them to stop using that argument. One statement was made last night that was egregiously in error. One of the hard-line opponents of this bill claimed that the tobacco buyout was paid for by the taxpayers.

I don't support the tobacco buyout but realize it was necessary to get this bill through the other body. I insisted on one of the Senate's positions in the tobacco buyout, and that position is that tobacco companies pay for this buyout. Opponents need to read this bill and the revenue tables. If they bother to do so they will see the buyout is paid for not by the taxpayers of America but by the companies that produce tobacco.

Now, let's put in context the mischaracterization of this bill as somewhat of a special interest bill. In part, the bill receives such widespread support because many Member items were accommodated. Literally dozens of tax benefits were adopted in committee and on the floor.

Let me define ''Member items.'' Constituents of one State came to their Senator and said: This part of the Tax Code is wrong, it is hurtful; or they said: We think the Tax Code ought to be changed this way. Maybe they do not come to me. Maybe they do not go to the other 99 Senators; they go to 1 Senator. That Senator is a representative of his people. It is his responsibility to bring that issue to the Senate. He does not have to. He can say: I don't agree with you, I will not do that. If he feels his constituents are justified in what they are requesting, then the matter is brought to the committee that has jurisdiction. That is the Senate Finance Committee, which I chair. Somehow there is something negative or derogatory about a Member bringing forth an item for all to consider. If we think that Member is crazy, we do not have to do it. If we think there is some justification to what that Member brings before the Senate, we ought to consider that. That is how our representative system of government works.

Literally dozens of tax changes were adopted in committee or in the Chamber. Before the conference, Senator BAUCUS and I received letters from virtually every Member of the Senate. In some cases those letters asked for items from the Senate to be retained. In other cases those letters asked for the Senate to accept items from the House bill, and in still other cases Members wrote asking for items that were not in either bill. Finally, some Members asked us to not accept certain provisions not in either bill.

I have a stack of letters with me. These letters are not all the letters, of course. There is no sense carrying a pile of letters out here. But Members representing the interests of their State bring these issues for our consideration.

I will go to the first category and follow up items from the Senate bill.

National care scholarships for nurses—Senator MURRAY and CANTWELL asked for that. It is in the bill.

Sickle cell disease and Medicaid, consideration of sickle cell disease, which is not covered by Medicaid—Senators TALENT, SCHUMER, CAMPBELL, DAYTON, COCHRAN, BOND, SPECTER, MIKULSKI, CANTWELL, LANDRIEU, STABENOW, KENNEDY, SARBANES, VOINOVICH, LAUTENBERG, MURKOWSKI. It is in the bill.

Some are going to say that Members' provision brought to us under the leadership of Senator TALENT should not be considered by this body, and I will explain why this is all in one bill. People watching might think if you have a sickle cell disease issue come before the Senate, maybe it ought to come up as a separate issue. On the next item up is a life insurance taxation issue; maybe it ought to come as a separate bill. Why doesn't it? Because under the rules of the Senate every little bill that comes out here could be amended by anything that is in the Tax Code. Eventually you have a little life insurance bill that becomes a vehicle for every member to bring up any bill they want to bring up.

So we saved the Senate from going through that exercise. That is what committees are about. We consider these issues—not always in committee; sometimes they are discussed when the bill comes to the Senate floor. Most of the time we give them a thorough study in the Senate Finance Committee. Sometimes we reject them and sometimes we include them. If we do not include them, maybe when they come to the Senate Chamber, that Senator is irritated with the chairman of the Senate Finance Committee and they add it on the Senate floor. They always end up in one bill.

Somehow that makes all of our journalists concerned, those who seem to not have an understanding of how the Senate works, pointing out that this bill is full of a lot of little things in it that are unrelated to the underlying bill. That is true, but that is how the Senate works.

The House of Representatives does not work that way. They put a bill together, they adopt a rule, and there is never an amendment. I shouldn't say never, but very seldom is a Member allowed to offer an amendment to a Ways and Means bill on the floor of the House. That is why the House of Representatives is like the House of Lords. That is why the Senate is like a House of Representatives. We allow the people of this country to bring anything they want to the floor of the Senate.

Another item is suspension of section 815, a life insurance company taxation issue. That was brought to us by Senator SPECTER. It is in the bill.

New York City revitalization tax benefits directly related to the attack of September 11, 2001, and the rebuilding of New York was brought to us by Senators SCHUMER and CLINTON—most of that, but not all of it, is in the bill.

Brownfields, unrelated business income tax relief—Senators LAUTENBERG, REED, JEFFORDS, STABENOW, SPECTER, SARBANES DOLE, AKAKA, CHAFEE, INHOFE—is in the bill. The use of green bonds for economic development in certain areas is something I was not for, but it is in the bill to satisfy Senators ALLARD, SCHUMER, MILLER, CLINTON, and CHAMBLISS.

We have IRS private debt collection. Senator ALLEN was pushing this. That is something I very definitely favor because this is one way of getting the private sector bringing in money from people who are tax cheats and are not paying their taxes.

Tribal government bonds—Senator CAMPBELL, very active in the Senate Committee on Indian Affairs—was also a matter of importance to Senator BAUCUS and others, but it is not in the bill despite being raised in conference.

Comprehensive energy tax relief package—Senator HUTCHISON—is not in the bill despite being raised in conference because the House of Representatives took the position that

there shouldn't be anything on energy in this bill because they think energy items need to be put together in a bill that ought to be dealt with separately, next session. Quite frankly, the House of Representatives passed a comprehensive energy bill last fall, and we were two votes short in the Senate because of a Democrat filibuster against the bill. They say that instead of doing the energy provisions in this bill before us now, the Senate ought to take up the bill that we obviously have a majority for—but because of a Democrat filibuster we are two votes short—and do the energy stuff there, not in bill before the Senate.

So I cannot blame the House of Representatives because they worked hard to get an energy bill passed, and it comes over here and you get a Democrat filibuster.

By the way, those two votes could be supplied by Senator KERRY and Senator EDWARDS because now they think we ought to have a national energy policy, and they did not vote last November. If they come in here before we go home and cast the 59th and 60th vote, we would have the comprehensive energy policy, not just little slivers of it that we get in a bill here and a bill there, but we would have a very comprehensive energy policy. They would be fulfilling what they are saying out there on the campaign trail we need to get done: have a national energy policy. We have 58 votes for it. We need a 59th and 60th vote, and they could be that. But at least I am telling you why we do not have the energy provisions in here that a Republican Senator, Senator HUTCHISON, wanted.

We have a request from Senators CRAPO, BINGAMAN, VOINOVICH, BIDEN, PRYOR, TALENT, ENZI, CHAFEE, CARPER, CLINTON, ALLARD, BOND, COLEMAN, SUNUNU, BENNETT, CHAMBLISS, HUTCHISON, HAGEL, NELSON of Florida, DAYTON, DOLE, REED of Rhode Island, DODD, KENNEDY, and LEVIN for mortgage revenue bonds liberalization. It is not in the bill, but it was raised in conference.

We have heard a lot about Senator LANDRIEU's Guard and Ready Reserve amendment. That was raised by Senators LANDRIEU, BOND, PRYOR, MURRAY, DODD, AKAKA, CANTWELL, DORGAN, SCHUMER, MIKULSKI, NELSON of Florida, LAUTENBERG, JOHNSON, FEINGOLD, LEAHY, DAYTON, LEVIN, SARBANES, WYDEN, and DURBIN. We discussed that provision a lot, and like the three items above, this item was raised at conference and rejected by the other body.

Mr. President, the letters I have cited reflect items Members raised. On some items we were able to reach agreement with the House, other items the House of Representatives rejected.

Let me point out that I offered three amendments that I filed. I won one and lost two. The House accepted an amendment I put in for rural letter carriers. The House rejected an amendment I had dealing with energy-efficient home appliances. The House rejected another amendment dealing with elderly housing connected to the Warrior Hotel in Sioux City, IA.

As the list above shows, a lot of Members of this body are satisfied because their items are in here; other Members are not satisfied. But that is not an unusual situation when you reach compromise. It also shows that for all of the unfair carping about this bill being a special interest bill, nearly every Member raised narrow-interest provisions. So if there is some fault about different provisions coming up, we all share that. We all do it. There is an old saying. It is: People who live in glass houses should not throw stones. We have a group of Members throwing stones at this JOBS bill. A lot of them are living in glass houses.

I will continue the discussion of Member items. We had the State sales tax deduction. Senators CANTWELL and HUTCHISON wrote Senator BAUCUS and me asking us to include the House sales tax deduction provision in the conference agreement. We also received letters from delegations of other States where the State tax base is a sales tax base. The House sales tax deduction is in this bill because we decided for our Senators from several States that it ought to be included.

We had timber tax relief provisions: Senators CHAMBLISS, PRYOR, CANTWELL, SESSIONS, SHELBY, COCHRAN, COLLINS, CRAPO, CRAIG, COLEMAN, GRAHAM of South Carolina, WYDEN, CORNYN, LUGAR, and MURRAY.

As many of these Senators know, the timber industry has been hard hit by the tax on our exports going to Europe. By the way, when this bill passes, those taxes go away. The industry is finally recovering from a long recession. Timber mills are reopening. Mill workers are returning to the mills. The House timber provisions are in this bill.

Charitable whaling activities. Senator MURKOWSKI wrote, asking us to accept the House provision that allows a deduction for charitable whaling activities. Now, some will criticize this provision, but it is important to the Natives of Alaska. Senator MURKOWSKI is looking out for the Natives of Alaska. She ought to be applauded for bringing that to our attention. This is in the bill. But it has also passed the Senate several times.

Senator BAUCUS and I received letters from Members asking us to take Senate provisions out of the conference agreement. One example is Senator STABENOW's letter regarding a revenue raiser involving donations of cars. As you heard yesterday, Senator HATCH shares Senator STABENOW's concerns. The conferees retained the Senate revenue raiser.

There is another category of letters that we received. An example is a letter from Senator MCCAIN and Senator REED of Rhode Island. In that letter they asked me to keep out a provision dealing with the church tax exemption and political activities. The provision was not in either bill. Chairman THOMAS and I kept provisions that were outside the scope of the bill out of the conference entirely. No matter what the merits of that proposal were, we played fair by Senator MCCAIN and Senator REED of Rhode Island.

The final category of requests dealt with the opposite of the MCCAIN and REED of Rhode Island request; that is, we had requests for items to be included that were not in either bill. I will give you a couple of sympathetic examples: a liberalization of tax-exempt rules as applied to charitable hospitals. Senator AKAKA raised this issue. Unfortunately, this provision was outside of scope.

Another example is penalty-free withdrawals from IRAs for hurricane victims. Right now, if you are hit by four hurricanes in Florida, who is going to argue with Senator NELSON of Florida bringing that to our conference? He asked us to raise this item. It was not in either the House or Senate bill. It would have been an entirely new item that we could have put in in conference. However, there was no way to address the proposal without then opening the door for a lot of other items that were not in either bill that somebody would want included at the last minute.

So at this point, Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

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

SEPTEMBER 21, 2004.

Hon. CHARLES GRASSLEY,
Chairman, Finance Committee, U.S. Senate, Hart Senate Office Building, Washington, DC.

Hon. MAX BAUCUS,
Ranking Member, Finance Committee, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR FINANCE CHAIRMAN GRASSLEY AND RANKING MEMBER BAUCUS: We write to respectfully request that you include as part of the FSC/ETI (S. 1637) conference report the sickle cell amendment that would help treat and expand services for patients with the sickle cell blood disorder. Sickle cell disease affects approximately 70,000 Americans and more than 2,500,000 Americans, mostly African-Americans, have the sickle cell trait. There is still no comprehensive cure.

We are among the 49 Senate cosponsors of the bipartisan, bicameral legislation that is the basis for this amendment (S. 874/H.R. 1736) and strongly support its enactment into law. Passage of this amendment in the Senate was great news for the tens of thousands of Americans who suffer from this disease, which affects 1 in 300 African-American newborns. The disease causes normally round blood cells to take on a sickle shape that clog the bloodstream. These obstructions result in severe medical complications including strokes in infants and limit the average lifespan to 45 years of age.

In summary, this legislation is a disease management bill that allows states to combine Medicaid-reimbursed services to target sickle cell disease, and authorizes a small

Health Resources and Services Administration grant for research, treatment and community outreach through qualifying community health centers. This bill does not expand Medicaid eligibility or change the federal Medicaid matching formula and has a very small cost to the federal government.

This legislation has received exceptional support from nationally prominent children's, health, African-American, church and union groups including the National Association of Children's Hospitals, the American Medical Association, the NAACP, and the Catholic Health Association of America.

We are hopeful that you will include the sickle cell amendment as part of the FSC/ETI (S. 1637) conference report to help tens of thousands of Americans lead longer, healthier and more productive lives.

Sincerely,

Jim Talent, Chuck Schumer, Ben Nighthorse Campbell, Thad Cochran, Arlen Specter, Maria Cantwell, Debbie Stabenow, Ted Kennedy, George V. Voinovich, Norm Coleman, Mark Dayton, Kit Bond, Barbara A. Mikulski, May L. Landrieu, Jon Corzine, Paul Sarbanes, Frank R. Lautenburg, Lisa Murkowski, Sam Brownback, Peter G. Fitzgerald, Mike DeWine, Lindsey Graham, Barbara Boxer, Elizabeth Dole, Lincoln Chafee, George Allen.

U.S. SENATE,
Washington, DC, September 30, 2004.

Chairman CHARLES GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR CHAIRMAN GRASSLEY: As you continue your work on the FSC/ETI bill conference, I would like to ask your support for a Native Alaska subsistence whaling tax deduction. This legislation may be brought up as an amendment by Chairman Thomas in conference.

For your interest, I have enclosed a letter from the Inupiat community in Barrow, Alaska. I believe they give a good summary on the merits of this legislation. Thank you for your attention to this matter.

Sincerely,

LISA MURKOWSKI,
U.S. Senator.

U.S. SENATE,
Washington, DC, September 30, 2004.

Hon. CHARLES E. GRASSLEY,
Chairman, Committee on Finance,
U.S. Senate.

DEAR CHUCK: As we move closer to consideration of the conference report on the JOBS bill, I write to reiterate my request that you retain the Senate two-year suspension of Internal Revenue Code Section 815.

I wrote to you on July 19, 2004, concerning this matter and its importance to several of my Pennsylvania constituents. It would allow stockholder-owned life insurance companies to eliminate the surtax based on earned income between 21 and 46 years ago that otherwise would be triggered upon reasonable corporate restructuring. As I had stated, three of my constituent companies would have large potential liability under Section 815.

Thank you very much for your consideration of this request.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, September 30, 2004.

Hon. CHARLES E. GRASSLEY,
Chairman, Committee on Finance,
U.S. Senate.
Hon. MAX BAUCUS,
Ranking Member, Committee on Finance,
U.S. Senate.
Hon. BILL THOMAS,
Chairman, Committee on Ways and Means,
House of Representatives.
Hon. CHARLES RANGEL,
Ranking Member, Committee on Ways and Means,
House of Representatives.

DEAR CHAIRMEN AND RANKING MEMBERS: The Senate-passed version of JOBS bill, S. 1637, contains an important provision that will give a well-deserved tax cut to employers who continue to pay the salaries of their employees who have been called to active duty in Iraq and Afghanistan. As you convene the conference committee on this important legislation, we want to encourage you to retain this provision in the final conference bill.

Over 410,000 members of the National Guard and Reserve have been activated to defend our Nation since September 11, 2001. They have done so with valor and honor, but the frequent and lengthy activations have exposed problems on the home front. The Government Accountability Office reports that forty-one percent of our Guard and Reserve personnel take pay cuts from their civilian jobs when they put on their uniforms. While a husband or wife is deployed overseas, spouses back home face difficulties in making ends meet because active duty paychecks are often far less than those received in the civilian world. This causes our troops to divert their attention from the mission to worrying whether or not their spouses can afford the mortgage, auto repairs, or child care.

Many employers have helped to ease this burden by making up the ''pay-gap'' between the civilian and military pay of their active duty employees, something that they are not required to do. However, the economic downturn has made it difficult for most employers to make up the pay-gap. Additionally, as we continue to rely on the Guard and Reserve for future deployments, those employers who currently make up the pay-gap may no longer be able to provide payments to employees frequently missing from work for months and years.

The provision in S. 1637 gives employers a 50 percent tax credit on the salaries they pay to employees during activations up to $30,000 of salary. This tax credit will encourage those employers already providing for their employees to continue this patriotic response. In addition, the provision also gives small businesses a $6,000 tax credit for hiring a worker to replace an active duty employee. Small manufacturers would receive a credit of up to $10,000 to help find a replacement.

We urge the Conference to retain the Reserve and Guard employer tax credits in the final JOBS Act. Our troops are putting everything on the line overseas. Their employers are helping them at home. These patriotic employers deserve this tax relief. Thank you for your consideration.

Sincerely,

Mary L. Landrieu, Mark Pryor, Chris Dodd, Daniel K. Akaka, Byron L. Dorgan, Barbara A. Mikulski, Frank R. Lautenberg, Kit Bond, Patty Murray, Jon Corzine, Maria Cantwell, Charles Schumer, Bill Nelson, Tim Johnson, Russ Feingold, Mark Dayton, Paul Sarbanes, Dick Durbin, Patrick Leahy, Carl Levin, Ron Wyden.

U.S. SENATE,
Washington, DC, October 1, 2004.

Hon. CHARLES E. GRASSLEY,
Chairman, Committee on Finance,
U.S. Senate.
Hon. MAX BAUCUS,
Ranking Member, Committee on Finance,
U.S. Senate.
Hon. BILL THOMAS,
Chairman, Committee on Ways and Means,
House of Representatives.
Hon. CHARLES E. RANGEL,
Ranking Member, Committee on Ways and Means,
House of Representatives.

DEAR CHAIRMEN AND RANKING MEMBERS: I have been made aware that my colleague, Sen. Graham, submitted an amendment dealing with hurricane relief to the corporate tax bill currently before your conference committee.

Specifically, this amendment, which mirrors legislation Sen. Graham and I introduced in response to the recent wave of hurricanes that have ravaged Florida, would allow victims of disasters to withdraw funds from retirement accounts without incurring proscribed penalties.

I respectfully request you support Sen. Graham's provision. I understand that this amendment may go beyond the scope of the conference, however I would argue that had the spate of hurricanes happened prior to Senate-consideration of the tax bill, a similar provision would have been included in the tax bill.

As you know, along with much of the Southeast, Florida has withstood a barrage of hurricanes resulting in billions of dollars in damage. Providing citizens of disaster areas with the means to access funds that otherwise would carry a substantial penalty can play an important role in alleviating their financial hardships.

With the conference working through various amendments to the corporate tax bill, I would implore you to give serious consideration to this provision, and to providing Americans who have seen so much devastation access to the funds they need to repair damage to their property and their lives.

Sincerely,

BILL NELSON.

Mr. GRASSLEY. Mr. President, I have spent a little time going through a sample of the many items that Members weighed in with at the conference. This is a small sample of those items raised. Many others were brought to the attention of Senator BAUCUS and this Senator through letters or oral communications. It is safe to say, Senator BAUCUS and I can relate to what Senator BYRD and Chairman STEVENS go through on the appropriations bills.

My point is, those who want to distort this bill by describing it as a special interest bill are ignoring a couple things. One, they are ignoring—perhaps conveniently, perhaps deliberately—their own efforts to advance their interests. Secondly, as I have said before, this bill is paid for by raising revenue, largely by closing abusive corporate tax loopholes.

Let the record be clear that this bill is fair, this bill is balanced. It is a balanced effort at resolving four objectives. One objective is ending the European tax on our exports going to Europe that are legal and legitimate, even though I disagree that it should have been done. I disagree with that decision. The United States lost a

World Trade Organization decision that our previous tax laws were violating the agreements that Congress had made with Europe, Congress made, because we passed these trade agreements as law.

If anybody thinks, well, it is wrong for Europe to levy a tax against us, we won a case against Europe on beef because they don't let our beef into Europe because we use hormones in the development of our beef, in the feed the cattle eat or that they are injected with, and Europe does not like that. But they are violating our right to send beef to Europe because they don't have a scientific basis for doing it. That is what the World Trade Organization said. But they still don't take our beef. So we put a tax on products coming from Europe to the United States to retaliate the same way they are retaliating for the reasons behind this bill.

This bill ends that European tax because we are conforming our tax laws to the international trading agreements Congress passed 10 years ago. We are also going beyond doing away with an impediment to our exports so that we lose jobs here in America because of that tax. We are putting a replacement benefit to manufacturers in the United States so jobs will be created here by lowering the corporate rate from 35 to 32.

No. 3, we are providing international tax reforms that will aid domestic manufacturers so we can compete in the global marketplace.

And lastly, we achieve these policy ends in a revenue-neutral way through the curtailment of abusive corporate tax shelters and abusive corporate loopholes by closing them.

I hope everybody agrees this bill is a well-balanced bill, accomplishing a goal we should have accomplished a year and a half ago, at least no later than March when these European taxes started on our products. I apologize to any Americans who have been laid off because our products are not competitive in Europe because of that tax and why it takes Congress so long to wake up, particularly when there are Members of Congress always complaining about outsourcing.

We started on this bill in March. It took us 15 days, over a period of 3 months, to get this bill through the Senate. And then we were a long period of time before the minority party agreed we could go to conference. But once we got to conference, thanks to the good cooperative working relationship between Senator BAUCUS and me for the Senate and between Mr. BAUCUS and me and Congressman THOMAS, chairman of the House Ways and Means Committee, we have this bill.

But for those laid-off workers, I am embarrassed this bill couldn't have been passed a long time ago and that we ran up against all of the impediments. Why? Because certain Members of this body don't want a Republican President signing a jobs bill a few days before the election.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from California.

CHRISTOPHER REEVE

Mrs. BOXER. Madam President, I send my deepest condolences to the family of Christopher Reeve, one of the bravest Americans, who fought so hard to prove that even with the most horrific injuries, one could still be involved in community life, and who dedicated himself to raising awareness for stem-cell research, for the hope and the dream of so many of our people who suffer every day, that they may have a cure in their lifetime.

Christopher Reeve was Superman in the movies, but that was make-believe. He was Superman in real life.

My heart goes out to everyone who knew him and to the disabled community who counted on him. It is such a tragedy to lose him.

EXPRESSIONS OF THANKS

Madam President, I have a number of people to thank.

On Friday night, the Senate passed the Veterans' Benefits Improvements Act and included my bill to designate the memorial being built at Riverside Veterans Cemetery as the National POW–MIA Memorial. Congressman CALVERT authored the House bill.

I am so proud the Senate acted first on this bill. I have been to the cemetery. I have seen a model of the memorial. This is going to be the veterans cemetery, national POW memorial. It is going to draw people from all across the country. So many of our people were at one time POWs. The numbers are staggering. And, of course, there are some who we don't know what happened to. They deserve this kind of memorial.

I thank Senators SPECTER and GRAHAM for helping me with this bill.

Second, last night the Senate passed a House bill by Representative GEORGE MILLER—I introduced the Senate companion piece—to adjust the boundaries of the John Muir National Historic Site in Martinez, CA. We are glad about this because it is going to bring some improvements to this area. I thank Senators DOMENICI and BINGAMAN for that.

Also last night something very special occurred here for the people of California and the people of this Nation. The Senate passed the California missions bill to help preserve the historic missions in the State of California. It has been a long, hard road. These missions are so important to the history of the West. These missions were built in the 1700s, and they are crumbling. We had to struggle to get the Senate into committee to pass the bill, and they did it.

I thank Senators DOMENICI, BINGAMAN, FEINSTEIN, and SMITH. I thank Judge William Clark, Stephen Hearst, Rick Ameil, Dr. Knox Mellon for everything they did. It is a very important day for us in California for these missions and for California history and American history.

FSC/ETI CONFERENCE REPORT

That gets me to the business at hand. I want to start off by thanking Senator MARY LANDRIEU of Louisiana for her impassioned defense of our National Guard and Reserve. Like her, I am shocked and dismayed that the House conferees on the FSC bill before us stripped out an important provision to give tax relief for those employers who continue to pay their reservist employees after they are called up for Active Duty and deployed.

Four in 10 members of the Guard and Reserves suffer a pay cut when they are called up for Active Duty. In other words, the pay they receive when activated is not as much as the salary they receive in the private sector. As a result of this pay gap, their families suffer. Car payments are missed, medical insurance lapses, childcare is unaffordable. Our Guard and reservists are sent to the front lines with the burden of knowing their families back home will struggle to make ends meet.

I could not say anything that could match the eloquence of Senator LANDRIEU and, of course, her chart that she gave me to hold up again. This says, ''What should $434 million pay for? One year of the Landrieu amendment on Guard and Reserve tax credit, or $44 million for ceiling fans?''

I think the answer is clear to most Americans. As a result of Senator LANDRIEU's eloquence, now America knows what happened in the back rooms, when the only thing missing was the cigar smoke—but maybe that was there as well when these bills were written.

Why is this so critical? Senator LANDRIEU explained it. Part of Senator LANDRIEU's amendment involves a bill that I wrote where we reimburse State and local governments who do the same thing. In other words, if a city in New York State suffers the loss of a policeman because he is called up and reactivated because he is in the Reserves, many cities across our great land are paying that differential to the Reservists or the National Guardsmen. I will tell you, it is hurting those entities very much to do this. I am very sad that part of the bill was dropped. And what we were able to get, with the help of Senator LANDRIEU, was a sense of the Senate that the conferees should, in fact, take a look at this, and the President ought to consider taking care of these governments and the cost of this payment to the Reservists and the Guard in his next budget.

I am very glad we were able to do that. I thank Senator DASCHLE, who phoned me late last night; Senator GRASSLEY, who was very helpful in writing that; of course, my staff, who worked hard with Senator LANDRIEU's staff to come to a solution; Senator HARRY REID, who is such a workhorse around here, who helped make it happen.

I have to hope that this President, who is sending our Guard there every day, sending our Reserves, and extending their time there, would feel a little

compassion—compassionate conservative—for these reservists and these guardsmen who are suffering a cut in pay to put themselves in harm's way. As we all know, well over a thousand are dead—not just guardsmen and reservists, but other military personnel as well.

I am confident that if we have a President KERRY, he will be eager to work with us to solve this problem because he knows war firsthand. He knows the worst thing you can do to someone who has a family back home is to put on top of their worry about whether they are going to make it through the war without a serious injury, or perhaps not make it through at all—put on top of that the fear that their families are going to be driven into poverty. Forty percent of the troops now in Iraq are members of the Guard and Reserve.

Last year when I visited Walter Reed Army Medical Center to visit our wounded troops, I came across one young soldier who was severely wounded. During the course of the conversation, he told me that from the time he was wounded, every aspect of his care, treatment, and transportation was carried out by members of the Reserves. This soldier told me he had the highest respect for the capabilities of our Guard and Reserve, and he was eternally grateful for their professionalism.

It is important to speak out and say we are in support of our troops. But in those closed-door meetings they are handing out tax breaks to people who import ceiling fans. It seems to me the first thing the conferees should have done is ensure that the Landrieu provision and Boxer provision were kept in. Senator LANDRIEU is on the floor of the Senate and, again, I thank her for her leadership. We all look forward to the day when our guards and reservists can return home, be reunited with their families, and have their jobs back and make sure their families are whole.

I ask unanimous consent to have printed in the RECORD a list of the States that are paying this money to these reservists and are getting nothing from us, when the Federal Government is taking these people out—this President—and activating the Guard and Reserves, putting them in harm's way and not reimbursing State and local government.

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

EXAMPLES OF STATE, COUNTY AND LOCAL GOVERNMENTS COVERING THE PAY GAP OF RESERVISTS

ALABAMA

State Government.

ARIZONA

City of Phoenix Police Department, Arizona.

ARKANSAS

State Government.

CALIFORNIA

State Government, City of Chula Vista, CA, Dos Palos Oro Loma School District, CA, City of Fremont, CA, City of Fresno, CA, City of Glendale, CA, City of Hercules, CA, City of Los Angeles, CA, Los Angeles County, City of Longbeach, CA, City of Sacramento, CA, City of San Diego, CA, City of San Diego Police Department, CA, City of San Francisco, CA, San Francisco County, CA, City of Santa Barbara, CA, City of Roseville, CA.

CONNECTICUT

State Government, City of Glastonbury, CT, City of New Britain, CT.

DELAWARE

State Government.

FLORIDA

State Government, Broward County School Board, FLA, City of Jacksonville Sheriff's Office, FLA, Miami-Dade County, FLA.

GEORGIA

DeKalb County School System, GA.

ILLINOIS

State Government, City of Chicago, Illinois, Cook County, Illinois.

IOWA

State Government.

KENTUCKY

State Government.

LOUISIANA

Caddo Parish Schools, LA.

MAINE

State Government.

MARYLAND

State Government, Howard County, MD.

MASSACHUSETTS

State Government.

MICHIGAN

State Government.

MINNESOTA

State Government.

NEVADA

State Government, City of Las Vegas, NV.

NEW HAMPSHIRE

State Government.

NEW JERSEY

State Government.

NEW YORK

State Government, New York City Police Department, Nassau County Police Department, City of Wallkill, NY, County of Westchester, NY.

NORTH CAROLINA

State Government, City of Charlotte, NC.

OHIO

State Government, City of Dayton, OH, City of Toledo, OH, Franklin County Police Department, OH, City of Kettering, OH.

OKLAHOMA

State Government.

PENNSYLVANIA

State Government.

RHODE ISLAND

State Government.

SOUTH CAROLINA

State Government.

TENNESSEE

State Government, Davidson County, Tenn., City of Nashville, Tenn.

TEXAS

State Government, City of Austin, TX, City of Grapevine, TX.

VIRGINIA

State Government, City of Bedford, VA, County of Henrico, VA, County of Prince William, VA.

WASHINGTON

City of Redmond, Washington.

WEST VIRGINIA

State Government.

WYOMING

State Government.

Mrs. BOXER. I see the Senator from Oklahoma here. His State pays for Guard and Reserve when they are called up, as do the others included in the list.

I say thank you to all of these States and cities for stepping up to the plate. You deserve the support of the Senate. You deserve to have legislation passed and not just a sense of the Senate, which I am happy we did, but I am not naive about these things; I have been here too long to know it is kiss-off to get a sense of the Senate. But at least we got there. What happened was this provision that passed the Senate was knocked out in conference while goodies were given all around.

I want to make a point about this bill. There are some good things in this bill. I wrote one of the main provisions, along with Senator ENSIGN, called the Invest In the USA Act. Some people don't understand it. It says we give a break to countries who have their funds abroad, and if they bring them home and put people to work with them, they get a tax break in the next 12 months. This is a stimulus and job creation. Economists, Democrats and Republicans, say it is going to be very effective.

Senator LINCOLN and I worked on runaway production. That is important. Of course, the underlying premise of a tax cut to encourage manufacturing is very important. We eliminate the preferential tax treatment of ethanol. That is important. We partially close the SUV loophole. I compliment Senator NICKLES for that. I think we can do more, but he stepped up to the plate on that. The thing with the $100,000 loophole was ridiculous. I am happy we have gone back to the original loophole of $25,000, which is still too much, but it is a big improvement.

I also thank Senator SNOWE for her tax fairness for naval shipbuilders, which is important. What is bad in the bill is the tobacco cave-in, where the FDA doesn't get the authority to regulate this tobacco, and there is a bailout. I don't have a problem with the bailout with farmers, but this was an opportunity to save our children.

The overtime regulation from Senator HARKIN is stripped from the bill. It is going to hurt our people badly when they no longer get overtime. Outsourcing—the provision by Senator DODD—passed 70–26. You would think we could have fought for that, but it is out. And, of course, the reservists tax credit that we talked about. There also was a tax credit for farmers for water conservation that I strongly supported. It was stripped from the bill.

The film industry was treated very badly in this bill.

We are killing the goose that lays the golden egg because the film business is a terrific export business and they get treated very badly.

So we had a chance to have a great bill. Instead, we have a bill that has some good provisions but also has some horrific provisions in it. It is a terrible way to legislate, but the Landrieu-Boxer provision that was stripped out which dealt with our reservists and our National Guard, all I can say to Senator LANDRIEU is that a picture speaks a thousand words. Her poster showing the choices that this Republican Congress made is something that I hope the American people are watching because this is unforgivable. I am going to fight with my friend from Louisiana until we fix this problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, under the agreement last night I have up to 30 minutes to speak, and I will be happy to yield additional time to Senator BOXER at a later time because I most certainly want to support her comments and to thank her for her great support of this amendment. Without Senator BOXER and many other Senators, the victory that we have achieved this morning would not have been possible.

Senator BOXER knows, because she represents the largest State in our Union, that 90,000 guardsmen and reservists reside in California. Today, as she and I are on this floor speaking on their behalf, 7,900 are currently on duty from California, having left their homes from Bakersfield—the home of Chairman THOMAS, or the center of his district—to San Francisco to Los Angeles, from Louisiana, from Oklahoma, and from Texas. Thousands of Guard and Reserve men and women have left their families, left their children, left their place of employment and gone to the front lines.

We decide where the front line is and we send them. Wherever we say to go, they go, and they have gone in large numbers.

I have spent the last few days speaking about this because it is of such critical importance for us in the Senate and for the Congress to understand that we are asking more and more of our Guard and Reserve. This was not always the case. It was not that way in World War I and World War II. It was not that way in the 1950s, 1960s, 1970s, or 1980s, but it is this way today.

From 1990 to 2004, we have called up 690,500 Guard and Reserve members. The Guard and Reserve now make up 40 percent of our whole force. We have 1.6 million active members of all of our services, and we have 1.2 million men and women in the Guard and Reserve.

Many of these men and women, as my colleagues know because I have said it—and I am sure my colleagues are now aware of this, that when many of our reservists signed up, they expected to make a sacrifice. They knew that one weekend a month they would go on duty, and they knew that in times of crisis they would be sent. What we did not tell them 10 years ago is that there would have been a terrorist attack on 9/11. What we were not able to tell them 10 years ago was that we would make a decision to reduce our Active Forces, thereby putting a greater burden on them.

They signed up under a different paradigm. Yet year after year some of us have come to this floor—not just this week, not just last year, but year after year. I have been here 8 years. There is not a year that I can think of that I have not mentioned this—maybe the first year I was here, but most certainly once I got on the Armed Services Committee and it became apparent to me and many others of the major shifts that we were making, and have argued, sometimes successfully and sometimes not successfully, not because I do not think our arguments are clear and compelling but because they seem to fall on deaf ears, that the Guard and Reserve need help.

I wish I could spend the time reading some of the hundreds, thousands of e-mails that I have received since this filibuster started. The filibuster is no longer in place because basically the amendment we asked for has been agreed to. It is going to be put in another bill. That is how this whole thing started, was to say that I know that it was impossible for us to amend $137 billion. We could not procedurally amend this bill. The only thing we could have done would have been to vote against it or send it to the President and ask him to veto it because the Guard and Reserve were left out. Both of those strategies were probably not going to happen. So I said that I would accept that, and I would stay here until Thursday or Friday, until I had to, with others helping me, to make sure we could find another vehicle that would be appropriate to put this amendment on as much intact as we could, and that is what happened.

There are a lot of Senators to thank, and I think I will spend a moment thanking the Senators before I go into more detail. First, I will just finish this one thought and then I will thank the Senators.

I was explaining how the paradigms changed and we are relying more and more on our Guard and Reserve. So when this bill began to be put together 2 years ago, some of us knew that this bill was going to start out at about $50 billion. But we also knew that it would grow because any time there is a tax bill before this Congress, lots of things get attached. NASCAR racing got attached; ceiling fans are in here; railroad reimbursements for maintenance of tracks is in here. I do not have a complaint about one of those items. That is not why we filibustered the bill.

What we complained about is the only item that was put in the Finance Committee and sent out of the Senate with 100 percent of us supporting it—all of the Republicans and all of the Democrats supported it—was stripped out by the House Republican leadership.

If we cannot find $2 billion of $137 billion in tax cuts to give to the men and women who are taking 100 percent of the risk, 100 percent of the bullets, what are we doing here? That was the point we made. The point was heard loudly and clearly.

So with the help of many colleagues, we have corrected the error. We have sent an amendment, in large measure whole. Senator BOXER is correct that a portion that she and I thought was very important, which was to help public entities that keep those paychecks whole as the Guard and Reserve go to the front line and lose 41 percent of their income, according to the GAO study—that was given to us not last week, not a month ago, this study was given to us 3 years ago. We knew 3 years ago that our Guard and Reserve take a 41-percent pay cut. The soldiers do not mind the pay cut. They are eating rations. They are living in tents. They are sleeping on the ground. This is not—well, it is about the soldiers, but it is more about the families they leave behind, about the children without health care, about the wives who have to take two jobs, about the gasoline that has to be put in the car, the car notes that have to be paid.

If we can find a tax bill and work on it for 2 years, which we did—2 years of work went into this bill. I am not on the Finance Committee, but I have a great member in Senator BREAUX. I know how hard he works, and I know how he supported this amendment as well. I have Congressman JIM MCCRERY and Congressman JEFFERSON who worked very hard. The Louisiana interests are well represented in this as well as in many other important bills. But what I objected to was that the Guard and Reserve amendment that would have given a tax credit to the thousands of businesses in this country that are doing the patriotic thing, the right thing, the good thing, and they are getting commended by our President and us, we could not provide them a 50-percent tax cut to keep this paycheck whole for those on the front line.

Mrs. BOXER. Will my friend yield for a very brief moment and I will be finished.

Ms. LANDRIEU. Yes.

Mrs. BOXER. I wonder if my friend would place in the RECORD a number of letters—I didn't have a chance to do it before—from various cities in California, also from the International Association of Firefighters. Will my friend do that?

Ms. LANDRIEU. Yes.

Mrs. BOXER. I wonder if my friend would mind if I could read one letter, which will take about 60 seconds.

Ms. LANDRIEU. No.

Mrs. BOXER. This is one of the typical letters from the City of Sacramento:

DEAR SENATOR BOXER: On behalf of the City of Sacramento, I am pleased to offer our support for S. 1845, which would assist local governments that continue to pay employees who are deployed to active duty.

Last year, eight of our permanent employees were activated to service in Iraq. We are

proud of these employees and support them by making up the difference between military and civilian pay. We also pay the City contribution for their families to continue their health benefits.

The cost to the City of Sacramento was approximately $73,000 last year. With the current budget crisis affecting California cities, S. 1845 is needed to ensure that cities like ours do not shoulder this financial burden alone.

If we can provide any further information or support as your office moves this legislation, please contact Aaron Chong, Law and Legislation Coordination, at (916) 808–6762. Thank you for your support of our brave men and women and their families.

This is a specific letter that wraps it up just the way the Senator has, in a very simple, straightforward way. But I do appreciate the Senator putting these letters in the RECORD and being able to stand shoulder to shoulder with the Senator until we fix this problem.

I thank the Senator.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to have those letters printed in the RECORD.

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

CITY OF CHULA VISTA,
OFFICE OF THE CITY COUNCIL,
Chula Vista, CA, March 3, 2004.

Re notice to support S. 1845 (Boxer): Service to Country Reimbursement Act.

Hon. BARBARA BOXER,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR BOXER: The Chula Vista City Council, in keeping with the guidelines established in the City's Legislative Program, has taken unanimous action to support S. 1845 (Boxer), as introduced November 11, 2003. This proposal would require the Federal government to reimburse state and local governments for the salary costs of our employees who serve in the military reserves and have been called to active duty.

Under existing law, the City of Chula Vista pays the salaries of our reservist employees for the first 30 days of their active duty assignment. Beyond those first 30 days, the City pays the employees the difference between their military pay and their normal civilian salary. In addition, we incur the cost of hiring supplementary personnel to carry out the responsibilities of the reservists who have been called away.

Chula Vista has already incurred costs in excess of $500,000 during the current military actions in Iraq and Afghanistan. Passage of S. 1845 would be a tremendous benefit to local government agencies throughout the Nation. On behalf of our city, I am pleased to offer Chula Vista's strong support for your bill, and look forward to its successful passage.

Sincerely,

STEPHEN C. PADILLA,
Mayor.

CITY OF ROSEVILLE
CITY COUNCIL,
Roseville, CA, January 15, 2004.

Subject support for S. 1845—service to Country Reimbursement Act.

Hon. BARBARA BOXER,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR BOXER, On behalf of the citizens of the City of Roseville, California, I offer my support for S. 1845, which would assist local governments that continue to pay employees who are deployed to active duty.

Last year, five of our 946 permanent employees were activated to service in Iraq. We are proud of these employees and support them by making up the difference between military and civilian pay. We also pay the City contribution for their families to continue their health benefits.

The cost to our City was approximately $105,000 last year. With the current budget crisis hitting California cites, S. 1845 is needed to ensure that cities like ours do not shoulder this financial burden alone.

If we can provide any further information or support as you move this legislation, please contact Ellen Powell, Legislative Analyst, at (916) 774–5219. Thank you for your support for our brave men and women and their families.

Sincerely,

F.C. ROCKHOLM,
Mayor.

CITY OF SANTA BARBARA,
OFFICE OF THE MAYOR,
Santa Barbara, CA, January 27, 2004.

Re Service to Country Reimbursement Act—S. 1845.

Hon. BARBARA BOXER,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR BOXER. On behalf of the Council of the City of Santa Barbara, we unanimously support the Service to Country Reimbursement Act. We also want to express our sincere appreciation for your leadership in sponsoring this bill.

Since October 2001 the City has voluntarily provided approximately $250,000 in salaries, benefits and retirement fund contributions for City employees who have been called to active military duty. While we remain committed to this policy, we do not have unlimited resources. The City has not yet recovered from the revenue losses due to the economic recession and September 2001 terrorist attack. In addition we have incurred significant increased costs to provide higher levels of police security and emergency preparedness.

This situation in combination with the loss of revenue (incurred and projected) due to the California state budget crisis places us in a very untenable position. Although S. 1845, if enacted, will not resolve all of these issues, it will provide resources to fund a major portion of our potential future costs for continuing support for our employees, and their families, who are activated for military service.

We encourage you to make enactment of this bill a high priority and ask that you call on us for support and advocacy with others as the bill progresses through hearings. Thank you again for taking the initiative to sponsor this bill.

Sincerely,

MARTY BLUM,
Mayor.

CITY OF FREMONT,
OFFICE OF THE MAYOR,
Fremont, CA, November 24, 2003.

Re Support for S. 1845, the Service to the Country Reimbursement Act

Hon. BARBARA BOXER,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR BOXER: I am writing on behalf of the Fremont City Council to let you know of our strong support for your S. 1845, the Service to the Country Reimbursement Act.

This needed legislation will reimburse state and local governments for the costs of paying the difference between the civilian salary of government employees and the military pay of a National Guard or reserve member who is activated for more than 30 days.

We have several employees who have been called to active duty since September 11, 2001. We are supplementing their military pay with City funds during their deployment because we strongly believe that serving your country should not become a financial hardship. We have already spent more than $120,000 to supplement the salaries of our active duty employees and more than $30,000 on their health benefits. With the significant budget problems we are facing this year, we greatly appreciate any assistance the federal government can provide us.

Thank you for introducing this important legislation.

Sincerely,

GUS MORRISON,
Mayor.

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS,
Washington, DC, April 24, 2003.

Hon. TOM LANTOS,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN LANTOS: On behalf of the 260,000 professional firefighters and emergency medical services personnel who are members of the International Association of Fire Fighters (IAFF), I am pleased to offer our enthusiastic support for H.R. 1345, a bill to support our citizen soldiers.

As you are aware, many fire fighters serve in either the National Guard or Reserves. As a result of our nation's multi-front war against terrorism, many of these brave men and women of the IAFF have been called up to active duty.

While some conscientious jurisdictions have voluntarily agreed to make up the difference between military pay and fire fighter pay, too many have not. H.R. 1345 would address this issue by helping local governments with the burden of making up the difference in the lost wage. We applaud your efforts to ensure that those serving abroad will have the comfort of knowing that their families will not face financial hardships.

Please contact me if the IAFF can be of additional service.

Sincerely,

BARRY KASINITZ,
Governmental Affairs Director.

STATE OF NEW HAMPSHIRE,
OFFICE OF THE GOVERNOR,
Concord, NH, June 19, 2003.

Senator JOHN SUNUNU,
Manchester, NH.

DEAR SENATOR SUNUNU: I am writing to express my support for House Resolution 1345 which provides incentives to State and Local governments, as well as private employers, who reimburse their employees who are called to active military duty for the difference between their civilian pay and their military pay. I feel strongly that the men and women who are called to active military duty should not be penalized financially for serving our country. When I was chief executive officer of Cabletron, I was proud to support my employees who were called to active duty during the Gulf War by making up the difference in pay between what they were paid by Cabletron and what they received from the military. As Governor, I again had the opportunity to support our military by issuing an executive order that ensures that state employees who were called to serve in Operation Iraqi Freedom will not lose any benefits or receive a reduced salary as a result of their service.

House Resolution 1345 provides reimbursements to states like New Hampshire who support our military. I urge you to support this bill on behalf of our State and on behalf

of the men and women who serve our country.

Sincerely,

CRAIG R. BENSON,
Governor.

Ms. LANDRIEU. I thank the Chair.

Mr. President, I would like to continue by thanking all of the Members of this body, particularly the members of the Finance Committee, particularly the Senator from Oklahoma, who stepped forward and helped us to negotiate a very good end to this situation. But the original cosponsors of this amendment were Senator MURRAY, Senator TIM JOHNSON, Senator MARIA CANTWELL, Senator JON CORZINE, Senator KERRY, Senator DURBIN, Senator DODD, and Senator PRYOR. There were 21 Senators who signed the letter to the conferees and I am going to submit their names to the RECORD, but among them was Senator BOND, who has been a strong advocate for the Guard and Reserve; Senator AKAKA, who came to the floor over the weekend to lend his support and his help; Senator BILL NELSON, who came to the floor as well and gave his help and his support. I also wish to thank the leadership, Senator DASCHLE and Senator REID in particular, as well as the Republican leadership, who worked hard through these couple of days to make this good end come to be today; particularly Senator HARKIN, who was in the Chamber advocating for a different issue that was his primary focus, but without his help in being able to hold the floor and being able to keep the procedure moving in the direction that helped us to make our point, it would not have happened. I also wish to thank the Senator from Alabama, Mr. SESSIONS, for spending many hours in the Chamber. He and the Senator from South Carolina, LINDSEY GRAHAM, have spoken hour after hour after hour on this floor about the needs of the Guard and Reserve.

Perhaps we are not making our arguments clear enough; I do not know. But they seem to sometimes leave our mouths and fall on deaf ears. I do not think it is complicated; 690,000 Americans have been called up by our Commander in Chief to go to the front line. As we put bills together here, tax bills, health care bills, education bills, transportation bills, could we please not keep them in mind but put them in the bill and not leave them out. They are not asking for much. They are not asking for 100 percent of any tax credit. But surely $2 billion out of 137 is something we could have done. I know there were arguments, and I think somewhat legitimate—perhaps the amendment was not written in the correct way. Perhaps it was a little more complicated. We have successfully cleared up those complications. I have said there were other amendments in here that to me seemed quite complicated.

One in particular was a reimbursement for railroad track maintenance. I guess we trust the railroads to tell us how many miles. I don't think we send out people to walk the tracks and measure the railroad tracks. So I think we trust employers when they say they are paying their Guard and national Reserve and they put that on their tax return. I think most certainly we can trust them and trust the members of our Guard and Reserve. We are trusting them to fight for us and we stand with them. We are honoring the employers, small and large companies that are keeping those paychecks whole, and the least we can do is to provide a 50-percent tax credit.

I also wish to thank the floor staff: Lula Davis and Mary Paone, as well as the Republican staff who helped this weekend, and the Senate Finance Committee staff which helped us to work out the final details. On my own staff: Jason Matthews, Jeffrey Wiener, Kevin Avery, Kathleen Strottman, Brian Geiger, Amy Cenicola, and Linda Cox, and particularly my husband and my children, who were supportive of this effort because it could have gone on for many more days.

I want to, in the few minutes I have remaining, submit a few more things to the RECORD.

One of them is a letter that came to this Congress, not from the current Secretary of Defense, but from the former Secretary of Defense, Bill Cohen, in 1998, saying basically, while we support the concept of providing incentives to employees of Reserve component members, the Federal Government, we at this time cannot afford such a program, but with the increased use of the Guard and Reserve, particularly for unplanned contingency operations, employers of our Guard and Reserve members are often faced with the unplanned absences of their reservist employees. They may incur additional business expenses associated with the unplanned absences. The report suggests that a financial incentive might be helpful to ameliorate some of the employer problems, particularly for small business owners.

There you have the Secretary of Defense, the former Secretary of Defense, outlining that while they couldn't afford to do it in a Defense bill, we most certainly could afford to do it in a tax bill. That is why we started working with the tax bill and with the Finance Committee. I am pleased to say we have come to a good end. So in a few minutes, by a voice vote, this amendment will be adopted. It will go over to the House and to the House leadership on both the Republican and the Democratic side. I urge them to look carefully at what we have sent over there, to pass it the way it is. If they do, it will become law right away. Perhaps when we come back after this election or perhaps before the election, that could be done. But clearly the Senate has acted with respect, with care, with cooperation, and again I thank the Republican leadership and the Democratic leadership for working so well over the weekend to send this amendment, basically intact as we put it together, over to the House. It is now in their court.

How much time do I have remaining?

The PRESIDING OFFICER (Mr. COLEMAN). There is 11 minutes remaining.

Does the Senator ask unanimous consent to have the documents printed in the RECORD?

Ms. LANDRIEU. Yes.

THE SECRETARY OF DEFENSE,
Washington, DC, March 17, 1998.

Hon. FLOYD D. SPENCE,
Chairman, Committee on National Security, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Department of Defense report, enclosed, has been prepared in response to the National Defense Authorization Act for Fiscal Year 1997. Section 1232 of that Act directed submission of a report and draft legislation to provide tax incentives to employers of members of Reserve components.

The Department of Defense does not support submission of legislation at this time but is submitting draft legislation as a drafting service.

Sincerely,

BILL COHEN.

Enclosure: As stated.

A REPORT TO CONGRESS CONCERNING INCENTIVES TO EMPLOYERS OF MEMBERS OF THE RESERVE COMPONENTS

This report responds to the requirements of section 1232 of the National Defense Authorization Act for Fiscal Year 1997 (P.L. 104–201, September 23, 1996), which requires a report to the Committee on the Armed Services of the Senate and the Committee on National Security of the House of Representatives regarding tax incentives to employers of members of Reserve components to compensate for absences of Reserve employees due to required training and performance of active duty.

OVERVIEW

Increasingly, members of the National Guard and Reserve are being called upon to augment the active duty forces in the post-Cold War world. This is a sound use of resources and an integral part of our national military strategy. More recently, Reserve component members have responded to the call in Operation RESTORE HOPE in Somalia, Operation UPHOLD DEMOCRACY in Haiti, and Operation JOINT ENDEAVOR/JOINT GUARD in Bosnia.

Previous Congresses have viewed legislation that would provide incentives such as tax expenditures as having a fixed and recurring budgetary effect. A number of methods could resolve such a problem.

BACKGROUND

Generally, members of the Reserve components (both National Guard and Reserve members) are required to attend one weekend of inactive duty training per month and 14 days of active duty training annually. Over and above this training, members are often required to participate in mobilization training, formal schools, and special training. Additionally, many Reservists are called upon to provide PERSTEMPO relief (reducing the active duty Service members time away from home station). For some individuals, this may exceed the normal Reserve participation requirements. Some Reserve members, who support specific weapons platforms, are actually spending up to 180 days a year on military duty. This is compounded by involuntary call-ups to support missions such as Operation DESERT STORM and JOINT ENDEAVOR, which required the use of the Reserve components.

In addition to this busy Reserve schedule, the vast majority of Reserve component (RC)

members are employed full-time in civilian occupations. So, not only are RC members working full-time in the civilian community, they are meeting their Reserve obligation, which has substantially increased beyond the minimum 38 days a year prescribed by law.

This ''part-time'' Reserve obligation is substantially different from any other part-time activity in which most employees participate. They may be involuntarily called to active duty in times of national emergencies. Although efforts are made to reduce any conflict these absences may cause, some conflict is unavoidable. Title 37 U.S.C. section 1008(b) mandates that each Quadrennial Review of Military Compensation (QRMC) conduct ''a complete review of the principles and concepts of the compensation system for members of the uniformed services.'' The Sixth QRMC stated that conflicts between RC members and their full-time civilian employers account for nearly one-third of all personnel losses incurred by the Reserve components.

DEMONSTRATED NEED

Employer concerns

From an employer's viewpoint, unscheduled absences create a variety of problems.

While Reservists repeatedly demonstrate that their military training and experience benefit their civilian employers, budget-minded employers must also consider the impact of unexpected long-term absences on their businesses. positive approach to the pressures caused by unplanned employee absences than simply enforcing Reservists rights.

Department of Defense concerns

Trained and equipped members of the National Guard and Reserve are an integral part of the national military strategy. With a smaller active duty force, the Department is maximizing all available resources to meet mission requirements. This has increased the day to day use of the Reserve components. There are substantial economic benefits to the government to use the Reserve components as they cost the government less to maintain—anywhere from 25% to 75% of the cost of their active duty counterparts. This is part of the rationale for the dramatic shift of missions and force structure from the active to the reserve forces. It is the nation's advantage, therefore, to use its Reserve components.

Retention of RC members becomes critical. It is in the government's best interest to keep well-trained individuals in the military, rather than incurring the additional training costs (roughly $26,000 per new recruit). The train-up time associated with recruiting new individuals into the force is also considerable. In spite of our efforts to provide a benefits package that makes continued Reserve service an attractive proposition, employer conflict is often cited as the number one reason why individuals decide to leave Reserve component military service.

DEPARTMENT OF DEFENSE EFFORTS

The DoD has undertaken several initiatives to reduce conflicts between Reservists and their employees. Since 1970, the DoD has developed an aggressive program to encourage employer support. The National Committee for Employer Support of the Guard and Reserve (NCESGR) is an agency within the Office of the Assistant Secretary of Defense for Reserve Affairs that promotes cooperation and understanding between RC members and their civilian employers. This program has grown from several hundred employers and professional and labor organizations to more than 3000 community leaders nationwide. Despite these efforts, the Sixth QRMC stated that 10 to 20 percent of RC members continue to experience significant employment-related conflicts.

In an effort to protect Reserve employees, the 103rd Congress passed the Uniformed Services Employment and Reemployment Rights Act (USERRA). This legislation protects ''non-career service members'' from job discrimination based on Uniformed Service. USERRA has simplified statutory employment protections and provided a system of local arbitration for individual cases. While protecting the employee, USERRA does not, however, address any adverse effects Reserve service may impose upon employers. Employers are required to provide seven basic entitlements by statute: prompt reinstatement, status, accrued seniority, health insurance coverage, training/retraining, special protections, and other non-seniority benefits.

Despite these efforts, the major employer disincentive to encouraging employee participation in the Reserve components is the additional costs and reduced profits stemming from Reserve participation.

PREVIOUS LEGISLATIVE PROPOSALS

Recognizing the substantial role that employee attitudes and practices have on Reserve readiness, legislative proposals granting a monetary incentive (in the form of a tax credit) to employers of National Guard and Reserve members have been introduced several times, the most recently in the 103rd Congress. The Department understands that there may be other methods to soften the employer's burden. The main points of the most recent legislative proposals are outlined below.

Summary of past proposals

DoD 100–49 (100th Congress): Credit and deduction; 20 percent of amount paid and 10 percent of amount unpaid; any training; nonrefundable; and annual maximum of $2000 per member.

H.R. 71 (103rd Congress): 50 percent of amount paid and 10 percent of amount unpaid of actual compensation paid when employee was performing qualified active duty; annual maximum of $2000 per member; and no credit for employee not scheduled to work.

Additionally, the Sixth QRMC made the following recommendations:

Nonrefundable credit of 50% paid to Reservist on military leave and 10% credit for amount unpaid;

Include credit for self-employed individuals; and

Certification of Veterans' Reemployment Rights compliance.

DRAFT LEGISLATION

The Department has developed draft legislation, as a drafting service, for a tax credit program for employers of Ready Reservists and self-employed Reservists as required by section 1232 of the National Defense Authorization Act for Fiscal Year 1997. Because of associated costs in the form of federal tax receipt losses for such a program, neither the Department of Defense nor the Administration support submission of the legislation at this time. Because section 1232 requests the draft legislation, however, the attached draft is submitted as a drafting service pursuant to paragraph 7i, Office of Management and Budget Circular A–19, dated September 20, 1979.

CONCLUSION

Assistance to employers who support National Guard and Reserve participation by their employees could reduce an employer's costs associated with employee absence due to their participation in the National Guard and Reserve on contingency operations. The Department understands the loyalty of the employers burdened with the costly and unanticipated absences of their Reserve employees. We salute such employers and seek their continued support. Tax or other incentives for employers might help to ameliorate some of their problems. Any such plan, of course, must compete for resources in the ever shrinking availability of Federal programs.

Ms. LANDRIEU. I will reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time not used will be equally divided.

The Senator from Oklahoma.

Mr. NICKLES. I yield myself 5 minutes.

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

Mr. NICKLES. Mr. President, I want to make a couple of comments on the bill and a couple of comments on the amendment which has been discussed by Senator LANDRIEU and Senator BOXER.

On the bill itself, let me just say, again, I want to compliment Senator GRASSLEY and Senator BAUCUS, and, frankly, all the conferees, for their work on this bill. There was a lot of work that went in on this bill. This bill has a lot of good provisions, and in this Senator's opinion it has a lot of bad provisions. It has a lot of tax cuts, and it has a lot of tax increases. So you have to kind of weigh the pluses and the minuses. The plus is we are going to be WTO compliant and get away from these enormous fees that are on our exports, taxes that are on our exports that make our exports less competitive. It is a 12-percent tax right now, that goes to 17 percent by next March. We don't need a trade war with Europe.

I remember talking to Chancellor Helmut Kohl when they were pushing the European Union. I said: I am a little concerned about the European Union becoming more protectionist. He assured me that is not the case. But, frankly, the European Union is becoming more protectionist. We don't need a trade war. They don't need a trade war, and we don't need a trade war. So it is necessary for us to pass a bill to be compliant. I don't want to give the World Trade Organization too much of a blank check, but it is important that export subsidies not be egregious. They have determined in the past FSC/ETI was; the foreign sales corporation was. So we repealed that in this bill.

We are replacing it with a tax cut for manufacturers. We defined ''manufacturers'' very broadly. We didn't give a corporate tax cut for corporations that are in the services, financial services or other services. I object to that. I think that is a mistake. I used to be a manufacturer, so if I went back into manufacturing I guess I should say this is great because you are going to reduce my income tax by 10 percent in about 7 years, 6 or 7 years. So maybe I should be happy. But I just look at the complexity of it, trying to determine what portion of income is manufacturing and what portion is financial or other services, and I can see it is going to be very confusing.

For example, in the bill we defined construction as manufacturing. So if you had a contractor who was working in construction, their tax rate would be 32 percent in a few years. If they also do service work, that work will be taxed at 35 percent, i.e., a plumbing contractor who is building new units is going to be taxed at 32 percent. If he is doing a service, replacing your plumbing, that would be taxed at 35 percent. That doesn't make sense. That is what is in this bill.

Take a big corporation—and they have a lot of accountants and lawyers—they will work it out. But General Electric, they have big manufacturing. Those units will be taxed at 32 percent, but they are probably bigger in financial services and other services. That will be taxed at 35 percent. So they are going to have to allocate resources and expenses to whichever category they belong. I find that to be far too confusing and will cause a lot of compliance problems. It is probably more trouble than it is worth.

Canada had a differential rate for manufacturing for about 20 years, and they repealed it. My guess and prediction is that Congress will come back and have to fix this as well because the differential rate is not worth it, and we should have a uniform corporate rate.

I tried that. Senator KYL tried that. I compliment my colleague, Senator KYL. We were not successful in convincing our colleagues, House or Senate, in doing it. That being said, we tried our best. But it is still important for us to pass this bill, and we and others will be trying in the future, I am sure. I hope in the administration, when they do a comprehensive tax reform proposal, they will come up with a uniform corporate rate. I bet they will, and I bet any commission or group that says we need tax overhaul, simplification, they will come up with a uniform corporate rate. It only makes sense. This proposal does not, this differential rate.

But we are not going to be able to fix that now, and we can't fix it in the next 3 months, not with the current makeup. So I urge our colleagues to vote for it.

I heard a couple of our colleagues say this provision Senator LANDRIEU was talking about was stripped in the conference. That is not correct. Not one member of the conference—we have 23 Senate conferees, and not one person raised this in an individual amendment. I will say all conferees had amendments that we wanted. Some were accepted and some were not accepted. But to be accepted, you had to raise the amendment. You had to fight for the amendment. You had to have it offered. I think this particular amendment was offered in a large group of 10 or 12 amendments. The House did not concur. That didn't mean it was stripped out in conference. There were hundreds of amendments that were proposed by the Senate, not agreed to by the House, or vice versa. That is the makeup of a conference. So I want to make sure people understand that.

On the substance of the bill, I heard it was supported by 100 percent of the Congress. It passed by a voice vote. It was not supported by this Senator. On the substance of it, I am not sure that we should give reservists and guardsmen serving in the trenches with Active-Duty—give them $20,000 more or $15,000 more in pay from the Government. That is what the essence of the proposal was.

It says we will give a credit to employers for keeping them whole. But think about it. If you have a guardsman driving a truck doing the same thing an Active-Duty person is doing, should they be paid $20,000 more for doing the exact same job? I am not sure that makes sense. I do know, if you are going to do it—Mr. President, I yield myself an additional 2 minutes.

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

Mr. NICKLES. If we are going to do it, we should not do it through the Tax Code. I believe it should be done through the Armed Services Committee. I have great respect for Chairman WARNER and Senator LEVIN. Let them have hearings on it. Let them decide if there should be greater incentives for Guard and Reserve. If they believe it is necessary, that is the way it should be done. The money should be appropriated in the Appropriations Committee. Chairman STEVENS, head of the DOD subcommittee—they should be making these decisions to keep a proper balance between Reserve and Active-Duty.

I happen to be a former guardsman. I support the Guard. But I don't think they should be paid through a tax credit that may funnel to them or may not funnel to them. I don't think that is good policy. If they are to be paid, they should be paid by the Government and they should be paid on a monthly basis by the Government and their benefits should be given by the Government, not through a refundable tax credit that they may or may not receive down the road.

We sometimes pass amendments by voice vote to expedite passage. We passed the sense-of-the-Senate amendment by voice vote, and I compliment the authors. But I would have voted no. Just because something passes by voice doesn't mean every Senator concurs. I did not and still do not agree with this amendment.

I do agree with one portion of it, and I compliment my colleague from Louisiana. We worked to make something acceptable. Legislation is the art of compromise. We compromised on one thing. One section is let's have GAO do a study about what kind of compensation we need for Guard and Reserve: How does it balance with the Regular Army? A tax credit, would this be the proper mix? So I think we need some additional study on it, and we will do that. I think we improved her amendment substantially, we changed it substantially, and I compliment her as well.

Again, on final passage, I think the underlying product leaves a lot to be desired, but I still think it is an improvement. We need to fix the WTO problem, and I urge our colleagues to vote in favor of the conference report. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana.

Ms. LANDRIEU. Under the previous order, I think I still have——

The PRESIDING OFFICER. The Senator has just under 11 minutes.

Ms. LANDRIEU. Mr. President, I want to take the time to thank the Senator from Oklahoma. I know he has some concerns about some of the details of this amendment. But because of his work and because of other Senators who worked through the weekend on this, we have put a very solid, substantial, largely intact amendment in place that is going to be passed to the House. Now it will be in the hands of the House leadership to decide if they want to pass this amendment, which is a tax bill specifically for the Guard and Reserve. The underlying bill actually will allow the Guard and Reserve a tax benefit to remove the 10-percent penalty if they would want to take money out of their IRA to help them through tough financial times.

According to the hundreds and thousands of e-mails that we have received, myself and many others, we know that our Guard and Reserve are having a tough time.

I would just like to read this for the RECORD. I know the Senator himself has received notices like this.

This is from—Janice is her name. I will find out where she is from in a moment. She writes,

> Senator Landrieu, I have 3 nephews and 2 nieces that are in our National Guard and they are being sent over to Iraq. I am so angry right now that I hope that I don't have to see others go to this war. But let me just say that my nephews and nieces have left behind 11 children without health coverage. I am their aunt and my husband is their uncle. We are taking care of these three children. It is hard for us. We are tired living on a fixed income.

This is what this amendment is all about—taking on the burden of having the Guard and Reserve on the front line, and paying those paychecks. Yes, it helps the soldier on the front line, but mostly it helps the families back home. That is what the Senator was able to help us come to terms with. That is what the Senate is sending over to the House—supporting this effort on the House side.

I look forward to working with them when we come back in, perhaps after the election—working with the Senators who have spoken up over the weekend and others who were not able to speak up and sent letters in support and cosponsored this effort, Republicans and Democrats, to say let us craft a tax provision, or several tax provisions, that will help our Guard

and Reserve, or let us dig a little deeper in the Defense bill to give them the support they need, whether it is health care, whether it is paycheck protection, whether it is other support services, so they can do the job better we are asking them to do.

Frankly, I don't think they could do it any better, but they could do it with more peace of mind knowing their families are able to pay the bills, are able to keep the roofs over their heads, are able to put gasoline in their automobiles, and pay the extra childcare expenses.

I know other Senators feel as strongly as I do—everyone in this Chamber. But let us not only feel strongly but remember them when we pass these bills. Again, we don't have to remember them only on the Defense bill. Then we end up having to make tough choices and ask the military, Do you want a rifle, or a helmet, or health coverage, or to send a whole paycheck to your family? I don't think our men and women in uniform should be asked to make those decisions, not when we are giving $137 billion in tax cuts to everybody else. That is my point.

I know people may disagree. Maybe this vehicle was the right one. But because we were told 3 years ago there was no money in the Defense bill to do this, what option were we left with? We asked it be included. It was included when it left the Senate.

I am proud of that. Now we have a chance again sometime in the near future to get this fixed. I am proud of the effort.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield 4 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President. I thank the Senator from Iowa, the distinguished chairman of the committee. I also thank the chairman and ranking member of the Finance Committee for working with the House to produce an excellent bill which will reduce taxes on more people in our country and, therefore, help this economy to continue the recovery.

I am very pleased. I have heard the debate on the tax credit for employers for Guard and Reserve units. I know all of us will be working to try to assure that this is done. Our Guard and Reserve units have stepped up to the plate.

I have been to Iraq. I have been to Afghanistan. I have visited with Guard troops who are on their second and third call who didn't expect this kind of activity when they signed up. But they are there doing their job, and doing a great job.

On the other hand, the people at home are, too. The employers are, too. The families are, too. They are sacrificing as well. I think help for families, help for the men and women on the ground in Iraq and Afghanistan and other places, and help for the employers is certainly something we should do in the right way.

I am very pleased we are going to continue to work on this issue. We need to do everything we can to support our young men and women in the field and the people who are supporting them at home.

I will never forget when I was visiting a base in Saudi Arabia and asked one of the young guardsmen what was their biggest problem, thinking he was going to say something about his tour of duty, or something on the ground there. He said, My biggest problem is my wife can't get a pediatrician for our child at home who is having heart problems. I said we can't let this happen. We have to make sure we are giving them all the support they need.

This is a good bill. It is a bill that is going to help our manufacturers in this country compete on a level playing field.

A ruling by the World Trade Organization found our existing extra-territorial income tax regime was prohibited under an international treaty. Therefore, the European Union imposed retaliatory sanctions on a variety of United States products in March of this year. These tariffs have increased every month we have not acted. They are now at 12 percent. A tariff like that can be the difference between whether an American product can be purchased overseas, whether it gets in and can compete on a level playing field.

We will restructure our Tax Code for businesses in order to replace the ETI and end the confiscatory tariffs that are hurting manufacturers in this country.

At a time when our country is losing manufacturing jobs, we talk about outsourcing every day. We have to act to give our manufacturers every possible advantage we can to be competitive with Europe. That is what the heart of this bill is. It is very important for jobs in our country. It is very important for the manufacturers who are trying to keep jobs in our country to be able to have that level playing field. I am very pleased about that.

In addition, there is a broad range of manufacturers who are helped, including certain oil and gas producers. We know with the prices of oil and gas so high right now that we need to encourage our producers to be out there cutting costs wherever possible, and hopefully this will allow them to be able to produce more in our country and create those manufacturing jobs.

Lastly, there is a sales tax deduction that is very important to my State and six other States in our country. Some States in America do not have a State income tax. That doesn't mean our State taxpayers aren't paying taxes. We pay very high, substantial sales taxes and we pay high property taxes. Some of those are going up. For us not to have a deduction for our State sales taxes on our Federal income taxes like those who pay an income tax do is unfair.

That inequity is eliminated in this bill for the next 2 years. We will be able now to have equity in our Tax Code. We will now be able to give those in a non-income tax State the ability to deduct sales taxes just as those who pay income taxes are able to do. In fact, it allows people in an income-tax State to choose to deduct sales taxes instead of income taxes if they want to. It is for everyone.

But in reality, the States that have been shortchanged are the ones that choose to tax with sales tax and rather than income tax. That inequity is going to go away in this bill. It will mean $300 on average for every family in Texas. That is going to be welcome news for people who have had to live with this inequity since 1986.

Thank you. I urge adoption of this very important bill.

Mr. LOTT. Mr. President, I thank the distinguished chairman of the Finance Committee for yielding me this time.

When we look back on the results of this year, the legislation that had the greatest impact, this will be the bill we will refer to and remember. This is the most important achievement of this session of Congress.

I give credit to the chairman of the Finance Committee, and the ranking Member, Senator BAUCUS of Montana. They were diligent and hung in there. They were determined we would get this result. Yes, we had to go a little overtime, but here we are. We will get it done today. They deserve an awful lot of credit.

Also we should give credit to Congressman THOMAS, the chairman of the Ways and Means Committee in the House. This is very complicated legislation, but he worked with these two Senators and they produced a very important product.

I could not fathom the idea that we might leave here and not complete legislation that will stop the fees that were being put on American products as a result of the WTO ruling on our domestic tax provisions. That import fee was going up 1 percent a month. It was up to 12 percent and going to 13 percent. How in the world could we not complete legislation that would deal with this alleged subsidy and take that money that was saved by eliminating some provisions and move it into other areas in manufacturing and small business in a way to create jobs? It was important we complete this legislation. We got it done. We will comply with the WTO ruling, but we will take that money that was going into the questionable provisions and move it into areas that will create jobs for the American people. We will keep more jobs here. This is a very significant achievement.

At long last we repeal the 4.3-cent-per-gallon diesel fuel tax that railroads and barges have had to pay. This is not

about one railroad or just a barge company; all the other parts of the economy that have been paying that 4.3-cent-per-gallon tax had been released from having to pay it or send it to an infrastructure trust fund. This was a question of fairness. Once again, it is in an area where we can create more jobs. The railroad industry is saying in the next few months they will create thousands of new jobs. This is a critical provision.

I thank Senator GRASSLEY particularly for working with me to make sure this provision to repeal that tax over a period of 3 years would be included in this bill. The bill also improves the tax treatment for shipbuilding. Unfortunately, shipbuilding companies have to pay the tax on the entire amount of a ship even though they do not get the money sometimes for 3 or 4 years down the road. Incremental funding is how you should pay your taxes.

There are important timber provisions in the legislation. We should encourage the planting of more trees as well as responsible harvesting of trees. There are three different provisions that will help the timber industry in this country.

It also includes income averaging for farmers and fishermen. Others have that opportunity; why shouldn't farmers and fishermen? This will be very helpful.

The tobacco buyout provision is included. This is a provision I opposed, and I do oppose it now, but the conferees, working with the Senators from the States that were affected, came up with the best possible of the solutions they could have reached; therefore, I was willing to support what they came up with because I thought it was as fair as you could get for all involved.

We have tax incentives for United States-flag shipping companies, shortline railroads, energy provisions that will produce more energy, critical improvements for small businesses, small subchapter S reform and expensing.

This is a big achievement. I commend those involved and tell the American people this will help the economy of our country.

Mr. LEVIN. Mr. President, I voted for the Senate version of this FSC/ETI legislation. While I had a number of misgivings about that bill, those were outweighed by my concerns over the crisis in our Nation's manufacturing sector and the sanctions being imposed as a result of the FSC/ETI regime. However, I will oppose this conference report. It fails to include too many of the important provisions from the Senate bill and has a number of added bad provisions.

The Senate bill we passed in May did a lot to crack down on tax dodgers, but the House Republican leadership, with pressure from the administration, has refused to include most of these provisions in this legislation. While men and women in our military are putting their lives on the line every day for America, too many corporations are stiffing our country by dodging their taxes. They are depriving our country of funds needed to strengthen homeland security, support our troops, care for the sick, educate kids, and more. To make things fair for our U.S. manufacturers that play by the rules, we need to close loopholes that allow the tax dodging corporations to avoid paying their fair share.

One of the most glaring of these omissions from this legislation is the provision passed by the Senate numerous times that would have required business transactions to have actual ''Economic Substance'' in order to receive tax benefits. Refusing to include this anti-abuse tool means that tax dodgers will still be able to escape paying their fair share by using phony transactions that have no business purpose other than tax avoidance. It also means we miss the opportunity to collect from these tax dodgers a much needed $15 billion over 10 years.

Another distressing decision by the House Republicans is the slashing of the penalty imposed on those who design and peddle abusive tax shelters. These abusive shelters are undermining the integrity of our tax system, robbing the Treasury of tens of billions of dollars a year, and shifting the tax burden from high-income corporations and individuals onto the backs of the middle class. The amendment Senator COLEMAN and I offered, which became part of the Senate bill, set the penalty on an abusive tax shelter promoter at 100 percent of the fees earned from the abusive shelter. This penalty would have ensured that the abusive tax shelter hucksters would not get to keep a single penny of their ill-gotten gains. But that provision was cut in half in this conference report, setting the penalty at 50 percent of the fees earned, meaning the promoters of abusive shelters get to keep half of their gain.

Why should anyone who pushes an illegal tax shelter that robs our Treasury of much needed revenues get to keep half of his ill-gotten gains? And what deterrent effect is created by a penalty that allows promoters to keep half of their fees if caught, and all of them if they are not? This half-hearted penalty is not tough enough to do the job that needs to be done.

And this conference report completely leaves out yet another Senate provision that is critical in the fight against abusive tax shelters. In addition to those who are considered ''promoters'' of these abusive shelters, there are the professional firms—the law firms, banks, and investment advisors—that aid and abet the use of abusive tax shelters and enable taxpayers to carry out these abusive tax schemes. For example, a law firm is often asked to write an ''opinion letter'' to help taxpayers head off IRS questioning and fines that they might otherwise confront for using an abusive shelter. Under current law, these aiders and abetters face a penalty of only $1,000, or $10,000 if the offender is a corporation. This penalty is a joke. It provides no deterrent at all, when law firms are getting $50,000 for each of these cookie-cutter opinion letters. A $1,000 fine is like a parking ticket for raking in millions illegally. With the Levin-Coleman amendment, our Senate bill upped this fine to 100 percent of the gross income derived from the prohibited activity. Unfortunately, it appears the House conferees thought it was ok to let these aiders and abetters continue to profit handsomely from their wrongdoing instead attempting to deter this behavior that robs tens of billions of dollars from the U.S. Treasury.

Another gaping tax loophole that this conference report weakened is the unfairness to the taxpayers that arises when companies renounce their citizenship, going through phony reincorporations by establishing a shell headquarters on paper in Bermuda or other tax-haven countries when, in reality, their primary offices and production or service facilities remain right here in the U.S. These corporate expatriates get all the benefits of being U.S. companies without contributing their fair share of the bill.

The Senate FSC/ETI bill had a provision that would have shut down a significant portion of this loophole. I have long preferred an even stronger fix, such as the one Senator REID of Nevada and I put forward in S. 384, the Corporate Patriot Enforcement Act of 2003. But at least the provision passed by the Senate went much further than the one before us. The provision included in the conference report lets all the companies that used this gimmick prior to March of 2003 continue to avoid the taxes that their American-based competitors face. The Senate version would have cracked down on these tax dodgers to the tune of more than $3.1 billion over 10 years while this weak provision raises only $830 million. It is shocking that the House Republican conferees were willing to leave $2.3 billion in dodged taxes on the table when that money could have gone to implement Senator LANDRIEU's amendment that would offer real help to our activated guardsmen and reservists.

I understand that during the conference negotiations, the Senate conferees offered an amendment that would have reinstated many of these important curbs on tax dodges. The amendment would have raised an additional $40 billion over 10 years. But, once again the House GOP refused to accept these anti-abuse measures, and the amendment was defeated on a party line vote.

The problems with this legislation are not limited to the fact that we are letting tax dodgers off way too easy. At a time when many corporations pay no tax at all and corporate tax revenues are at historic lows, this bill is full of special interest tax breaks. It also includes new tax benefits for the offshore operations of U.S. multinational companies, such as allowing companies

with earnings held overseas to bring them back at a tax rate lower than the rate paid on domestic profits. The cost of these international provisions is estimated at $43 billion over 10 years, but this estimate is misleadingly low because some of these provisions are ''temporary'' or do not kick in until later years. While I support incentives to create and support U.S.-based manufacturing jobs, I am concerned that some of these international provisions will provide an incentive for companies to keep resources, facilities, and employees abroad, and subsidize the movement of jobs and resources overseas.

Furthermore, while the official cost estimate of this bill says that it is essentially budget neutral over the next 10 years, this paints a deceptively optimistic picture. Throughout the measure there are many gimmicks to keep the numbers even, like phasing in some of the tax cuts and setting up others as ''temporary.'' According to the Center on Budget and Policy Priorities, just extending the ''temporary'' provisions would reduce revenues by nearly $80 billion over the next 10 years.

I am also troubled by the elimination of provisions pertaining to regulation of tobacco by the Food and Drug Administration, FDA. According to a recent report by the Surgeon General, tobacco consumption by America's youth is one of our country's leading health risks. The Senate passed strong bipartisan provisions that would deal with both the FDA and tobacco regulation: provisions that would give the FDA sweeping authority to prevent overt marketing of tobacco products to children under the age of 18; provisions that would allow the FDA to regulate prior approval of statements on tobacco products; and provisions that allow the FDA to restrict the sale, distribution and promotion of tobacco if they are deemed to be a danger to public health. These provisions are essential to protecting our children from the dangers of smoking, but the House conferees have killed any chance in the near future to give the FDA the tools it needs in this critical area.

I am also troubled by the exclusion of Senator HARKIN's overtime amendment that would keep essential overtime protections for middle class working Americans. And finally, it seems unfathomable that in this $137 billion bill the conference committee would leave out the Senate provision sponsored by Senator LANDRIEU that would have helped the large number of our activated Guardsmen and Reservists who face a reduction in their salaries during activation by assisting those civilian employers who continue to pay these employees after they have been called up.

While this legislation includes some provisions which I support, overall it falls far short of the bill which the Senate sent to conference, and I cannot support it.

Mr. FEINGOLD. Mr. President, I will support this conference report, but I do so with a great deal of reluctance.

One of the more frequently used phrases voiced on the Senate floor is that we must not let the perfect be the enemy of the good. That hackneyed expression is flung about when the body is asked to support a measure that may not be everything that it should be. It would be an overstatement to suggest that this measure even rises to that level. This bill falls far short of being good, but it is necessary. At its most fundamental, it meets two essential tests. First, it repeals the Foreign Sales Corporation/Extra Territorial Income, USC/ELI, tax provisions that have resulted in the imposition of increasingly punitive tariffs on American-made products, including products made in Wisconsin.

Second, it provides a needed tax break for domestic manufacturers, a group that has been especially hard hit in recent years. If this absolutely vital sector is to have a chance to get back on its feet, providing this tax incentive is essential.

I regret that much of the rest of this bill is wholly unmerited. There are some exceptions, of course, but if Congress had focused its efforts on just those two essential tasks—repealing USC/ETI, and providing some tax incentives for domestic manufacturers—the bill would have been much better.

I was pleased to cosponsor S. 970, introduced by Senator HOLLINGS, which was just such a bill. And I was encouraged when the Senator from Iowa, Mr. GRASSLEY, and the Senator from Montana, Mr. BAUCUS, offered a proposal based on S. 970, along with some sensible improvements.

But as this measure has worked its way through the legislative process, it has only degenerated. Dozens of special interests have nosed their way into this bill, and have taken advantage of what is essentially a ''must-pass'' measure. I can only say that I am glad we are passing this measure now, before it gets any worse.

There are many candidates for worst tax policy in this measure, but at the very top of that list must be those provisions that actually provide a tax incentive for those corporations that move their operations overseas. Such a policy is never justified, but in the current economic climate it is particularly hurtful and counterproductive. During the debate on this measure in the Senate, I was pleased to support the Senator from North Dakota, Mr. DORGAN, in his effort to eliminate one of these perverse incentives and I was pleased to support an amendment offered by the Senator from Louisiana, Mr. BREAUX, and the Senator from California, Mrs. FEINSTEIN, which was similarly targeted. I regret the body rejected those sensible proposals.

I will vote for this bill with the hope that its net effect will be to improve the climate for domestic manufacturers. But we should remove all doubt by acting at the next opportunity to close down the tax provisions in this bill that provide incentives for corporations to move facilities overseas.

On this same subject I was disappointed that conferees stripped Senate provisions relating to the disturbing trend of the outsourcing of American jobs. These provisions would have prohibited federal funding from being used to support the outsourcing of goods and services contracts that are entered into by the Federal government, or by the States if those contracts are being supported by Federal dollars.

With this bill, Congress had an opportunity to support American workers by ensuring that taxpayer money is not used to encourage companies to relocate American jobs. With the deletion of this outsourcing provision, we missed an opportunity for the Federal Government to set a strong example of buying its goods and services from American companies that use American workers.

I also regret that the administration was again successful in blocking language included in the Senate-passed bill that would have reversed the harmful provisions of the Department of Labor's new overtime rule. Despite repeated bipartisan opposition to this rule in both Houses of Congress, members of the conference committee stripped this provision, which would have prevented millions of workers from losing their overtime benefits under the Bush administration's rule.

Finally, let me briefly mention the energy tax provisions. I remain committed to supporting legislation to encourage alternative energy research and production. With respect to overall energy policy, we must develop cleaner, more efficient energy sources and promote conservation.

During Senate debate on this bill, I voted for the amendment offered by the senior Senator from Arizona, Mr. MCCAIN, to strike the energy tax title to the Senate version because the bill did not extend the energy tax credits in a more fiscally responsible way. I support many of the tax credits in the conference report, such as the volumetric ethanol excise tax credit fix and provisions that would specifically benefit rural cooperatives and small renewable fuel producers. I also support provisions that would result in the increased supply of renewable fuels like biodiesel and ethanol.

I remain concerned, however, about the fiscal and environmental costs of this section of the bill. The oil and gas incentives in the bill, for example, would cost taxpayers billions and allow companies to deduct the costs of mineral exploration and marginal oil wells. The conference report still includes a ''nonconventional fuel credit'' to the synfuels industry and coalbed methane industry, which could cost the taxpayers over $2.5 billion. The bill also opens a loophole for energy companies to take advantage of a manufacturing

tax credit. The revenues dedicated to these tax expenditures would have been better used to relieve the burden of debt we are heaping onto our children and grandchildren.

It is the very need for the central provisions of this bill that has invited the kind of abusive provisions we have seen included in it. Were this bill something less than absolutely necessary, we could just defeat it, and hope for something better down the road.

But we do need to pass it. We have to stop these trade sanctions, and we need to help our manufacturers. For that reason, I will vote for this flawed legislation.

Mrs. FEINSTEIN. Mr. President, I will vote against this FSC/ETI conference report and I want to explain why.

The original purpose of this legislation was simple and clear—to bring the United States into compliance with a World Trade Organization, WTO, ruling which said that portions of our Federal Tax Code run counter to international trade regulations.

It is critical that we fix this problem, or U.S. companies will face increased European tariffs, costing U.S. jobs.

This conference report, however, goes far beyond the simple legislative fix needed to bring the U.S. into compliance with the WTO ruling.

In fact, the cost of bringing the U.S. into compliance with the WTO is $49 billion, while the cost of the final bill is $145 billion. The difference is $96 billion in benefits to special interests paid for with certain revenue fixes that should be used to balance the budget.

In fact, this bill provides billions of dollars in benefits to special interests at a time of unprecedented budget deficits. Let me give you a few examples cited in Thursday's Washington Post, ''Conferees Agree on Corporate Tax Bill'':

> NASCAR racetrack owners get a provision to write off $101 million worth of improvements over ten years.
>
> Foreign gamblers at U.S. horse and dog racing tracks would no longer have to pay taxes on their winnings upfront. This is estimated to be worth $27 million.
>
> Home Depot would secure a temporary suspension of tariffs it owes for imported Chinese ceiling fans. This is estimated to be worth $44 million.

At a time when we are facing unprecedented Federal deficits and a mounting debt, it is simply unconscionable to approve this giveaway to special interests. Although the 10-year cost is offset, these offsets could well be used to bring down the deficit.

Policymakers should be taking steps to reduce the deficit and improve the economy, not eroding it further by doling out tax breaks to special interests. But one industry was singled out for penalty in this bill. I cannot accept that—and that industry happens to be the film industry.

In fact, this final conference report will cost the motion picture industry $5 billion over the next 10 years—because they will have to make changes in the way they account for revenues.

The film industry employs 750,000 people nationwide, and the major motion picture studios are publicly owned and pay annual dividends to shareholders.

Rather than allowing the industry to account for its activities on a product line-by-product line basis as was done in the Senate bill, this conference report means that the industry will have to adopt unified accounting.

For example, the Disney film called The Alamo was produced in the United States and did not perform as well as expected.

Under the final conference report, the losses from The Alamo are lumped with all other company revenues—TV, DVD sales, theme parks, merchandise, and music. This is known as unified accounting.

In the Senate version of the bill, Disney would have been able to account for this loss within its film division, separate from its other divisions. This is known as product line-by-product line accounting.

If you assume a $50 million loss, requiring unified accounting will cost the studio an additional $2.6 million in additional taxes.

If you assume a $75 million loss, requiring unified accounting will cost the studio an additional $3.9 million in additional taxes.

So the bottom line is that unified accounting will mean that Disney, and other entertainment companies, will have to pay significantly more in taxes as much as $5 billion over the next 10 years.

I cannot believe that we would in effect raise taxes on an industry that does so much to help our economy.

This simple accounting change would have significantly helped reduce the impact from this legislation.

But in the end, this provision was stripped from the final conference report.

What is worse are reports that this was not due to the merits of the provision, but out of base, political concerns.

A story in yesterday's edition of Roll Call, ''Studios Take Hit in Tax Bill'', asserts that lawmakers stripped the Senate film amendment in retribution for the film industry's decision to hire a Democrat—a former Cabinet Secretary in fact—to head its trade association.

Let me quote from the article:

One GOP Lobbyist for the industry said:

> The Glickman thing is going to cost them. No Republican will fight for the movie industry.

Another Republican Lobbyist added:

> They were not overly helpful to Republicans, so Republicans don't want to be overly helpful to them.

Ordinarily, I do not believe much of what I read on many days and so there would be reason perhaps to dismiss this.

But I also know that the word has been put out on K Street that only Republicans are welcome as lobbyists so this article takes on new credibility.

This is especially egregious given the fact that the film industry was not even involved in the unfair trade practices that led the WTO to declare that U.S. international tax rules were unfair.

I have the opinions of two former U.S. Trade Representatives—one Republican and one Democrat—Carla Hills and Mickey Kantor—which make the case.

Carla Hills wrote:

> Having previously served as [U.S. Trade Representative], I would like to share with you my views regarding the consistency of your amendment with applicable trade law The [General Agreement on Tariffs and Trade] does not apply to 'audiovisual services' and does not include any general prohibition against export contingent subsides.

Mickey Kantor wrote:

> Audiovisual services are . . . not within the purview of the WTO FSC/TTI decisions In my view the adoption of [your amendment] . . . would not violate or contravene the WTO rulings in the FSC/ETI case.

As one can see, two former U.S. Trade Representatives agree that the entertainment industry was not involved in the unfair trade practices.

However, the entertainment industry is being singled out for a tax increase in this bill in order to pay for tax cuts going to multinational firms that hold their profits overseas in order to avoid paying taxes.

The bill allows many of these companies having profits overseas to repatriate these billion at a 5.25 percent tax rate.

These are the multinational firms which now will be allowed to bring those foreign-earned profits back to the United States at one half the rate that the poorest American's are required to pay on their income under this bill. This is not fair and equal treatment.

I cannot believe that the other House would utilize political vengeance to disadvantage a sector of American business, while so advantaging other sectors.

Another major flaw with this bill is that it removes the Senate language permitting long-sought FDA regulation of tobacco. The Senate voted overwhelmingly—78 to 15—in favor of a carefully crafted amendment to allow FDA regulation of tobacco.

This amendment linked FDA regulation with a 5-year, $12 billion buyout of tobacco growers. Regulatory authority over tobacco would have allowed the FDA to begin to reduce the addictive and carcinogenic elements of these products. It would have made a difference and, over the long run, it, alone, could have saved millions of lives.

Despite the broad, bipartisan support for this provision, the House rejected a proposal by Senator KENNEDY to provide an additional $2 billion for tobacco growers as long as it was linked with FDA regulation of tobacco. Even Philip Morris supports FDA regulation of tobacco. Let me quote from two letters

from senior executives from Altria, the parent company of Philip Morris.

Steven Parrish, Senior Vice President, Corporate Affairs, Altria Group wrote that the provision on FDA regulation of tobacco ''is the result of many difficult choices and compromises by all those involved, and it reflects a balance of the perspectives of many stakeholders. We believe the bill embraces the core principles that are necessary to provide the Food and Drug Administration with comprehensive, meaningful and effective regulatory authority over tobacco products.

Together with our domestic tobacco operating company, Philip Morris USA, we enthusiastically support passage of your bill in its entirety.''

John Scruggs, vice president, Government Affairs, Altria Group wrote separately that the provision on FDA regulation of tobacco ''address[es] nearly all'' of the ''issues relating to retailers'' and we should ''disregard the strident and unfounded arguments of those who refuse to look to the future and the need for change in the tobacco industry.''

Congress had the opportunity to finally allow the FDA to regulate tobacco—but it failed to do so. This is deeply disappointing and shows the true colors of the House Republicans.

You may ask, what would FDA regulation of tobacco do to help stop smoking and prevent these premature deaths? FDA regulation of tobacco would do two important things.

First, it would control the deceptive and manipulative advertising used by cigarette companies. Young people across the country are bombarded every day with deceptive advertising and misleading claims made by cigarette manufacturers.

The tobacco industry spends $11 billion on marketing their products. Their latest campaign involves cigarettes that come in fruit flavors and bright colors to target adolescents and women. The cigarettes are given names such as California Dreams, Midnight Madness and Kauai Kolada. The cartons are a different shape and size so as to be hidden from unsuspecting parents and teachers.

And the manufacturer describes them by saying: 'Each is as enchanting and mysterious as the darkest night. And, live in color with California Dreams 'cigarettes in color' for your individual taste and attitude.' This is truly a new low. These slogans, these flavors, and these colored wrappers cannot hide the fact that cigarettes kill more than 400,000 American each year—and that's the second reason that FDA regulation is so important.

FDA regulation, over time, would ratchet down the carcinogenic and addicting ingredients of tobacco products. Just think how many fewer Americans—young people, old people would avoid the addiction.

Today, 42 million Americans today are addicted to cigarettes and other tobacco products. A number of these will end up with lung disease and many of them will die.

Lung cancer is the number one cancer killer—and the number one cause of lung cancer is smoking. Today and every day, 4,000 children under the age of 18 will try smoking for the first time, 2,000 of these children will become regular smokers, and 1,300 will die prematurely because of smoking.

The bottom line is this: Congress had the opportunity to take a major step forward in improving the health of America's children. But the Republican members of the House chose the tobacco industry over our children—and they should be held accountable for that choice.

There is one more item that did not make it into this bill, which I find deeply troubling. The Senate language to protect overtime rights was removed from the bill. This means that millions of American workers may very well lose long-guaranteed job overtime protection. This is a setback for the American worker.

There are a number of items contained within this conference report that I do support. This bill will provide an expansion of the production tax credit for renewable energy including open-loop biomass, geothermal energy, and solar energy; a provision to eliminate the preferential treatment for ethanol-blended gasoline. Without this provision, California would lose $2.7 billion in highway funds over the next 5 years; and a provision that removes a business tax deduction for the purchase of gas-guzzling SUVs.

These provisions do not make up for the rest of the bill. I think we all would have supported a straight fix to the WTO ruling, but this bill goes too far. It fixes the WTO problem, but then it contains all these other giveaways.

So what was a $49 billion problem to solve becomes a $145 billion bill. This is just plain wrong. I hope in the future that we can remedy some of the shortcomings of this bill, but on balance, this is a deeply flawed billed which I simply cannot support.''

Mr. President, I ask unanimous consent to print in the RECORD a ''Roll Call'' article, to which I referred, and three letters dealing with different provisions of the FSC/EIT bill.

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

[From the Roll Call, Oct. 7, 2004]

STUDIOS TAKE HIT IN TAX BILL

(By Brody Mullins)

Three months after Hollywood slapped the Republican Party by hiring Democrat Dan Glickman to head its Washington trade association, Congressional Republicans sliced more than $1 billion in tax credits for movie studios from a far-reaching international tax bill that the House and Senate plan to take up today.

Though the tax credits for Hollywood were included in a version of the bill approved by the Senate this summer, a Republican-dominated conference committee voted Tuesday evening to leave the provisions on the cutting-room floor.

Led by Ways and Means Chairman Bill Thomas (Calif.) and Majority Leader Tom DeLay (Texas), House GOPers on the conference committee voted as a bloc to oppose the tax breaks, calling them bad policy and too expensive to be included in the $140 billion bill.

But other lawmakers, Congressional aides and movie industry lobbyists said Republicans refused to fight for the Senate tax credits in order to punish Hollywood for hiring Glickman, a former House Member from Kansas and secretary of Agriculture under then-President Bill Clinton, to head the Motion Picture Association of America.

''The Glickman thing is going to cost them. No Republican will fight for the movie industry,'' said one GOP lobbyist for the industry.

Another Republican lobbyist added: ''They were not overly helpful to Republicans, so Republicans don't want to be overly helpful to them.''

Thomas, the chairman of the conference deliberations, declined to comment on the motivation for removing the tax credits for the movie industry.

''I don't deal with rumors and unconfirmed reports,'' he said.

DeLay said he voted against the provision because ''it just cost too much.''

When asked whether the MPAA's move influenced his vote, DeLay said that employment decisions in the private sector ''don't enter into our consideration. That's the first time I ever thought of Glickman.''

A spokeswoman for the MPAA declined to comment on the vote.

Despite DeLay's comments, Glickman was on the minds of other Republican lawmakers in the past few weeks as votes on the tax bill neared, according to Republicans on the Ways and Means Committee.

Before the vote, Rep. Mark Foley (R–Fla.), a key Hollywood advocate, said he worried that GOP resentment about Glickman's hire could scuttle the tax credits for the studios.

''Thomas has said some things. I've heard a lot of grumblings. They have said that they thought that a Republican should have gotten'' the job, Foley said. ''Mr. Thomas has to acquiesce to the Senate language and right now that doesn't look good with the lingering resentment. That's probably a tough sell right now.''

Foley added that the movie studios ''may get dealt a bad hand, but I'm not sure it's based entirely on Mr. Glickman.''

Rep. Jim McCrery (La.), a top Republican on the Ways and Means Committee and a member of the conference deliberations on the tax bill, said he did not think Glickman's hire was ''a deciding factor'' in the decision by Republicans to exclude the movie studio tax credits.

Still, he acknowledged that Republicans on Capitol Hill were upset the MPAA tapped a Democrat for the position.

''It's a fact that the Republicans control the Congress and the Ways and Means Committee so it's a good idea to have someone who can communicate with those who are in power,'' McCrery said. ''It's a consideration that any organization hiring a lobbyist should take into account.''

At issue is an international tax bill being put together on Capitol Hill to replace $50 billion in U.S. export subsidies that have been struck down by the World Trade Organization.

Current law provides movie studios such as MGM, Universal Studios and 20th Century Fox with about $600 million a year in tax credits to export movies to other countries.

The tax incentive helped transform the U.S. movie industry into one of the nation's leading exporters, surpassing exports of Boeing's jets and Detroit's autos, according to figures provided to Congress by the movie industry.

When the export subsidy was found to be illegal by the WTO, Hollywood figured to be one of the biggest losers. At issue was just how much they would lose.

The Senate version of the corporate tax bill would retain $350 million annually in export subsidies for the studios. The House bill, authored by Thomas, provided less than $100 million per year for the industry.

In a partisan vote Tuesday evening, Republicans on the conference committee rejected an effort by Sen. Max Baucus (D–Mont.) to include the Senate's credits for the industry.

Senators on the conference committee voted 14–8 to add the credits, but House Members voted along party lines against the industry.

A majority vote of both chambers is needed to add amendments to legislation in conference committee.

Some were quick to point out that Republicans had legitimate policy reasons to vote against the credits.

Grover Norquist, the president of Americans for Tax Reform, said there were three reasons Republicans voted against the movie industry provisions: ''One, it's bad tax policy because it's industry specific. Two, it's bad tax policy because it subsidizes an industry for signing bad labor contracts and, three, Hollywood has recently expressed contempt for the Republican leadership in the House, Senate and White House.''

Well before the Glickman hire, Republicans on Capitol Hill have been unhappy with Hollywood and its Washington trade association.

Since 1990, U.S. movie studios and Hollywood executives have contributed $42 million in political donations to Democrats, while giving just $6 million to the GOP, according to figures from the nonpartisan Center for Responsive Politics.

After controversial documentary filmmaker Michael Moore began promoting ''Fahrenheit 9/11'' this spring, GOP bitterness against Hollywood spilled over in a closed-door Republican meeting.

During the meeting, Manzullo complained that the international tax bill being crafted by Thomas and the Ways and Means Committee included expensive tax breaks for the movie studios while small businesses and manufacturers were losing thousands of jobs.

''Why should we vote on an international tax reform bill that rewards Hollywood while disadvantaging our nation's manufacturers,'' Rep. Don Manzullo (R-Ill.) asked in a letter he sent to his colleagues.

Other Members agreed. Thomas quickly watered down the industry's tax credits and the situation seemed to go away.

But Hollywood infuriated Congressional Republicans again in early July when the MPAA announced its hire of Glickman.

Two weeks after Glickman was hired, Sen. Rick Santorum (R–Pa.) convened a meeting of top Republicans to discuss the move.

In the weeks leading up to the tax vote, Republicans continued to whisper about punishing the MPAA. As a result, Glickman has let it be known that he is looking to hire a big-name Republican lobbyist to join him at the MPAA after the November elections.

In the meantime, supporters of the industry on Capitol Hill, like Foley, hope the whole thing will blow away. ''There may be a few people's noses out of joint, but people get over these things pretty quickly,'' Foley said.

HILLS & COMPANY,
Washington, DC, March 19, 2004.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: I write with respect to the amendment (S. AMDT. 2690) that you have offered to the FSC–ETI legislation (S. 1637) pending in the Senate.

S. AMDT. 2690 provides, in part, that the present-law ETI rules would remain in place with respect to income from activities treated as ''audiovisual services'' under the General Agreement on Trade in Services (''GATS'').

Having previously served as USTR, I would like to share with you my views regarding the consistency of your amendment with applicable trade law. The underlying legislation (S. 1637) is intended to bring the United States into compliance with the World Trade Organization rulings that the ETI regime violates the General Agreement on Tariffs and Trade (''GATT'') prohibition on export-contingent subsidies. The GATT does not apply to ''audiovisual services'' governed by the General Agreement on Trade in Services (''GATS''). Further, the GATS does not include any general prohibition against export-contingent subsidies.

Thus, the adoption of S. AMDT. 2690, which would preserve ETI benefits for audiovisual services covered by the GATS, would not violate GATT or contravene the WTO rulings.

Sincerely,

CARLA A. HILLS.

MAYER, BROWN, ROWE & MAW,
Washington, DC, March 19, 2004.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR DIANNE: I am writing with respect to your amendment (S. AMDT. 2690) to S. 1637, the JOBS Act, that would repeal the current FSC/ETI tax regime in order to bring the U.S. into compliance with the WTO rulings in this case.

As a former U.S. Trade Representative, I would like to share my views regarding the consistency of your amendment with applicable trade law. Specifically, your amendment would allow the ETI rules to remain in place for income from activities defined as ''audiovisual services'' under the General Agreement on Trade in Services (GATS). The WTO decisions in the FSC/ETI cases found that the U.S. FSC/ETI regimes violated provisions in the Agreement on Subsidies and Countervailing Measures (SCM Agreement), which is a part of the General Agreement on Trade and Tariffs (GATT). The GATT governs trade in goods, while the GATS covers trade in services. Audiovisual services are covered by the GATS and are not subject to the SCM agreement, and thus are not within the purview of the WTO FSC/ETI decisions. Further the GATS does not include any general prohibition against export-contingent subsidies.

It is my view that adoption of the S. AMDT. 2690, which preserves benefits for audiovisual services covered by the GATS, would not violate or contravene the WTO rulings in the FSC/ETI case.

Sincerely,

MICKEY KANTOR.

ALTRIA GROUP, INC.,
Washington, DC, July 15, 2004.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: After many years of debate, the Senate today is considering comprehensive tobacco legislation that will address a range of issues important to all Americans, from the diseases caused by smoking to the plight of our nation's tobacco farmers. There were some legitimate issues connected to FDA regulation of concern to retailers; the good news is that the DeWine/Kennedy bill has already addressed nearly all of these. The continued opposition of one national retailer group to this important legislation, notwithstanding all that has been done to address their concerns, is unfair and unfounded. This is the same organization that expressly promised to remain neutral in 1998 when FDA legislation—with far fewer protections for retailers—was debated in the Senate.

Below are just a few of the inaccuracies contained in the attacks on this legislation that would finally empower FDA to work on reducing the harm caused by smoking:

All Retailers Treated Equally. The bill expressly provides that any access and advertising restrictions cannot discriminate against any category of retail outlet, and cannot favor ''adult-only'' stores over other kinds of outlets.

Enforcement Will be Fair, and Apply to All. The bill requies FDA to contract with State officials for enforcement to the extent feasible.

Responsible Retailers Benefit. In total contrast to some claims, the legislation explicitly provides a ''good faith'' defense against enforcement actions for any retailer that takes the necessary steps to train its employees. The great majority of outlets that take pride in working hard to keep tobacco products away from kids should have nothing to fear from enforcement of FDA rules.

New Tools for Retailers. Under the authority granted to FDA under the legislation, the agency will be authorized to implement all manner of innovative new tools to assist retailers with their compliance efforts, including electronic age verification. Moreover the legislation is adequately funded, to better ensure that new approaches can be pursued.

Advertising Restrictions Are Subject to Review. Some of the advertising restrictions FDA issued in 1996 may well be unconstitutional; that is exactly why the DeWine/Kennedy bill empowers FDA to re-examine those rules to ensure that they comport with the First Amendment. And, even if the agency decides not to change them, interested parties would still be able to test them in court, where any remaining Constitutional objections can and will be resolved.

Beyond these specific points, the arguments advanced by one national retailer association conveniently make no mention of some key benefits the legislation provides for retailers—enlisting FDA in the fight against counterfeit tobacco products, and authorizing the agency to regulate Internet sales to ensure that kids can't buy tobacco online. Both of these provisions could result in substantial long-term benefit for brick-and-mortar retailers for years to come.

I respectfully request that you disregard the strident and unfounded arguments of those who refuse to look to the future and the need for change in the tobacco industry, from growers to manufacturers to retailers. Thank you for your consideration of the DeWine/Kennedy/McConnell amendment.

Sincerely,

JOHN F. SCRUGGS,
Vice President, Government Affairs.

ALTRIA GROUP, INC.,
New York, NY, May 20, 2004.

Hon. MIKE DEWINE,
Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATORS DEWINE AND KENNEDY: It has been a pleasure to work with you on the Family Smoking Prevention and Tobacco Control Act. This legislation has the potential to reduce the harm caused by smoking, and to establish clear rules applicable to all manufacturers of tobacco products sold in this country.

The DeWine/Kennedy bill is the result of many difficult choices and compromises by all those involved, and it reflects a balance of the perspectives of many stakeholders. We

believe the bill embraces the core principles that are necessary to provide the Food and Drug Administration with comprehensive, meaningful and effective regulatory authority over tobacco products.

Together with our domestic tobacco operating company, Philip Morris USA, we enthusiastically support passage of your bill in its entirety. We hope the Senate will give your legislation favorable consideration at the earliest opportunity. We stand ready to work with you and others in support of your bill.

Among the bill's many important features are:

FDA would be given the authority to impose performance standards for the design and manufacture of cigarettes in order to reduce the harm caused by smoking. Under the bill, FDA would, as part of its effort to reduce or eliminate harmful ingredients and smoke constituents, consider whether a new performance standard would significantly increase the demand for contraband cigarettes. We believe this is an important consideration in order to prevent the unintended consequences of black market cigarettes. It is also important that the bill provides the FDA cannot ban the sale of cigarettes to adults.

The bill would change the language of the current cigarette health warnings, substantially enlarge the size and authorize FDA to require new warnings in the future. The bill would not, however, change the Supreme Courts rulings regarding the product liability implications of compliance with warning requirements.

The bill would authorize FDA, as well as states and localities, to replace the time, place and manner of cigarette advertising and promotion, consistent with the First Amendment's protection of commercial free speech to adults.

The bill provides that FDA's product standards would be consistent on a nationwide basis.

FGA would be authority to combat the existence of counterfeit, contraband and other illicit tobacco products.

The bill contains a number of other provisions that would benefit the public health and provide important oversight for all tobacco manufacturers. For example, FDA would be authorized to: conduct educational efforts regarding the dangers of tobacco use; take new steps to curb underage tobacco use; strictly regulate new tobacco products that may reduce the risk of disease or exposure to harmful compounds in cigarette smoke; and ensure that tobacco products are not adulterated.

As noted above, you have attempted to address the views of a wide range of stakeholders in your FDA bill. We look forward working with all stakeholders in order to make progress on the many issues surrounding tobacco use in this country. In particular, we believe it is imperative that the plight of the American tobacco grower be addressed. We believe it is time for a tobacco quota buyout and we hope to be able to work with you and other stop make that a reality.

Your bill is a truly historic opportunity to establish, for the first time, a comprehensive and coherent national tobacco policy. Thank you for your leadership and for the hard work of your staffs on this extremely important legislation.

Sincerely,

STEVEN C. PARRISH.

Mrs. FEINSTEIN. A September 22, 2004 report by the Citizens of Tax Justice and the Institute of Taxation and Economic Policy reveals that 82 of the 275 (30 percent) large and profitable, Fortune 500 companies studied paid no tax on federal income or received rebates from the Treasury in at least one year from 2001 to 2003.

In the years they paid no income tax, these 82 companies reported $102 billion in pretax U.S. profits. Moreover, instead of paying $35.6 billion in income taxes as the statutory 35 percent corporate tax rate required, these companies received tax rebate checks from the U.S. Treasury totaling $12.6 billion. These rebates meant that the companies made more after taxes than before taxes in those no-tax years.

Twenty-eight corporations enjoyed negative federal income tax rates over the entire 2001–2003 period. These companies, whose pretax U.S. profits totaled $44.9 billion over the 3 years, included: Pepco Holdings (−59.6 percent tax rate), Prudential Financial (−46.2 percent), ITT Industries (−22.3 percent), Boeing (−18.8 percent), Unisys (−16.0 percent), and CSX (−7.5 percent), the company previously headed by Secretary of the Treasury Snow. General Electric topped the corporate tax breaks recipients with $9.5 billion in tax breaks over 3 years.

The average effective rate for the 275 Fortune 500 companies was only 17.2 percent in 2002–2003, though the corporate tax rate is 35 percent.

How is this happening? Accelerated depreciation. Legislation adopted in 2002 and 2003 vastly increased corporate write-offs for ''accelerated depreciation'' and made it easier for corporations to use their excess tax subsidies to generate tax-rebate checks from the U.S. Treasury, at a 3-year cost of $175 billion.

Offshore tax sheltering. Over the past decade, corporations and their accounting firms have become increasingly aggressive in seeking ways to shift their profits, on paper, into offshore tax havens, in order to avoid their tax obligations. Corporate offshore tax sheltering is estimated to cost the U.S. Treasury anywhere from $30 to $70 billion a year.

Senator LEVIN has been aggressive in trying to close these loopholes and some of his ideas were adopted in the Senate version of the Jumpstart Our Business Strength (JOBS) bill.

Stock options. Of the 275 corporations studied, 269 received stock-option tax benefits during the 2001–2003 periods, which lowered their taxes by a total of $32 billion over three years. Microsoft had the largest tax savings with $5 billion.

Tax credits. The federal tax code provides tax credits for companies that engage in research, exporting, hiring low-wage workers, affordable housing, and enhanced coals usage. For example, Bank of America cut its taxes by $590 million over 2001–2003 by purchasing affordable-housing tax credits.

Ms. SNOWE. Mr. President, I rise today to express support for this conference report on the American Jobs Creation Act of 2004. At the outset, I commend Finance Committee Chairman GRASSLEY and Ways and Means Committee Chairman BILL THOMAS for their leadership during the conference negotiations and bringing this bill to completion.

We're here, after nearly 2 years of discussion and work on legislation that, once enacted, will jumpstart the manufacturing sector of our economy and create jobs. Indeed, although this legislation is to repeal the FSC/ETI rules and stop the imposition of WTO sanctioned trade tariffs, the real reason we must pass this legislation is to assist our struggling manufacturers throughout the country.

According to the National Association of Manufacturers, between January 2001 through January 2004, manufacturing employment in our Nation declined by 16 percent. In New England, there was a 20 percent decrease in manufacturing employment during that same time period. This means that between January 2001 and January 2004, New England's manufacturing sector employment declined by an alarming 28 percent faster rate than it did nationally.

My home State of Maine has shed manufacturing jobs at an alarming rate over the past decade and all the more so in the past two years. From January 1993 through June 2003, a 10½ year period, Maine lost 18,900 manufacturing jobs. More specifically, from July 2000 to June 2003, Maine has lost 17,300 manufacturing jobs, the highest loss of any state during that time period.

Our objective was clear: not only must we adopt a conference report that complies with international trade law, but more importantly, we need to offer our country's manufacturers a solution that will jumpstart their production and create jobs, and we must do so now. As a result of our loss at the WTO, certain U.S. goods exported to Europe are being hit with a 12 percent tariff. Critically, this bill will remove that tax on our exports.

Were we to neglect this duty to ensure that our nation's manufacturers are simply given the chance to compete on a level playing field with foreign competitors, we would only be compounding the current situation.

Instead, this conference report will ''reallocate'' the nearly $50 billion in revenues that replacing the FSC/ETI rules will generate and provides an additional $25 billion towards a tax deduction for our manufacturers. I am pleased that the conference report follows the Senate manufacturing deduction that is available to all domestic manufacturers and does not discriminate based on the manufacturers entity classification.

Indeed, the original legislation in the House would have extended the tax relief benefits solely to regular corporate entities, or C-corporations. In the Senate, I fought to secure the benefits for S-corporations and partners in partnerships as well.

This decision to provide a manufacturing deduction that is not entity specific, rather than a corporate income

tax cut, is cruial because the ETI rules applied not only to corporations but also to S-corporations. As small business manufacturers constitute over 98 percent of our nation's manufacturing enterprises, employ 12 million people, and supply more than 50 percent of the value-added during U.S. manufacturing, it is imperative that we do not increase taxes on our country's job creators—small businesses.

In the face of record deficits, this bill also maintains our fiscal responsibility by including offsets that will crack down on abusive tax cheats. Both the Senate and House bills contain a variety of provisions that stop the proliferation of abusive tax shelters. Enacting these rules and other revenue offsets will ensure that we will be able to pay for this bill without adding to the deficit. This was a key priority for me during this conference and I am pleased that the conference supported a revenue neutral final bill.

I am also pleased that the conference report includes a provision that will restore equity and fairness into the tax code for our country's naval shipbuilders.

Quite simply, this provision would put navy shipbuilders on par with commercial shipbuilders in that they would be able to pay a portion of their income taxes upon delivery of the ship rather than during construction. Currently, navy shipbuilders must estimate profits during the construction phases of the shipbuilding process, and they must pay tax on those estimated profits—a process known as the ''percentage of completion method'' of accounting.

The major shortcoming of this method is that shipbuilders must report progress payments as ''revenue'' rather than as a source of financing, whch had been recognized and permitted for the 64 years between 1918 and 1982. Additionally, this accounting method creates a ''legal fiction'' of an ''interim profit,'' when in reality a profit or loss is not reasonably known until after a ship is completed. This places a financial burden on shipbuilders during the critical construction phase, reduces the resources available to invest in facilities and process to reduce construction costs, places a burden on the cash flow management of the shipbuilder, and weakens the financial health of the defense shipbuilding industrial base.

The provision in the conference eport will permit navy shipbuilders to pay 40 percent of their estimated income tax during the contract and pay the remaining 60 percent in the year in which construction is completed. In addition, shipbuilders will be able to report their taxes on a ship-by-ship basis rather than on a contract-by-contract basis, which therefore reduces the potential for abuse.

Now, naval shipbuilders will be able to pay their income taxes in a manner similar to how commercial shipbuilders pay their taxes. The main difference, though, is that commercial shipbuilders are permitted to utilize this 40/60 treatment for only 5 years rather than the 8-year period under my amendment. This 5-year period for commercial shipbuilders is appropriate for them because most commercial ships take no more than three years to build. However, as many navy shipbuilders spend at least 8 years when building submarines, aircraft carriers, and destroyers, a 5-year window for them is simply inadequate. Consequently, this amendment provides for an 8-year window because that is the necessary time to assist the majority of our navy shipbuilders.

Let me stress that this provision in no way reduces the amount of taxes that these shipbuilders ultimately pay. Rather, it merely allows them to defer paying their taxes until their profit is actually known, just as commercial shipbuilders are already permitted to do.

Not only does this change embody sound tax policy, but so too does it improve our National Security. Indeed, this provision is limited exclusively to naval shipbuilders, that are charged with building our Navy's fleet of ships that protect our homeland. During this time of war, the last thing we should do is allow an inequity in the tax code to cause these companies financial hardship that might affect their production and output. I am certainly not saying these companies should get a free pass, and this provision in no way provides them with one, but what I am saying is that they deserve to be treated fairly given the instrumental role they play for our Nation, and this amendment will do just that.

This conference report contains a great many benefits for small businesses that will play a vital role in improving our economy. For example, the report includes an amendment I offered that will extend the current $100,000 small business expensing limitation and $400,000 phase-out through the end of 2007. Although the Jobs and Growth Tax Act increased these levels from their previous $25,000 limitation and $200,000 phase-out, these limits will sunset at the end of 2005 and return to those lower levels. I believe it is imperative to inject certainty into the tax code so our small business owners can plan accordingly in purchasing the capital and equipment they need to run their operations, and this amendment will go a long way toward doing so.

It was imperative that Congress take action to extend these benefits for our Nation's small businesses. By doing so, qualifying businesses will be able to deduct more of their equipment purchases in the current tax year rather than waiting 5, 7, or more years to recover such costs through depreciation. This change represents substantial savings both in tax dollars and also in the time small businesses would otherwise have to spend complying with the complex depreciation rules.

For example, the IRS estimates that a taxpayer should expect to invest nearly 50 hours in order to learn the law, perform the necessary bookkeeping, and complete the forms in order to claim a depreciation deduction for an average amount of depreciable property. That is valuable time that the owner must take away from running the business. And in too many cases, it translates into additional fees for accountants to figure out these indecipherable depreciation rules.

By maintaining the $100,000 limitation, small businesses will save time and accounting costs, freeing them to spend their scarce time and resources on what they do best—running successful businesses and creating jobs in America.

I am also pleased that the report includes my amendment to modify the unrelated business taxable income rules to allow small business investment companies to receive investments from tax-exempt entities. By enacting this provision into law, small businesses will have better access to capital through the Small Business Investment Company Program.

Small Business Investment Companies are government licensed, government regulated, privately managed venture capital firms created to invest only in original issue debt or equity securities of U.S. small businesses that meet size standards set by law. In the current economic environment, the SBIC program represents an increasingly important source of capital for small enterprises.

While Debenture SBICs qualify for SBA-guaranteed borrowed capital, the government guarantee forces a number of potential investors, namely pension funds and university endowment funds, to avoid investing in SBICs because the woul be subject to tax liability for unrelated business taxable income UBTI. More often than not, tax-exempt investors opt to invest in venture capital funds that do not create UBTI. As such, an estimated 60 percent of the private-capital potentially available to these SBICs is effectively ''off limits.''

The amendment I offered corrects this problem by excluding government-guaranteed capital of Debenture SBICs from debt for purposes of the UBTI rules. This change would permit tax-exempt organizations to invest in SBICs without the burdens of UBTI record keeping or tax liability.

As a result, small businesses will have greater access to capital, enabling them to grow and hire new employees. According to the National Association of Small Business Investment Companies, a conservative estimate of the effect of this amendment would be to increase investments in Debenture SBICs by $200 million per year from tax-exempt investors. Together with SBA-guaranteed leverage, that will mean as much as $500 million per year in new capital assets for Debenture SBICs to invest in U.S. small businesses.

Moreover, as people know, Maine is a rural State. In that light, I am pleased that this bill contains important to the

timber industry patterned after S. 1381, the Reforestation Tax Act, a bill I introduced last year.

Under the conference report, owners of timber lands would be able to elect to immediately deduct their reforestation expenditures on their timber property—up to $10,000 per year. This change would allow taxpayers to recoup more of their investments in qualifying timber property at a more rapid pace, thereby encouraging investments in reforestation and strengthening the future growth of our forests. The bill provides other relief important to the timber industry, such as the ability to treat outright sales of timber as a capital gain and be taxed at a lower rate. Likewise, it contains a provision to allow real estate investment trusts that own timberland to avoid a 100 percent penalty tax when they sell timber land in the ordinary course of their business. With foreign competition in the timber industry fierce, these provisions will enhance the ability of U.S. timber companies to compete.

Furthermore, I am pleased that tax credits for biomass facilities are included, which are similar to the ones I introduced. For the first time, the current production tax credit will be available to biomass facilities that use waste products to produce energy. This will put the industry, currently at a competitive disadvantage, on a more equal footing with other renewable power, such as wind. The biomass facilities in my state of Maine are not only an alternate electricity-producing source, but they supply good paying jobs in rural areas of the state and are a large source of tax revenues.

The Maine biomass industry uses forest waste, such as those unused portions of trees—tops and limbs—that are not put into making paper products, to produce electricity at their biomass plants. This helps to lessen the use of fossil fuel to make electricity. Since a barrel of crude oil has gone over $50 a barrel for the first time in history in recent days, these savings help what is becoming a critical—and expensive—situation. Using the forest waste also helps avoid an environmental and safety problem the mills would have if they had to store the wood waste on site.

Additionally, the report contains a provision that co-sponsored that will greatly benefit our domestic film industry, which is an industry that plays a vital role in the economy of our country and also in my home state of Maine.

Film makers will now be able to deduct up to $15 million of qualified costs during the first year of production. The remaining costs incurred will then be amortized over a 7-year period. Similar to the small business expensing provision, it is critical that we provide taxpayers with opportunities to recover their costs in a more expeditious manner rather than under the time-consuming and cumbersome depreciation rules. This film provision provides just that, and will in turn provide a key incentive for film makers to make their products in the United States.

Another ''job-creating'' provision contained in the bill is a provision that I was pleased to cosponsor that will potentially increase the number of taxpayers that are eligible to claim new markets tax credits. Without question, the new markets tax credit program has had a profound impact on my home state. This conference report will further improve that program by extending the geographic area to low-income communities regardless of whether they fell under the previously-designated census tracts. Indeed, this provision will benefit rural communities throughout America, particularly those in Maine, because now areas will qualify for this critical investment opportunity based on their income and not on an arbitrary ''census tract'' determination.

This report contains even more tax incentives to encourage job creation throughout America. For example, rail operators will not be able to claim a tax credit based on the amount of expenses incurred to maintain and upgrade short-line railroad tracks. Insurance companies will now not incur a penalty tax on old policy holder income when they restructure their operations, which in turn will permit them to save this money and reinvest it in their operations.

Clearly, the provisions in this bill to assist our manufacturing base are numerous, deserved, and long overdo. Fortunately, however, we were also able to provide other sectors of our economy with much needed tax relief. For example, the bill contains a provision to permit rural letter carriers to deduct more of their carrier expenses. In addition, the report contains a provision that will allow fishermen to ''average'' their income over a period of several years to account for the cyclical nature of their industry and to ensure they will be able to fully take advantage of the losses that unfortunately often arise in their business.

I am also pleased that the conference report includes measures I cosponsored to assist our Nation's shipping industry. For example, the Report includes a provision to permit shippers that adhere to the ''two ship'' rule to avoid falling under the complex, cumbersome subpart F rules. While the subpart F rules have an important role under the tax code in preventing the deferral of passive investment income, shippers should not be subject to them regarding their profits earned from their active shipping business.

An additional provision that will benefit our shippers is one that will permit them to satisfy their tax liability in a manner similar to how shippers in other countries pay their taxes. Specifically, the report contains a provision to permit shippers to elect to pay tax on the ''tonnage'' of weight of their freight, rather than a tax based on their income. Providing for this election will increase the competitiveness of domestic shippers because it allows them to pay their taxes in a more efficient, less complicated manner, which in turn will allow them to spend less time and money in trying to navigate the complicated Tax Code.

Notwithstanding all of the considerable benefits contained in this conference report, I want to take a moment to lament the report's coverage of tobacco legislation.

As you all know, the Senate reached an important compromise on the issue of tobacco in order to get this bill to conference by adopting both an industry-funded buyout of tobacco growers' quotas and a grant of authority to the Food and Drug Administration to regulate tobacco. The agreement crafted by my colleagues, Senators DEWINE, KENNEDY, and MCCONNELL, would have given the FDA the authority to require tobacco manufacturers to list the ingredients on all of their packaging; to submit specified health information to the FDA for analysis; to regulate sale, distribution, and advertising related to tobacco; and to force the cigarette makers to substantiate, through scientific testing, any labels they might use to indicate that their product posed a lower health risk, such as ''light,'' ''mild,'' or ''low.''

I believe FDA regulation of tobacco is imperative because we simply cannot afford to ignore the toll that smoking has taken on our society. Every year 400,000 Americans die as a result of cigarette smoking, and approximately 8.6 million people suffer from smoking-related illnesses or conditions. In addition to the human cost, these staggering numbers have taken a financial toll on our country's health care system as well: annual public and private health care expenditures caused by smoking amount to over $75 billion, $23.5 billion of which is shouldered by federal and state governments.

Even more disturbing is the fact that the next generation is being targeted by ''Big Tobacco'' while they are still in middle and high school. Virtually all of my colleagues have been visited in the past several weeks by members of the Coalition for Tobacco Free Kids, who brought in samples of new candy-flavored cigarette packs such as ''Caribbean Chill,'' ''Midnight Berry,'' and ''Mocha Taboo.'' Everyone knows that lifelong adult smokers have no interest in buying these flavored cigarettes. That kids are the targets of this marketing is consistent with a Brown & Williamson memorandum uncovered 6 years ago which stated, ''It's a well known fact that teenagers like sweet products. Honey might be considered.''

In the final analysis, I wanted to vote for a conference report that contained the Senate's tobacco provisions. As we know, the Senate conferees agreed and voted 15–8 to include FDA regulation in the conference report—but the House rejected its adoption. Failing that, I would have wanted the buyout provision stricken as well, and I voted for an

amendment in conference to do just that, but that was also rejected. In short, at every opportunity I supported FDA regulation. At the end of the day, the conference report—designed to create jobs, bolster our exports overseas, and end the penalties against Maine's and America's manufacturers—was simply too critical to the economic future of our nation, and therefore I voted for this vital jobs bill.

Likewise, I am disappointed that this conference report failed to include an important provision in the Senate bill that would have benefitted our military reservists. Under the Senate bill, businesses would have received a tax credit for payments made to an employee who was called to active military reservist duty. Proudly, I supported this provision when it was offered to the Senate bill, and I supported it during the Senate and House conference. Nevertheless, the final report, regrettably, failed to include this sensible, deserved tax relief. While we must pass this conference report to stop the imposition of World Trade Organization tariffs, I am deeply disappointed we did not take this opportunity to compensate our military reservists and their employers for their sacrifices. Unquestionably, I hope and expect that addressing this issue will be one of the first items we consider when Congress reconvenes next year.

Finally, the bill before us today is silent on an issue of great importance to working Americans—the administration's new regulations updating overtime eligibility requirements that could deny millions of workers the overtime pay protections guaranteed by the Fair Labor Standards Act, FLSA. In May, I was one of 52 Senators who voted in support of the Harkin amendment to the Senate FSC/ETI bill which would clarify that the administration's regulations can result in no worker losing their overtime eligibility. In September, both the House of Representatives and the Senate Appropriations Committee voted decisively to overturn the new overtime regulations.

At issue is a Department of Labor regulation, which went into effect in August, updating the so-called ''white collar exemptions'' to the FLSA overtime protection. While DOL asserts that 107,000 middle- and upper-income workers will lose their overtime eligibility under the proposal, other sources put the number of affected workers as high as six million. Whatever the final impact of the DOL's changes on American workers, I have serious concerns as to whether this is the right time to take steps to jeopardize the right to overtime pay, which provides economic security for so many American families. As such, I was disappointed that the Harkin amendment was not included in the FSC/ETI conference report.

This bill is a historic achievement and will benefit our economy. Many of these changes to the tax code are long overdue. In the end, the provisions of this bill will bolster our manufacturing base, increase the attractiveness of doing business in the United States and give a jumpstart to business, particularly small businesses, to create jobs.

I urge my colleagues to support this conference report.

Mr. DURBIN. Mr. President, this legislation began as a modest effort to repeal an illegal export subsidy. It has grown to 633 pages with nearly $140 billion in corporate tax breaks over the next decade. The conference report replaces the $50 billion export subsidy with a $77 billion manufacturing tax cut—a net tax cut for domestic manufacturing of $27 billion after the loss of the subsidy, $43 billion in tax breaks on overseas income, and $17 billion in tax breaks for special interests.

The bill does not include FDA regulation of tobacco, a Senate-passed provision to block new overtime rules that hurt workers, and a Senate-passed provision giving a tax break to companies that make up the pay gap for activated Reservists and Guardsmen.

It does include a tobacco buyout that gives most of the benefits not to small farmers but to anyone who owns tobacco quotas and will do nothing to help farm communities, a huge amount of corporate pork, and almost twice as much in new international tax breaks as in domestic manufacturing tax breaks, which will encourage companies to move operations and assets abroad. It also uses the same accounting tricks as the previous Bush tax cuts to make the bill appear revenue neutral when it will actually cost billions.

The Senate approved a tobacco buyout with $2 billion in transition assistance to communities that depend on tobacco production. The conference report drops this assistance entirely.

The Senate approved a buyout with limitations on who would be eligible. This was an attempt to make sure small farmers got most of the benefit. Farmers had to be actively engaged in production in the last few years and quota holders had to be in the system since 2002. Those restraints were completely dropped in conference. Under this bill, 80 to 85 percent of the people who benefit are quota owners who don't qualify as growers, according to the Wall Street Journal.

In Kentucky, Virginia, North Carolina, and Wisconsin, beneficiaries include country clubs, churches, colleges, universities and high schools that own land in tobacco-growing counties.

Larry Flynt and his brother Jimmy own land that had a quota to grow 600 pounds of tobacco in 2003, according to the Environmental Working Group. They will benefit from the buyout. The Wall Street Journal quoted Jimmy Flynt, president of Hustler Entertainment, on the buyout. He said:

> We got out of the tobacco business and into the porn business. We walked away from that blood, sweat and tears.

The Senate approved a tobacco buyout combined with FDA oversight of tobacco by a vote of 78 to 15. The legislation was a hard fought and painstakingly crafted balance between public health and struggling farm economies. Now it is gone from the bill, but the tobacco buyout remains. The conferees dropped FDA regulation even as the tobacco industry inflicts terrible damage on people's health. It kills more Americans than AIDS, alcohol, car accidents, murders, suicides and fires combined 400,000 people a year. Every day, 4,000 children will try a cigarette for the first time and 2,000 will become regular smokers. Of those 2,000, one third will die prematurely of smoking related illnesses.

We have missed an opportunity to protect children from tobacco addiction and save them from premature death. If you think I am overstating the case, look at the tobacco industry's latest advertising campaigns to attract our children to candy-flavored cigarettes: R.J. Reynolds has recently marketed Kauai Kolada cigarettes, with ''Hawaiian hints of pineapple and coconut,'' and Twista Lime cigarettes, described as ''a citrus tiki taste sensation.''

Without FDA authority, the tobacco companies will continue to target our children with their products. We talk about Leaving No Child Behind when it comes to education. We should not leave them behind when it comes to tobacco either.

The Senate version of the bill blocked the Bush administration's new rules that stripped the right to overtime pay from six million Americans. For workers who receive overtime pay, that overtime compensation accounts for 25 percent of their paychecks. So the Bush administration's regulations slash the paychecks of hundreds of thousands of Americans by 25 percent.

Both the Senate and House have voted to block the overtime rules. This clearly has the support of a majority of both the House and the Senate, yet it was stripped in conference. Corporations are getting huge tax breaks from this bill, but not one worker will have his or her well-earned overtime pay restored.

This bill is loaded with $17 billion in special interest tax breaks. Does anyone outside the Finance Committee really know everything that is in this bill? Does anyone inside the room even know? Some of the tax breaks it includes are:

$500 million for railroad companies;

$494 million for restaurant owners;

$234 million for beer, wine, and hard liquor producers;

$101 million for NASCAR track owners;

$44 million for ceiling fan importers, inserted at the request of Home Depot;

$42 million for Hollywood producers;

$28 million for cruise ship operators, which greatly benefits Carnival Corporation and Royal Caribbean;

$11 million for makers of tackle boxes, which will benefit Plano Molding Corporation, a company

headquartered in the district of the Speaker of the House, Dennis Hastert;

$9 million for makers of bows and arrows;

A $9 million break on customs duties for the importation of steam generators and nuclear reactor vessel heads, inserted at the request of General Electric;

$4 million for makers of sonar fish finders;

$4 million for native Alaskan whalers;

$27 million for foreign gamblers who win at U.S. horse and dog tracks.

Is the intention of this bill to give tax breaks for foreign gamblers who win at U.S. horse and dog tracks? I thought the point of this bill was to solve the FSC/ETI problem so that U.S. goods would no longer face tariffs abroad, and perhaps to promote domestic manufacturing. After all, it is called a ''JOBS'' bill by its authors. So now we have to entice foreigners to visit the United States and plunk down their money at the track, by giving them tax breaks on their winnings, in order to create jobs in the United States?

The conference report does not just include a huge amount of pork. It also fails to effectively close corporate tax loopholes. The Senate version banned accounting techniques that have no economic purpose except to shield corporate income from taxes. This would have saved $15 billion in lost tax revenue over the next 10 years. The conferees refused to include this measure.

The bill also fails to take a strong stand against companies that have moved overseas for tax purposes. The Senate version ended tax advantages for companies that relocate to Bermuda or other tax havens and would have eliminated $3 billion in lost tax revenues. The conferees severely weakened this provision by not making it retroactive. They replaced it with a House version that will eliminate only $800 million in lost tax revenue.

The $3 billion saved by the stronger Senate measure would have been enough to pay for the tax break for companies that make up the pay gap for Reservists and Guardsmen. But this break for our men and women in the military was dropped.

Instead, other companies will benefit. As the Wall Street Journal reported on Wednesday, the bill grandfathered in four Houston-based companies—Cooper Industries, Weatherford International Limited, Noble Corporation, Nabors Industry—that recently relocated to the Cayman Islands and Bermuda.

The bill includes $43 billion international tax breaks that will encourage companies to relocate to tax havens like Bermuda and to move jobs out of the country. According to an analysis published last month by the Tax Policy Center, a joint venture of the Brookings Institution and the Urban Institute, these tax breaks increase the already strong incentives of U.S. multinational firms to operate abroad and to shift profits to low-tax locations. Even corporate executives admit they are moving assets and operations overseas. In February of this year, the Financial Times quoted one corporate tax official as saying:

> You only have to look at the way we tighten our belts in the United States through layoffs to understand what is happening.

More than a dozen companies such as Tyco, Foster Wheeler, and Ingersoll Rand have relocated their headquarters to foreign tax havens in the past decade alone. And jobs are moving abroad as well. Since President Bush took office, 2.7 million manufacturing jobs have been lost. It is no mystery where these jobs have gone: out of the country in search of cheap labor and low tax rates. We should not encourage this kind of behavior with new tax breaks on overseas operations.

Some of the $43 billion in international tax breaks include:

An $8 billion tax break that makes it easier for companies to use taxes on one kind of foreign income to reduce what they owe on foreign income of a different type—General Electric pushed hard for this provision and got it;

A $7 billion tax break that allows companies to carry their foreign tax credits forward for 10 years, compared to the current law that allows only 5 years;

A $5.6 billion tax break that allows companies to reclassify domestic income as foreign income to take advantage of unused foreign tax credits;

A $3.3 billion tax holiday to encourage companies to bring foreign profits back to the United States, supposedly for investment here.

This tax holiday provision is worth looking at more closely. The Center on Budget and Policy Priorities calls it the ''Oracle'' tax break because the software company Oracle will reap huge benefits. Companies leave profits abroad to take advantage of lower tax rates and to defer payment of their American taxes. This bill gives them a temporary reduction in the tax rate to repatriate these funds. The supporters of this tax holiday say the bill requires companies to reinvest these repatriated funds to create jobs in the U.S. But according to the Tax Policy Center, the conditions on the use of these repatriated funds are difficult to enforce and are unlikely to create new investment in our country.

I am not the only one who thinks the tax holiday is a bad idea. Even the Bush administration opposes it. Treasury Secretary John Snow sent a letter to the conferees that said:

> U.S. companies that do not have foreign operations and have already paid their full and fair share of tax will not be able to benefit from this provision. Moreover, the Council of Economic Advisers' analysis indicates that the repatriation provision would not produce any substantial economic benefits. The Administration believes the $3 billion revenue cost. . . could be better used to reduce the tax burden of job creators in the United States.

Even the centerpiece domestic manufacturing tax cut has serious problems:

The oil and gas industries were never eligible for the FSC/ETI export subsidy, but they will get the manufacturing benefit, even though oil prices are at historic highs.

Corporate farms, but not family farms, will be eligible.

Engineering firms like Bechtel and Halliburton will be eligible.

Starbucks secured a provision declaring that coffee roasting is a form of manufacturing, so the company will benefit from the tax cut.

Deceptive figures to make the bill appear revenue neutral.

The bill's supporters say it is revenue neutral. But since 2001, the Republican leadership has repeatedly relied on budgetary gimmicks to hide the true cost of their tax cuts. This bill is no different. It will increase the deficit at a time when it is at record levels.

The Congressional Budget office reported last week that we had a $415 billion deficit in 2004. This is $41 billion higher than last year. It is the fourth straight year of increasing deficits. This is the first time since World War II that we have had 4 consecutive years of increasing deficits.

Because of the huge deficit, the Washington Post reported on Friday that the White House has ordered a draft budget for 2006 that cuts Homeland Security, Veterans Affairs, and Education.

The bill slowly phases in the manufacturing tax cut over 5 years. Because of the phase-in, about one-third of the total cost is concentrated in the last 2 years. According to the Center on Budget and Policy Priorities, the long-run cost of the measure would likely be significantly higher than the $77 billion estimated for the first 10 years.

The bill also has tax breaks that expire before the end of the 10-year period. There are nearly a dozen provisions in the bill that sunset between 2005 and 2008. According to Citizens for Tax Justice, the cost of the legislation could balloon to $230 billion over 10 years if those tax breaks are extended. This far exceeds the $140 billion in revenue offsets.

The expiring provisions and their supposed cost and true cost if extended are:

Small Business Expensing $1 billion True cost: $33 billion';

State and Local Tax Deduction $5 billion True cost: $30 billion;

15-year Straight Line Cost Recovery $2 billion True cost: $11 billion;

Other Expiring Cuts $1 billion True cost: $4 billion.

These cuts supposedly cost only $7 billion over 10 years, but in reality they will cost $80 billion if extended. And as we have repeatedly seen, the Republican leadership is more than willing to extend ''temporary'' tax cuts again and again without any concern about the effect on the budget, despite the record deficits we face. I have no doubt this will happen again with these cuts.

The conference report has many flaws, but it also includes an historic ethanol program that I have worked for many years to pass. The ethanol tax credits in the bill are important to Illinois and the Nation's energy policy, and I would like nothing better than to vote to pass these measures.

The bill enacts the Volumetric Ethanol Excise Tax Credit, which changes the administration of tax incentives for renewable fuels to avoid a reduction in highway funding. It extends the ethanol tax incentive through 2010. It also allows small ethanol producer cooperatives to pass credits through to cooperative members.

Ethanol has been an important issue for me throughout my 20 plus years in Congress. In 1987 I was the first member of Congress to propose that Congress require the gasoline supply to include 5 billion gallons of ethanol.

I am greatly disappointed to have to vote against this bill, despite the ethanol provisions, because of the outrageous and unacceptable way that it deals with the central issue of replacing the export subsidy.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. LEAHY. Mr. President, the tax bill conference report that will overwhelmingly pass the Senate today is an opportunity lost. This bill is a fiscally irresponsible giveaway full of hundreds of special interest provisions that will ultimately cost the taxpayers billions of dollars.

I voted in favor of the Senate version of this important legislation when it passed by an overwhelming vote of 92–5 back in May. What began as a legislative fix to bring our Tax Code into compliance with international trade laws has turned into a deficit busting give away to special interests. This conference report lacks the balance and restraint that was critical to passage of the Senate bill.

The math on how this bill adds to the deficit is simple. Repeal of the so-called FSC ETI tax breaks for U.S. multinational companies will increase revenue by $50 billion. Incredibly, the conferees could not help themselves but take the opportunity to not only spend that $50 billion but also spend another $100 billion with almost no comparable spending offsets—adding straight to the ballooning Federal budget deficit.

The conference report is being sold as a godsend for American manufacturing workers, yet Senate provisions to tie corporate tax breaks to actual job creation have been stripped. I have to chuckle when I hear the White House referring to this as the ''JOBS'' conference report.

I am also disappointed that the conferees chose to drop the Senate provision sponsored by Senator LANDRIEU to provide tax credits to employers who make up the pay that employees lose when they are called up for National Guard or Reserve duty. Senator LANDRIEU has eloquently and forcefully highlighted to the Senate over the past couple of days why this provision should not have been dropped from the final conference report. I agree with her outrage that the conferees included many special interest tax provisions—one even for ceiling fan manufacturers—but could not include a provision that helps the men and women who are serving their country.•

Mr. BUNNING. Mr. President, I rise today to bring attention to section 852 of the conference report of H.R. 4520 before us today. First, I thank the managers of the conference report for accepting my amendment which added this provision to the conference report. The amendment codifies current Treasury proposed regulations defining off-highway vehicle. My intention in proposing this amendment was to confirm that Congress feels it is proper that vehicles which do not make use of, or make only very limited use of, the public highways should not be considered a ''highway vehicle'' for purposes of various excise tax sections, including, but not limited to, sections 4053, 4072, 4082, 4483, 6421, and 7701, of the Internal Revenue Code.

When used on public highways, heavy trucks put a greater stress on our roadways than average vehicles. In the past, Congress has passed laws to impose various excise taxes for large vehicles to use our national highway system. For example, there is a 12-percent retail sales tax for large on-highway vehicles, special taxes on tires weighing more than 40 pounds, additional large vehicle gasoline taxes, and there is even an annual use tax imposed on these heavier vehicles. The overwhelming majority of the revenue generated from these provisions is placed in the highway trust fund to rebuild our Nation's infrastructure.

This issue of off-highway vehicles and their tax status is of grave importance to my state of Kentucky. Many companies use heavy machinery and oversize vehicles. In Kentucky, they are used most often at coal mines. Some of these large vehicles are used only internally on the mine lands while others are used to haul materials over our Nation's public roads.

However, the Internal Revenue Code itself has not defined what constitutes a ''highway vehicle.'' The legislative intent of past Congresses seems clear—to impose excise taxes on vehicles that disproportionately stress our highways. It is important that we clarify who should pay these taxes through the legislative process. Current Treasury regulations contain a number of exclusions from the definition of highway vehicle and therefore provide exclusions from the imposition of a number of excise taxes which are dependent upon this definition. One of these exclusions exempts certain vehicles specially designed for off-highway transportation for which the special design substantially limits or impairs the use of such vehicle to transport loads over the highway.

I proposed the amendment to codify this off-highway vehicle exception—an amendment which became section 852 of this conference report—because I believe that these excise taxes should not be imposed on vehicles which make little or no use of the public highways. Under the definition of off-highway vehicle which is provided in this conference report, a vehicle is not treated as a highway vehicle if it is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design its capability to transport a load over the public highway is substantially limited or impaired. In determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether it is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether it can transport a load at a sustained speed.

The Statement of Managers accompanying this conference report states that, when determining whether a vehicle qualifies for the off-highway exception, the fact that its considerable physical characteristics for transporting its load other than over the public highway, when compared with its physical characteristics for transporting the load over the public highway, establish that it is specially designed for the primary function of transporting its load other than over the public highway. These types of vehicles should not be defined as a highway vehicle and should not be subject to the excise taxes at issue.

We often have situation in the mining area of my state where large trucks are used to haul coal in off-highway operations. When these trucks are designed and built, many thousands of dollars are spent to modify standard truck chassises before bed installation. Generally, heavier axles, transmissions and other drive train components, as well as other modifications needed to allow the vehicles to operate at lower operating speeds carrying loads significantly heavier than those legally allowed on the highways, must be added to the trucks. The trucks generally have beds which, along with the truck itself, cause the vehicle's width to exceed that which is allowed to be operated on the public highways of any state. Often these trucks do not need to be licensed like on-highway vehicles in Kentucky and neighboring coal states because the trucks are an off-highway vehicles by state standards. These trucks are actually so large that it is not even legal to drive them on highways, except in very limited circumstance usually involving special trip permits. In fact, very substantial modifications would need to be made to the vehicles to cause them to be legal for highway use. Insurance agents, State licensing agents, State sales tax officials, and even our own transportation laws all recognize these vehicle as ''off-highway.'' It is clear

that, by reason of special design, the use of such vehicles to transport loads over the public highways is substantially limited or substantially impaired.

I am concerned about the interpretation of these rules by the administration. Make no mistake about it, as a member of the Senate Finance Committee, I will be watching this issue closely to ensure that the intent of Congress is being followed with regard to the imposition of taxes on highway vehicles and the exception of nonhighway vehicles from these taxes. I will not hesitate to urge the Congress to address this issue again if necessary to ensure that congressional intent is being properly implemented.

Mr. ROCKEFELLER. Mr. President, on behalf of all hard working West Virginians who are worried about keeping their jobs, I must oppose the corporate tax bill the Senate is considering today. For more than a year, I have been working with my colleagues to craft legislation that would address the needs of our manufacturing industry, and I was proud to vote for a Senate bill earlier this year that promised real relief for our economy. However, the legislation before us bears only a faint resemblance to the bipartisan Senate bill, and I believe it would do more harm than good. I urge my colleagues to reject this legislation. We can do better than this, and we owe it to American workers.

Last September, I introduced legislation that would offer help to our struggling manufacturing sector. My bill would repeal the Foreign Sales Corporation/Extraterritorial Income tax provisions to ensure that European tariffs against American exports are lifted. It would create a new tax deduction for domestic manufacturers to essentially lower their corporate income taxes by 3 percent. In addition, my legislation calls for a tax credit to make health care for older workers more affordable. Finally, my legislation would strengthen our trade protections.

On May 11, 2004, the Senate voted 92 to 5 to support the Jumpstart Our Business Strengths, JOBS, Act, which contained the core manufacturing deduction I support. This Senate bill was the product of constructive, bipartisan negotiations. While I did not like every last provision in the bill, it represented a balanced set of tax incentives that would help our factories compete globally.

Having worked so hard to craft the good legislation produced by the Senate, I am extremely disappointed to be faced with such a bad conference report. This conference report is riddled with problematic provisions. But the most fundamental flaw is that this bill actually does more to reward companies for moving jobs overseas than it does to help companies who are struggling to keep their American factories open.

Right now workers in my state are worried about being laid off. Nationwide, we have lost almost 3 million manufacturing jobs in four years. American companies are struggling to succeed in a tough global marketplace. Yet, this Congress is considering legislation that provides tens of billions of dollars in tax breaks for American companies with factories abroad, but includes very little for American factories that are struggling to stay open at home. Many factories are simply not profitable enough to benefit from the deduction provided in this bill.

I supported two key provisions in the Senate-passed version of this bill that would provide relief to struggling companies. The net operating loss carryback provision would allow unprofitable companies to reclaim some of the taxes they had paid on previous earnings. And a provision to allow companies to use alternative minimum tax credits in lieu of favorable depreciation rules would have provided a real incentive for factories to invest in America. But both of these provisions have been excluded from the final bill. By contrast, this bill does include a new 30 percent tax break for companies that moved factories overseas and then kept the profits offshore to avoid paying their fair share of taxes.

Rewarding companies for offshoring is just one of the ways that this bill makes American workers less secure. In spite of Senate support for a provision to prevent the federal government from outsourcing its contracts to foreign workers, this legislation includes no such restriction. The conference committee also dropped a provision to protect the overtime pay of millions of workers across the country.

Instead of protecting workers, this legislation is rife with giveaways to corporate interests. For just one example, the legislation repeals a 4.3-cent excise tax on railroads diesel fuel. By providing no corresponding relief to captive shippers, the bill ensures that consumers will have to pay more for many goods shipped on the Nation's railways.

In another effort to appease corporate interests, the conference committee actually protected many abusive tax shelters. To ensure that every company and individual pays a fair share of taxes, and to mitigate this bill's effect on our spiraling national debt, the Senate supported a number of strict provisions to close tax loopholes. Unfortunately, $40 billion worth of tax shelters will remain available even if this legislation passes. I will put my colleagues on notice right now that I intend to continue the fight to shut down those abusive tax schemes.

Among the corporate interests that are best protected by this bill are tobacco companies that peddle their deadly products to our Nation's children. The House of Representatives ignored a bipartisan Senate compromise to link a buyout for tobacco farmers with regulation of tobacco products by the Food and Drug Administration. As a result, more children will take up the awful habit of smoking.

And while I am on the subject of America's young people, let me mention the bill they can expect from the legislation we are considering today. The Senate insisted that the legislation be revenue neutral, that is, it must not add to the debt. However, as we have seen time and time again from this Congress, this goal was met using gimmicks. Many of the tax breaks in this bill are either phased in slowly or sunset after a few years. If expiring provisions are extended, as there will certainly be great pressure to do, the net cost of the bill over the next 10 years would be almost $100 billion.

Regrettably, as we are accumulating more debt for our children to pay off, we are not building the technological infrastructure that will be necessary to make America's economy competitive in years to come. The United States has now slipped to 11th in the world for broadband penetration, with rural areas lagging behind considerably. The Senate JOBS Act included a provision I have championed to provide tax incentives for the deployment of broadband. I am extremely disappointed that this provision, like so many others, was dropped from the final bill.

I have just gone through a laundry list of important reasons to oppose this bill, but in the end, my judgment about this legislation came down to a very simple test: Is this in the best interest of working West Virginians? I cannot support this bill because the fact is, it is not in the best interest of working West Virginians. I urge my colleagues to reject this bill and work with me to pass legislation that will truly benefit American workers.

Mr. REED. Mr. President, this week, a conference committee filed its report on legislation that was originally designed to repeal provisions in the tax code that have been found by the World Trade Organization to be illegal export subsidies. Months ago the European Union began imposing retaliatory tariffs on select American exports, including such important Rhode Island exports as machinery and jewelry. The targeting of the jewelry industry is especially troubling because Rhode Island is among the three biggest jewelry-producing States, and this sector accounts for 36 percent of the total trade targeted by the retaliatory duties. Without congressional action to repeal these export tax provisions, these tariffs would grow progressively until reacing 17 percent by March of 2005.

Unfortunately, I have serious concerns that the conference agreement before us today would not even provide immediate relief to our jewelers and other businesses targeted by these tariffs. The Senate-passed JOBS Act included a carefully crafted transitional benefit for those firms currently receiving FSC/ETI assistance. However, the bill before us includes transitional relief that is still export-contingent and could be challenged by the EU as still not being WTO-compliant. In fact,

according to an article yesterday in the Washington Post, EU spokesman Anthony Gooch suggested that this legislation would not accomplish its central goal of lifting European sanctions due to the transitional assistance. This is the reason we have this legislation in the first place, and I am disappointed that the House conferees have potentially set up a repeat of tariffs on our Nation's domestic manufacturers and exporters.

That brings me to the other compelling reasons for the original JOBS Act: the bill, as passed by the Senate, replaced the Foreign Sales Corporation and Extraterritorial Income regimes with a more robust set of incentives for domestic manufacturing. At a time when domestic manufacturing, long the backbone of the American economy, is bleeding prized jobs to foreign countries, it is incumbent on Congress to put forward a responsible economic plan and provide important assistance to manufacturers that keep their operations here in the United States.

While the conference agreement does include a tax deduction to provide assistance to a broad-based group of manufacturers, unlike the Senate-passed legislation, it does not make a distinction between manufacturing domestically or abroad. It removed the so-called ''haircut'' that would have provided an incentive for companies to do their manufacturing here at home instead of shipping it abroad. Yet again, we see that House Republicans are unwilling to stand up for those manufacturers, small and large, that have kept their operations here in the United States.

In fact, if we look at the bill as a whole, we see that of the broad-based tax incentives, a larger net amount of money would be dedicated to international provisions than those targeted at production here at home. It is difficult to reconcile the very real challenges facing domestic manufacturers with the inclusion of huge tax breaks for multinational corporations. Ultimately, providing tax breaks to multinationals means that manufacturing jobs are going overseas.

The corporate repatriation provisions in H.R. 4520 are responsible for a significant amount of these costs, but there is little evidence that they will ultimately help to create jobs. Even Secretary Snow, speaking for the Administration, seemed to understand this inequity. He wrote in a letter to Chairman GRASSLEY, and I quote:

> [T]he Administration also has concerns regarding the fairness of the repatriation provision included in both bills. This provision would offer international corporations a partial ''tax holiday'' for repatriating foreign income that is currently held overseas. U.S. companies that do not have foreign operations and have already paid their full and fair share of tax will not be able to benefit from this provision. Moreover, the Council of Economic Advisers' analysis indicates that the repatriation provision would not produce any substantial economic benefits. The Administration believes the $3 billion revenue cost of this provision could be better used to reduce the tax burden of job creators in the United States.

This is not the only place where this bill failed to live up to its full potential to help domestic manufacturers. I am deeply disappointed several months ago that last-minute lobbying by multinational corporations were effective in removing from the Senate bill a commonsense provision to help reduce offshore outsourcing termed contract manufacturing.

Similarly, House Republicans voted to leave out the Dodd offshoring amendment, which would have prevented Federal taxpayers' dollars from being used to support outsourcing in future government contracts. This is a commonsense measure to make sure that the Government does not actively contribute to outsourcing, and its rejection by the conferees is a sign of their strong disregard of the practice of ''buying American.''

This brings me to the subject of corporate tax shelters. We have been fighting to close these loopholes benefiting large companies for a decade. A recent study commissioned by the IRS estimated that abusive corporate tax shelters cost honest Americans as much as $18 billion annually, or $180 billion over 10 years. Put another way, every month that the majority and the administration obstruct efforts to shut down corporate shelters, it costs honest taxpayers over $1.5 billion. It has been several years now since the Enron debacle, and yet the majority has still not sent to the President a tax bill to shut down these shelters. While the Senate has taken actions over and over again to target shelters, they have been blocked by the majority party.

For example, in June 2002, the Senate passed tax shelter legislation as a stand alone bill and as part of the CARE Act. The other chamber did not. The Senate passed it again in April 2003 as part of the CARE Act; and the other body rejected it. The Senate passed shelter legislation as part of the energy bill in July 2003, and the other chamber rejected it. The Senate passed shelter legislation as part of the Jobs and Growth stimulus bill in May 2003, and it was stripped out in conference.

So I was pleasantly surprised to hear that tax shelter provisions were included in the conference agreement. Then I had a chance to look a little more closely. The conference bill is a shadow of the Senate-passed version, raising $40 billion less by closing corporate tax loopholes than the Senate-passed version. $15 billion of this lost opportunity to make the Tax Code fairer for all Americans would have eliminated phony transactions that have no economic substance and have been used by companies like Enron to avoid taxes. Another measure modified by the majority conferees would continue to allow those individuals who promote tax shelters to make profits while doing so. In contrast, the Senate would have levied a 100 percent penalty to prevent them from making any such profit at the expense of taxpaying Americans.

Sadly, while the underlying core components of the bill are flawed at best, much of the rest of the bill is deeply defective. I am perhaps most disheartened over the section on tobacco—and the notable absence of language authorizing the FDA to regulate it. This might just be the largest children's health issue facing Congress. The tobacco industry spent more last year than ever before on advertising—over $11.5 billion—and children continue to become hooked on smoking while they are young and unable to understand the health ramifications of smoking. It is now believed that smokers could lose on average 10 years off their lifespan—an entire decade. At a time when we are talking about soaring health care costs, it is vital that we regulate a substance that causes 440,000 deaths each year and results in more than $75 billion in direct medical costs annually—much of which is paid for by taxpayer-financed health care programs.

The Supreme Court has acknowledged that tobacco is ''perhaps the single most significant threat to public health in the United States'' and has effectively reaffirmed that the FDA is the most appropriate agency to regulate tobacco products, given the general scope of its authority and its emphasis on protecting the public health. It is now that Congress must act to clearly give the FDA the long overdue authority it requires to protect Americans, and particularly our children.

I was willing to accept the inclusion of a tobacco buyout under the clear understanding that it would remain linked to giving the FDA regulatory authority over tobacco. Americans want us to take this important step, and but this report falls short. We all know that tobacco is a substance that reduces the quality of life and results in untimely death with lifelong use. We had a unique opportunity with this bill to make a real difference in helping to protect our nation's children and the majority conferees killed this bipartisan effort that Senators KENNEDY and DEWINE spearheaded.

The conference agreement left out other very important and widely supported worker protections that would have prevented President Bush's regulations that will deny overtime protections to 6 million hard-working men and women, including registered nurses, cooks, clerical workers, nursery school teachers, and many others from taking effect.

The Senate has voted against the Bush overtime rule three times, and the other Chamber twice. The Senate FSC bill included two amendments that preserve workers' overtime—the Harkin amendment that would block only the parts of the overtime rule that strip workers of overtime rights, and the Gregg amendment that passed 99 to 0, which would preserve overtime

for 55 job categories. Majority conferees, at the behest of the White House, stripped the overtime protections from the report. Even after the Senate conferees voted yet again to retain the Harkin amendment, it was stripped out.

The Fair Labor Standards Act was enacted in the 1930's to create a 40-hour workweek, and it requires workers to be paid fairly for any extra hours. American workers work more hours than any others in the world—1,900 hours per year. Yet, still, they need more to get by and make ends meet. With 8 million Americans out of work, and with so many other families struggling to make ends meet, cutbacks on overtime are an unfair burden that America's workers should not have to bear. Especially in times like these, it's an incentive for job creation, because it encourages employers to hire more workers, instead of forcing current employees to work longer hours.

I am amazed that the majority has again stripped this provision which has overwhelmingly passed both the House and the Senate on 5 separate occasions. This is a clear example of how the majority and this administration continue to turn their backs on working families.

Now, in addition to leaving out a number of the important provisions that I've just enumerated, it also contains many costly and extraneous ones; $101 million for NASCAR by changing the tax treatment of grandstand facilities; $44 million for importers of Chinese made ceiling fans; $28 million for cruise ship operators; $231 million in taxpayer funds to finance bonds for four so-called ''Green Bond'' mall developments; $247 million in bonus depreciation of some jets and planes; $5 billion over only two years for a new deduction for state and local sales taxes in a select few states; and $27 million for horse and dog gamblers. This one is especially interesting because it exempts foreign gamblers from paying taxes up front on their winnings at horse and dog tracks.

My question is: Where's the special tax break that will help struggling working families in my state? How does it help American workers by giving tax breaks for Chinese fans to be imported tax free to the United States? The Administration seems to agree, and Secretary SNOW also wrote in his letter to Chairman GRASSLEY that:

> Both the House and Senate-passed bills include a myriad of special interest tax provisions that benefit few taxpayers and increase the complexity of the tax code. Legislation taking up more than 1000 pages of statutory language (or even 400 pages) goes far beyond the bill's core objective of replacing the FSC/ETI tax provisions with broad-based tax relief that is WTO-compliant.

At the same time, the majority party voted to strip the legislation of an amendment offered by Senator LANDRIEU that would provide a tax break to companies for paying the salaries of activated National Guardsmen and Reservists.

Lastly, it continues to employ the same budget gimmickry as previous tax bills put forward by the majority party and the administration over the past 3 years. For example, a dozen of the tax cuts in this report will expire between 2005 and 2008. Assuming that these provisions are extended, the cost to the Treasury will increase by an estimated $80 billion!

This bill could have been an ideal vehicle for bipartisan efforts to shape a comprehensive economic policy for our nation's manufacturing sector. Unfortunately, it proved to be too alluring for the special interests who just could not restrain themselves. At a time of a record Federal budget deficits—most recently pegged at $422 billion for Fiscal Year 2004—this bill contains too many giveaways to corporations and not enough to help domestic manufacturers and working families. Most regrettably, its passage does not seem to guarantee that the EU will lift its harmful sanctions against numerous United States products. Companies in our home states are hurting from EU retaliatory tariffs, like jewelry manufacturers in Rhode Island, and the conferees should have taken the responsible path in assisting those who are struggling. But they did not.

• Mr. MCCAIN. Mr. President, I voted against cloture on this measure yesterday because it is loaded with corporate pork and special interest tax provisions. This conference report, at 633 pages and $148 billion, serves as a sad example of the way business is done around here. The special interests continue to rule at the expense of the hardworking American taxpayer.

The original intent of this legislation was laudable. Earlier this year, we missed a golden opportunity to pass a good, clean bill that would have brought us back into compliance with World Trade Organization, WTO, agreements and stop the burdensome tariffs now imposed on our manufacturers. Simply repealing the extraterritorial income, ETI, exemption tax benefit for exports would have saved $50 billion. Instead, because this was known to be a ''must pass'' piece of legislation, it was loaded up with billions and billions of dollars in tax breaks for big corporations and special interests of all types. I recognize the need to pass legislation to bring the United States back into compliance with the WTO, and I am more than willing to support a bill that accomplishes that goal. Unfortunately this legislation's worthy purpose has taken a back seat to a host of special interest tax provision add-ons and a big buyout for tobacco farmers.

In an editorial on the issue, The Washington Times, noted that ''the ideal solution would have been a quick, simple repeal of FSC–ETI, which is bad economic policy in any case. The $50 billion in savings could then have been used to streamline and simplify the corporate tax code.'' I couldn't agree more. The Tax Code is far too complex and is in dire need of reform. While campaigning in recent months, the President has stated, with tremendous approval from every audience, that reforming and simplifying the Tax Code would be one of the main objectives of his second term. I will support him in that effort, and I encourage him to take the first step in that reform by vetoing this bill.

We have a deficit that is quickly approaching $500 billion—that is half of a trillion dollars. The proponents of this bill say that it's ''revenue neutral.'' Well, I doubt that, and I am not alone in my skepticism. The Center for Budget and Policy Priorities has figured that the bill would actually cost $80 billion if the temporary tax cuts are extended for the full 10 years. Sadly, I have no doubt that those extensions will happen—because we simply don't say no to anyone anymore. We are told that this bill is offset by closing tax loopholes, and I will be the first person to say that I support closing those loopholes, but can anyone explain to me the rationale behind closing loopholes in order to raise revenues to open more loopholes? It is remarkable. It makes no sense.

As I have said many times in the past, we need to start making some very tough decisions around here about our fiscal future. We need to be thinking about the future of America and the future generations who are going to be paying the tab for our continued spending. It is simply not fiscally responsible for us to continue to load up bills with good deals for special interests and their lobbyists. We have had ample opportunities to tighten our belts in this town in recent years, and we have taken a pass each and every time. We can't put off the inevitable any longer.

Here is the stark reality of our fiscal situation. According to the General Accounting Office, the unfunded Federal financial burden, such as public debt, future Social Security, Medicare, and Medicaid payments, totals more than $40 trillion or $140,000 per man, woman and child. To put this in perspective, the average mortgage, which is often a family's largest liability, is only $124,000—and that is often borne by the family breadwinners, not the children too. Instead of fixing the problem, and fixing it will not be easy, we only succeeded in making it bigger, more unstable, more complicated, and much, much more expensive.

The Committee for Economic Development, the Concord Coalition, and the Center on Budget and Policy Priorities jointly stated that, ''without a change in current (fiscal) policies, the federal government can expect to run a cumulative deficit of $5 trillion over the next 10 years.'' They also stated that, ''after the baby boom generation starts to retire in 2008, the combination of demographic pressures and rising health care costs will result in the costs of Medicare, Medicaid and Social Security growing faster than the economy. We project that by the time today's

newborns reach 40 years of age, the cost of these three programs as a percentage of the economy will more than double—from 8.5 percent of the GDP to over 17 percent.''

Additionally, the Congressional Budget Office has issued warnings about the dangers that lie ahead if we continue to spend in this manner. In a report issued at the beginning of the year, CBO stated that, because of rising health care costs and an aging population, ''spending on entitlement programs—especially Medicare, Medicaid and Social Security—will claim a sharply increasing share of the nation's economic output over the coming decades.'' The report went on to say that, ''unless taxation reaches levels that are unprecedented in the United States, current spending policies will probably be financially unsustainable over the next 50 years. An ever-growing burden of federal debt held by the public would have a corrosive . . . effect on the economy.''

So what do we do when we are faced with these problems? We pass a tax bill that is loaded with corporate pork.

This conference report is called the JOBS Act, but I think we should call it what it truly is: ''the corporate tax haven act.'' I doubt it will create any new jobs but it will certainly allow a few lucky folks, who have extremely well paying jobs, to make even more at the expense of the taxpayers. I'm sure the energy corporations are pleased that they won't have to wait for the energy bill to add to their over-flowing coffers.

Yesterday we passed a bill to address the issue of FDA regulation of tobacco products. Essentially, the consideration of a free standing bill to address this issue at this stage means nothing. We're supposed to be appreciative that the FDA bill was taken up and passed quickly—we all know that passing a controversial Senate bill on a Sunday at the end of the session is meaningless. The House will not move the bill, and, even if by some miracle they did, there certainly would be no conference held. This is a sham—plain and simple. The Senate had already addressed the issue of FDA regulation of tobacco. Sadly, the conferees on the FSC/ETI bill stripped that provision from this conference report.

What the conferees did was unconscionable. They turned their backs on the health of our nation's youth and opted to strike the DeWine-Kennedy amendment that would have granted authority to the Food and Drug Administration, FDA, to regulate tobacco products. It is a very sad day for public health. They have used the FDA tobacco authority language as a linchpin to effectuate the passage of the underlying tax bill. It was nothing more than a sweetener to them and now that it is no longer of use, the conferees have discarded the language, and with it, who knows how many lives.

In striking this historically important provision, the conferees ignored the public and medical health community, child health advocates, and registered voters who in a recent poll overwhelmingly, 69 percent favor FDA authority over tobacco. Even in the six leading tobacco growing states, support for FDA authority is above 65 percent.

Without FDA authority over tobacco, there will be no regulation of tobacco marketing, no information disclosure such as nicotine and carcinogenic content, no requirement that can force the tobacco industry to remove harmful components from their products, and no pre-market approval of ''new products'' marketed as ''safer cigarettes.''

Tobacco-related illnesses and deaths in this country have reached epidemic proportions, but according to the Surgeon General, tobacco use is ''the single most preventable cause of death and disease in our society.'' The Surgeon General estimated 400,000 U.S. citizens lose their lives each year as a result of a smoking-related illness. This figure translates into approximately 1,200 smoking-related deaths per day. This loss of life has a significant economic impact accounting for an estimated $75 billion per year in health care expenses. Most tragically, however, the Surgeon General estimates that approximately 2,000 kids start smoking every single day, and that one third of them will die from a smoking-related illness.

I thank Senators DEWINE and KENNEDY for their commitment to our Nation's youth, and I am certain that they will continue to fight for FDA authority over tobacco because it is simply too important not to continue to fight. We must protect the public health and hold the tobacco industry accountable for the production and marketing of its products, particularly as their business practices affect children, but I fear we have lost yet another opportunity.

Not only have the conferees jeopardized the health of our Nation's youth by striking the FDA authority provisions of this bill, they left provisions that would eliminate the quota system and channel $10 billion—into the pockets of tobacco farmers—many of whom no longer even farm tobacco—and disguised the money as a buyout to encourage such ''farmers'' to shift their crops to something other than tobacco. According to the Wall Street Journal, among these ''tobacco farmers'' who would benefit from a tobacco buyout are Larry Flynt and his brother, who admittedly abandoned the ''blood, sweat, and tears'' of the tobacco business to pursue pornography.

I fear that the conferees have failed to realize that, by not setting domestic production restrictions, and not restricting new market entrants from farming tobacco, they may be creating new opportunities for more tobacco farming. In doing so, they create the possibility that a greater supply of tobacco will result in reduced prices thereby making tobacco products more accessible to kids. Studies have shown that increases in the cost of cigarettes directly correlate to reduced youth smoking rates. Greater youth accessibility to tobacco products coupled with a lack of FDA authority over the marketing and information disclosure of these cheaper products is the most invidious combination possible. By turning their backs on FDA tobacco authority while simultaneously making it easier to grow and sell tobacco, the conferees may be exposing kids—not to mention adults—to an even greater health risk than they are today.

As if the lack of FDA language wasn't bad enough, let me go through some of the other ridiculous items contained in this conference report.

Many provisions in this bill remind me of the golden oldies we saw in the energy bill. One of the more generous tax breaks in this bill is a creative provision that allows energy companies to reclassify energy production as a manufactured good in order to qualify for potentially tens of billions of dollars in new tax deductions. The manufacturing tax deduction is currently available only to traditional manufacturing industries as an incentive for job creation. While this change in the tax code may not create manufacturing jobs, it does create a tax balloon, which increases to a maximum of 9 percent of a company's production income after 2009. The total estimated cost of this golden parachute is $76.5 billion. Other industries that will now be considered to be ''manufacturers'' are movie studios, real estate development, and construction companies. But the greatest share of this tax break will go to the oil and gas industry and electric utility companies.

Fear not, not all of the largess goes to oil and gas companies. There are equal opportunities for other corporate and special interests to make profits at the expense of the taxpayers. An article in the Wall Street Journal on October 6, refers to the legislation as ''a trove of obscure breaks and perks'' and identifies four companies in Houston that were singled out for special treatment. These companies recently changed their addresses to the Cayman Islands and Bermuda when the Senate proposed a retroactive crackdown on businesses that incorporate offshore to shave their U.S. tax bills. Fortunately for them, the provision in this bill is no longer retroactive. Not only does the bill allow these companies to slip comfortably away, but others contemplating such actions will be heartened by the fact that the bill doesn't include a provision that would have supported Federal judges and the IRS in bringing companies that indulge in these improper tax shelters to justice.

This bill also contains a tax credit totaling more than $2 billion over 9 years for industries generating electricity from alternative fuel sources. Let me be clear that I support clean renewable energy technologies as a

means to reduce greenhouse gas emissions and increase energy independence, but most of these subsidized technologies aren't clean. No matter how you look at it, chicken droppings simply are not a clean alternative fuel. Just how, exactly, does the public benefit from the subsidies provided for the burning of municipal trash and poultry waste, both which create significant air pollution?

The most outrageous provision in this section could be easily missed. It defines ''refined'' coal as a qualifying renewable resource. According to the Tax Code, refined coal is just another name for synthetic fuel. I would be greatly relieved if my colleagues could document that this is not the case, but it appears to me that the synthetic fuel credit has been snuck in here along with so-called renewable sources of electricity.

I have spoken before about the synthetic fuel tax credit scam that was revealed by Time reporters in October 2003. It is shameful for Congress to perpetuate this expensive hoax, which has cost taxpayers $4 billion since 1999. The IRS followed up the Time report with a November 2003 bulletin stating, ''The Service believes that the processes approved under its long standing ruling (that a synthetic fuel must differ significantly in chemical composition from the substance used to produce it) do not produce the level of chemical change required.'' Incredibly, it goes on to say, ''Nevertheless, the Service continues to recognize that many taxpayers and their investors have relied on its long-standing ruling to make investments.'' So, basically, we should just ignore the fact that chemical change isn't occurring. They should have just said that if Congress wants to continue this shameful scam, then the IRS will let it pass.

The original intent of the synthetic fuels tax credit was not sheer folly. It is just that, for a variety of reasons, a synthetic fuel industry never materialized in the United States. Canada invested heavily in synthetic fuel production over the past decades and sells millions of barrels of synthetic crude oil to the United States annually. The only evidence of a U.S. synthetic fuel industry is this gigantic tax shelter. One doesn't need to be in the oil or gas business to strike it rich with synthetic fuels either—one of the greatest beneficiaries of this tax shelter—and that is all that it is—a tax shelter, is a very profitable hotel chain, Marriott. This is an equal opportunity bill for wealthy corporate interests.

Wait, we can't forget ethanol! $77 million from this bill will go to ethanol manufacturers. No tax break bill would be complete without subsidies for this synthetic fuel, ethanol gasohol, created and perpetuated by Congress. And it all starts with corn. Ten percent of the corn grown in this country is used to produce ethanol. Of course, corn producers, like producers of other major crops, receive farm income and price supports. In the 107th Congress, this body passed the Farm bill which appropriated more than $26 billion in direct assistance to corn-growers over 6 years. That is an average of $4.3 billion in direct subsidies each year just to corn-growers!

In addition to the subsidies going primarily to agribusiness corporations, the public pays for ethanol in other ways as well. More energy is used in the production of ethanol than it provides to consumers, it increases the per gallon cost of gasoline, and it results in environmental degradation. Finally, to add to all these insults, ethanol subsidies increase the public's grocery costs. Subsidized corn results in higher prices for meat, milk, and eggs. This happens because about 70 percent of corn grain is fed to livestock and poultry in the U.S. Increasing ethanol production further inflates corn prices and subsequently food prices.

So the American public provides billions to create this artificial market for ethanol, and then pays more for their groceries and what do they get in return? I will tell you what they get in return—absolutely nothing. No reduction in petroleum fuel use. No reduction in air pollution. There is one reduction, however, consumers are rewarded with—reduced fuel economy. More gasohol must be used to go the same distance as conventional fuel. So no one can honestly claim that subsidizing ethanol is in the public interest or an element of sound national energy policy.

Another objectionable provision is the ''green'' bond program. The original form of this provision prompted the ''hooters'' part of my ''hooters and polluters'' reference to the energy bill. Well, the hooters is gone, but this program is still top-heavy with tax breaks—$231 million for the real estate corporations that are going to develop these projects. With or without a hooters, I don't see how it's in the public's interest to pay for enormous commercial facilities in three or four States. These projects all sound like enterprises that can stand or fall on their own—they don't need the taxpayers throughout the country giving them a big boost.

Let me give you a sense of the ''public works'' that benefit from this provision:

Destiny USA in Syracuse, NY is an entertainment and retail development touted as an economic stimulus for upstate New York. The primary developer has committed to 3.2 million square feet of space with a price of close to $700 per square foot. They estimated these green bonds would save them close to $100 million.

Belmar in Lakewood, CO is a $500 million redevelopment of a mall, which will include many restaurants, clothing stores, shops, and office space.

Atlantic Station in Atlanta GA is a 138-acre redevelopment of a former steel mill which will include 12 million square feet of retail, office, hotel space, and parks.

Riverwalk Development in Shreveport, LA, minus the Hooters, this $150 million project will feature stores, restaurants, movie theaters, hotels, and entertainment spots.

These all sound like grand, money-making ventures to me—they don't need taxpayer support. Pork called ''green bonds'' is still pork.

Some of the other notable giveaways in this grab bag of corporate tax delights are:

The ''hummer in every home'' provision is still intact. It is just not quite as expensive as it has been the past. This provision extends the existing $100,000 tax deduction for the purchase of vehicles weighing over 6,000 pounds. The original intent of this deduction was to benefit farmers and other business owners in need of heavy-duty vehicles. Unfortunately, some individuals unscrupulously seized on this loophole in order to purchase Hummers, Escalades and other expensive, gas guzzling SUVs. Thankfully, due to the insistence of Senator Nickles, those purchasing luxury sport utility vehicles can no longer take advantage of the $100,000 deduction. However, they can still take a deduction of up to $25,000. This could cost our Treasury $350 million for every 100,000 taxpayers who take advantage of this loophole. Again, it is not as bad as it used to be, but it is still too expensive and should be eliminated. The cost of foreign oil is about $53 a barrel. Shouldn't we, as a practical matter, be encouraging the use of smaller, more fuel efficient vehicles?

There is a tax break for ''small refiners'' of oil to improve clean air standards. Unfortunately, ''small'' is defined as those with refining capacity below 205,000 barrels per day, so some of the large oil companies can get in on this one too.

Three of the world's richest energy companies—BP, Exxon Mobil, and Conoco Phillips—stand to be the primary recipients of two tax breaks, totaling $445 million, for building an Alaskan natural gas pipeline and for processing natural gas for the project. Considering that these three companies have enjoyed after-tax profits of $95 billion since 2001, the wealthy shareholders of these companies—not taxpayers—should foot this bill. In addition, these three companies are allowed to depreciate their natural gas pipeline over seven years, costing taxpayers another $150 million.

There is $27 million for dog and horse race tracks to help lure more foreigners to gamble at U.S. horse and dog racing facilities; $995 million for the treatment of aircraft leasing and shipping income. This provision would provide a tax exemption on income derived from an aircraft or vessel leasing business.

There is $28 million for a cruise ship tax break. This provision would allow the cruise industry to delay paying taxes on airplane tickets, hotels, and other excursions it sells in the United States. The delay would save the Carnival Corp. $15 million, and Royal Carribean would save anywhere from $8 million to $10 million.

There is $9 million for a tax break on archery products; $11 million for a provision that would reduce the excise tax on fishing tackle boxes; $44 million for the importers of Chinese ceiling fans; $4 million to repeal the excise tax on sonar devices that are used for finding fish; $247 million for a provision that is designed to help the producers of small jets and planes, 60% of which are built in Kansas. Lear Jet and Cessna benefit greatly from this provision; $27 million for providing tax-free treatment if farmers replace livestock because of weather related conditions; $101 million for NASCAR track owners; $57 million for a tax break for shipping companies; $501 million for a tax credit for the maintenance of railway tracks; $336 million for a tax break for Hollywood studios; $234 million for a tax break for the producers and

marketers of alcoholic beverages; and $495 million for Naval shipbuilders.

Where is it going to end? We have to face the facts, and one fact is that we can't continue to cater to wealthy corporate special interests any longer. The American people won't stand for it, and they shouldn't—they deserve better treatment from us. I strongly encourage my colleagues to vote against this conference report.●

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I yield 1 minute to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana now has 6 minutes.

Ms. LANDRIEU. I intend to use 2 minutes and yield back the remainder of my time to the leadership.

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

Ms. LANDRIEU. Mr. President, while the leaders are in the Senate with their final remarks, I take the opportunity again to thank them for their work—Senator BAUCUS and Senator GRASSLEY as the leaders of the Finance Committee—as we work toward a very significant victory and a conclusion on the issue of a tax credit for the Guard and Reserve. The Senate is going on record again this morning, as we did several weeks ago when this bill left the Senate, to include them in a tax provision. They will not technically be included in this bill, but there will be a bill sent back over to the House, as we said. That would not have happened without the help of Senator BAUCUS from Montana and Senator GRASSLEY from Iowa. I personally thank them along with thanking Senator DURBIN and Senator BOXER for their help on this original amendment.

We have explained it as well as we can, the arguments as to why our Guard and Reserve deserve our focus and attention to provide help to their families while they are serving for all Americans on the front line. I am so pleased we could come together as Members of the Senate to provide that help for them.

Now it is in the hands of the House of Representatives. As we return from this break, however long or short it is, we will then take up this issue as they decide over in the House how they would like to handle it. I hope they will take the bill as we have sent it, pass it, and then it will go to the President's desk for immediate signature because we all want to give them the help and support they most certainly are giving us at this special time.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield myself such time as I consume.

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

Mr. BAUCUS. Mr. President, I first thank the chairman of our committee, CHUCK GRASSLEY, for the tremendous job he has done. I am blessed. We are all blessed to have him as chairman of our committee. He is very smart. He is very perceptive. He has terrific common sense and is wonderful to work with. He is as straight as they come. His word is his bond. If he tells you something, that is it. At the same time, when we work with him, it is very cooperative. In fact, he goes overboard. It reminds me of ''To Kill a Mockingbird'' when the protagonist, the lawyer, says: You walk around in his shoes to see that person's point of view. CHUCK GRASSLEY has the uncanny trait that he does not have to take the effort to walk around in another person's shoes because he already knows. He has walked around in so many shoes around Iowa. He has common sense that is rooted in the ground. He is a wonderful person. We are all very grateful to have him as chairman. I can say this having worked with him as the senior Democrat on the Finance Committee.

Second, I deeply thank all of our staff who helped with this legislation. They have been wonderful. I ask unanimous consent to have their names printed in the RECORD.

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

This legislation would not have been possible without the help of many.

I appreciate the cooperation we received from the Republican staff, especially Kolan Davis, Mark Prater, Ed McClellan, Elizabeth Paris, Dean Zerbe, Christy Mistr, John O'Neill, Everett Eissenstat and Stephen Schaefer, and Adam Freed.

I thank the staff of the Joint Committee on Taxation and Senate Legislative Counsel for their service.

I also thank my staff for their tireless effort and dedication, including Russ Sullivan, Patrick Heck, Bill Dauster, Matt Genasci, Matt Jones, Matt Stokes, Jon Selib, Anita Horn Rizek, Judy Miller, Melissa Mueller, Liz Liebschutz, Lara Birkes, Ryan Abraham, Wendy Carey, Tim Punke and Brian Pomper. I also thank our dedicated fellows, Rhonda Sinkfield, Scott Landes, Justin Bonzey, Jodi George, and Cuong Huynh—and our dedicated law clerk Jeremy Sylestine.

Finally, I thank our hardworking interns: Mary Tuckerman, Kelsie Eggensperger, Paige Lester, Priya Mahanti, Brittney McClary, and Audrey Schultz.

Mr. BAUCUS. Finally, my greatest thanks are to the people of the State of Montana. I express my gratitude and thanks to the people of Montana for sending me here as their representative. I will never forget the people I work for. They are my bosses. They are my employers and the best anyone could ever have. I know each Member feels that way about his or her State. I am blessed to be able to represent Montana.

Frankly, it is for that reason that, preparing for this bill last year, my staff and I spent a lot of time in Montana meeting with workers and owners of businesses all across our State. We visited over 140 companies, 8 accounting firms and law firms, 11 economic development organizations in Montana. We spoke with about 60 companies over the phone, asking them what they thought about this legislation. How are Montana companies and interests affected by this bill? I simply wanted to know the biggest problems facing Montana businesses, I wanted to know what is working for them and what is not working for them, and I wanted to make sure that the manufacturing deduction in this bill will work for Montanans. Obviously, they had a lot of concerns.

People in my State, as in many States, are worried about job security, health security, and economic security. Will they have jobs tomorrow? Will their jobs be cut because business is slow? What about health insurance coverage with health care costs going up? Will their businesses be able to grow and compete with foreign competition?

We learned that any bill targeted to just corporations—that is, the standard corporation called C corporations—leave out most Montana businesses. That is because in Montana most businesses do not operate as conventional corporations. They work as partnerships or other enterprises that report their income not on a corporate basis but an individual income tax basis.

We needed a broader definition of manufacturing to ensure that Montana farmers and ranchers got some tax relief. That is what we are enacting in the bill.

I thank the hard-working men and women of Montana. Carlyle once said: All work is noble.

I thank the hard-working men and women of Montana for their help in formulating this legislation. I thank them for supporting me as we advanced this bill. And I thank them for their hard work in the businesses they run. So it is to them today we dedicate this bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield the Senator from Kentucky, our whip, 5 minutes.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, today is a truly historic day for my State, the Commonwealth of Kentucky. Burley tobacco production has been a part of our way of life going back to 1792 when Kentucky joined the Union. Tobacco itself—there are tobacco leafs painted in various places here in the U.S. Capitol—was the most important export product from the Colonies, predating the formation of our country.

Over the last 40 years, we have come to understand that the use of tobacco products is certainly not good for our health. More Americans, correctly, are choosing not to use tobacco products. Consumption has, therefore, declined, as, frankly, it should.

Back in the 1930s, when tobacco was still at its peak but we were in a national Depression, during the New Deal

a Federal tobacco program was created. After that program was enacted into law by President Roosevelt, employees from the U.S. Department of Agriculture went around and surveyed the farms in Kentucky and Tennessee and Virginia and the Carolinas and Georgia to find out what their historical production had been and assigned those what we now call quotas to the land.

That quota was like an asset. It could be sold. It could be leased. It was an asset attached to the land. And that quota had in some early years grown but, of course, over the last few years it dramatically contracted. That asset was on its way to becoming worthless, many people felt, in my State.

To give you a sense of how pervasive tobacco has been in the Commonwealth of Kentucky, when I came to the Senate some 20 years ago, we grew it in 119 of our 120 counties. We had 100,000 producers. The average base then was about three-quarters of an acre. So you had a lot of people in our State who got some income off burley tobacco. It provided for many families a significant portion of their income. For a whole lot of other families, because of the auction warehouse system under which it was sold in the fall, it provided Christmas money for the family, a second income, an opportunity for some extras. For a lot of other Kentuckians, it was very much a basic part of their income.

Well, all this is in the process of changing. Six years ago, I advocated a buyout. At that time that was controversial in my State. In fact, I think a majority of the tobacco farmers thought I was in the wrong position. That certainly was the view of the Kentucky Farm Bureau and the burley council and the burley co-op, all of whom thought I was in the wrong position.

A few years later, I noticed I was then being treated as a visionary who was ahead of my time and had sensed that this thing was heading in the wrong direction and we better try to figure out some way to achieve a buyout or we would never get an opportunity.

A lot of people have contributed to this day. This buyout that is in this bill is not paid for by the taxpayers. And it is, indeed, a buyout. It terminates the program. The program is entirely terminated and off the books. People who vote for this bill will be able to say, among other things, that they ended the Federal tobacco program.

It is paid for by a manufacturer's fee, which will no doubt be passed along to the consumers. And as public health advocates will tell you, the higher the cost of tobacco products, the fewer the number of people who will use them. So it even has a public health aspect to it.

That is the version of the buyout, $10.1 billion over 10 years. That is in this underlying bill.

Mr. President, as I say, today is a historic day for Kentucky and other tobacco producing States that have suffered for far too long under a Government program that destroyed their assets, sapped their competitiveness, and destabilized their communities.

The tobacco buyout included in this legislation is culmination of many years of hard work and difficult sacrifice.

Kentucky has long been known for its three ''B''s: Bourbon, basketball, and burley tobacco. Burley tobacco has been the lynchpin of Kentucky's agricultural economy since Kentucky first became a State in 1792.

Since the early years of the Commonwealth, burley tobacco provided a steady and reliable income for farmers with small patches of land unsuitable for the production of other crops. There are virtually no other crops that can provide the return per acre that tobacco production does, and it has a unique place in the economy and the culture of Kentucky.

However, in recent years, increased foreign competition combined with decreased consumption, increased taxation, and a broken Federal tobacco program created a perfect storm that had the potential to bring about an economic disaster of epic proportions for Kentucky.

The passage of this buyout will end the Federal tobacco program and end the suffering caused by this outdated program. The buyout will pay owners of quota for what remains of their disappearing asset, and it will provide assistance to growers to help them move into other forms of agricultural production.

Those that choose to continue to produce tobacco will do so without the price supports or Federal programs that support other crops. They will have to compete on the free market. However, without this buyout, they would not have been able to compete at all.

This is indeed a great day for the Commonwealth of Kentucky. But, no project of this magnitude is undertaken alone, and there are many people to whom I am grateful.

Many people deserve thanks for bringing us to the day we experience today. I thank Chairman GRASSLEY. I know he, as indicated, was not in favor of this, but this was part of the compromise worked out in the conference.

I particularly thank Chairman BILL THOMAS over in the House, who did support it and aggressively advocated it, helped work with us to craft a final version.

I particularly thank RICHARD BURR from North Carolina, who was on the conference and a particularly significant player in this whole process.

Here in the Senate, I thank Senator ELIZABETH DOLE, whose tireless effort on behalf of farmers in North Carolina is truly inspirational. I thank her staffer David Rouzer, who also worked for Senator Helms, for being a critical part of all of this. Senator Helms, of course, was so much associated with tobacco over the years.

I also thank Senator BUNNING and Congressman LEWIS of my State. I thank my own staff, former staffers Mason Wiggins and Hunter Bates, who in the early days were extremely important in this. I thank my chief of staff Billy Piper, Scott Raab, and Michael Zehr, my agriculture aid. They were all indispensable.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, before I yield to my friend from Louisiana, I would like to say how much I personally deeply appreciate and will miss the Senator from Louisiana. I don't know any Senator who works harder on a bipartisan basis to get things done than the Senator from Louisiana. He is amazing. He has so many talents.

Now, maybe he is partly Cajun, I don't know, but it is that Louisiana stuff that enables him to see more, do more, be more creative, think of more ideas than the rest of us mortals in the Senate. He is amazing. He is always thinking, always working. Many times in the Finance Committee I look over to the Senator from Louisiana and he is there working. He is reading reams of briefing materials. He has his magic marker out and he is underlining and learning this stuff. And he knows it so well.

There are many areas he does know so well. One is health care. He knows health care intricacies probably better than anybody else in this body. He has worked with it on several commissions. He cares passionately about reforming our health care system.

Tax policy, Social Security, you name it, if it is before the jurisdiction of the Finance Committee, he is very knowledgeable about it. He also, frankly, wants solutions. It is not just that he has knowledge and is very smart, but he is looking to try to find solutions, looking for compromises, looking for ways to get things done.

We are going to sorely miss him; I mean sorely. I do not know what we are going to do without him because he is a catalyst, not the only catalyst but one of the major catalysts, here to get agreements, to get solutions. We all know how partisan this place is. He is one of those who is cutting against the grain to try to do what is right, do what is right for Louisiana, do what is right for the country, getting a practical solution: Come on, let's get something done here that makes sense. You may not like it totally, you may not like it completely, but, heck, you all know this is more than half a loaf, it is three-quarters, seven-eighths of a loaf, so it is certainly better than no loaf. So come on, let's get something done here.

He is wonderful. I want him to know how much I am personally going to miss him.

Ms. LANDRIEU. Will the Senator yield for 30 seconds?

Mr. BAUCUS. I yield to the Senator.

The PRESIDING OFFICER. The junior Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I see the senior Senator from Louisiana on the floor. I know he will want to respond in a moment. I so appreciate the comments from the Senator. But I would like to add, very briefly, that as you have spoken about the senior Senator from Louisiana, the great consensus builder that he is, and helping us to move very important pieces of legislation, always with the greatest sense of dignity and principle, I want to say, as his partner in the Senate, I could not have a better partner. He is a person who works in such a complementary way with me. We work well together, and it is because of the great spirit he brings to his work. I think because of his spirit, we have been a better team together than we are individually for our State. I learned that from him. I want to give him so many compliments this morning and thank him for his great service.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, before I yield to the Senator, one final point. I know he had a hard time deciding whether to retire, a very hard time. I spoke with him several times. I did not want to prejudice him or bias him: Is there some way I can help JOHN make this decision? And I mean that in the best sense of the term because, of course, I want him to stay.

On the other hand, I didn't want to influence his decision. I wanted him to do what is best for him. Because it was such a hard decision, that to me is very strong evidence again of the deep public service spirit and desire he has. He loves public service, serving the public as well as Louisiana but specifically the country generally.

He decided there are other things in life besides the Senate. I will not get into that subject. I don't think that is a subject on which very many of us want to tread. But we deeply appreciate the friendship, the legislative talents of the Senator from Louisiana.

The PRESIDING OFFICER. The senior Senator from Louisiana.

Mr. BREAUX. I was going to talk about the tax bill, but after the kind words of both the distinguished ranking member and my colleague from Louisiana, just let me say a very sincere thank you to both for their very generous comments. I will remember and cherish them always.

Russell Long told me one time, when I asked him about a tax bill they were working on over in the Senate—at the time, I was a relatively very young Member of the House—I said: Russell, that thing doesn't look very pretty. He said: It is not supposed to look pretty; it is supposed to be effective, and that is not necessarily pretty.

This bill probably represents that. It is not everything everybody would like to have, but it is effective tax policy. The chairman, the Senator from Iowa, Mr. GRASSLEY, and Senator BAUCUS have worked very hard under very difficult circumstances to bring this measure to the Senate. It was not an easy task. A lot of compromises had to be made. The House, led by Chairman BILL THOMAS, was very strong in its positions and opinions. The fact that we have a final product goes a long way to the good work of both the chairman and the ranking member.

To my colleague from Louisiana, I was not here over the weekend, but she was handling the floor very well and was insisting on her point, as she always does, very eloquently. Hopefully, ultimately she will get what she deservedly should get as a result of her efforts with regard to protecting the National Guard. This fight is far from over. I will have more, perhaps in a lameduck, to say about what I think about this body and how much I have loved it, how much I will always remember it during our period of time in our lameduck session. But to Senator BAUCUS and my colleague, Senator LANDRIEU, I thank them very much. They have both been a guide for me in learning the Senate Finance Committee, which has been a wonderful place to serve.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, today is a historic day in the world of tax policy. We are about to pass the most significant reform of American business taxation since 1986. I am not talking about large corporate reforms. This bill contains some of the most important small business reforms in years. This bill represents the most comprehensive agricultural, small business, rural community tax incentive package ever written by Congress. The bill contains far-reaching measures to revive the manufacturing base in America by cutting taxes and creating incentives to invest and create jobs in the United States. This manufacturing tax goes to large and small corporations, family-held S corporations, partnerships, sole proprietorships, farmers, and co-ops.

This is the football season. With apologies to the Senate's chart expert, my colleague from North Dakota, Mr. CONRAD, I am going to use one last chart for this bill. This chart behind me is about the football. It is a chart that I used about 7 months ago. During that time, spring drills were about the only football activity. The chart shows several sets of goalposts. As this important bill has wound its way through the legislative process, at each stage the goalposts were moved and moved and moved. Sometimes we had to call timeout. But at each stage we held on to the ball. We had an overtime regulation goalpost. We had a trade adjustment assistance goalpost. We had an unemployment insurance goalpost. Those were Senate floor goalposts. We passed each goalpost. Then we got to conference. In conference we ran into the Food and Drug Administration tobacco buyout goalpost.

We have passed the final goalpost now. In this bill we had to go straight over the tackle, and we did, just like good old-fashioned Big Ten football. I will see the Senator from Minnesota the last Saturday of November. We are finally now in the end zone.

Now I would like to thank the team that got us over the goal line. The first is Senator BAUCUS. I am certain that we would not be here without his good work and cooperation. In addition, I thank all other members of the Senate Finance Committee for their time and energy in making this bill a reality.

I would like to point out a special thanks to a couple senior members of the Senate Finance Committee, Senator NICKLES and Senator JOHN BREAUX.

Senator NICKLES has been a Finance Committee member since 1995. He has left a big impact on trade, tax, health care issues that have come before the committee. He and I have not always seen eye to eye on all issues, but he is a hard-working, tenacious Member of the Senate. He takes the work of the committee seriously.

Senator BREAUX has been on the Senate Finance Committee since 1990. He succeeded Senator Long in the Senate. Senator Long was a legendary member of the Finance Committee, the longest serving chairman it has ever had, a major architect of much tax legislation. Senator Long left a legacy on the Finance Committee. Senator BREAUX followed up on the legacy of Senator Long, taking the practical, constructive, and creative approach of Senator Long. Senator BREAUX has blazed his own trail on the Senate Finance Committee.

In many cases, the Senate is paralyzed by partisan politics. I am proud that the Finance Committee is still a workshop of bipartisan problem-solving. Senator BREAUX has been a key element at that continuing bipartisan tradition. Hopefully, the Democratic caucus, which has been steadily moving to the left over the years, will replace him with a like-kind pragmatist. The country will be better off for it.

Over the last couple of years, the States of Oklahoma and Louisiana have been well represented on the Finance Committee. Unfortunately, there will be a bit of a vacuum with the departure of Senators NICKLES and BREAUX. I am pleased that this bill contains many priorities of these two Senators. For Senator NICKLES, there was the depreciation change that he has fought for over the years. For Senator BREAUX, important priorities for his State of Louisiana included significant changes in the tax treatment of key Louisiana interests such as agriculture, aquaculture, energy production, shipbuilding, forestry, and shipping. It is a fitting tribute to these two members of the Finance Committee.

We are also saying goodbye to Senator BOB GRAHAM of Florida. Senator

GRAHAM has been on the Finance Committee since 1995. In the 1990s, Senator GRAHAM was also a bipartisan bridge builder on tax and trade issues. Senator GRAHAM faithfully attended to Florida's interests during his service on the committee.

I thank also Senator FRIST for backing me all the way on this bill. He took months to get it to the Senate floor. At times many of our Republican caucus questioned whether it was worth the price of unrelated controversial amendments that were thrown our way. Our leader stayed the course. I appreciate that very much.

I would like to thank my staff on the Senate Finance Committee as well: Kolan Davis, our staff director; Mark Prater, chief tax counsel, and the other tax counsels—Ed McClellan, Elizabeth Paris, Dean Zerbe, Christy Mistr, and John O'Neill, as well as John's predecessor, Diann Howland. These individuals, along with Adam Freed, the staff assistant for the tax team, have been the workhorses for the committee—keeping the lights burning long into the night to make this bill possible.

Finally, thanks go to the hard-working interns and law clerks. I refer to Casey August, Grant Menke, and Peter Jordan. Grant took the summer off to call balls and strikes as an umpire in the New York-Penn league. Grant helped us with this bill in the spring and returned in time for the conference.

Let me extend my thanks also to George Yin and the staff of the Joint Committee on Taxation for providing guidance in this effort. I want to particularly point out the good work of Ray Beeman, David Noren, and Gray Fontenot. The Finance Committee tax staff refers to this trio of specialists as the ''three amigos.'' The three amigos helped us find a lot of gold out there in corporate loophole land. Brian Meighan recently left the three amigos for the private sector.

I would like to thank the leadership staff for all their assistance. From Senator FRIST's staff, I thank Lee Rawls, Eric Ueland, Ronit Kumar, and Libby Jarvis. I also thank our Senate leadership team and their staffs, especially our able whip, Senator MCCONNELL.

Finally my thanks to go Jim Fransen, Mark Mathiesen, Mark McGunable and their capable staff at legislative counsel for taking on our ideas and drafting them into statutory language. These talented lawyers are the true wizards of the legislative process. They handle enormous pressure with professionalism and amazing dexterity.

I invite everybody to relax a bit today. After the vote tonight, everyone should go home and get a good night's sleep. As for me, now we are getting ready to wrap up. I am looking forward to going home to Iowa. It is harvesttime in the fields. I have some work to do on the farm. We also have a bit of an election coming up. God willing, the good folks of Iowa will send me back here to continue to do the people's business.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the conference report to accompany H.R. 4520.

Mr. GRASSLEY. Mr. 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 legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent from today's vote—the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Arizona (Mr. MCCAIN), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New Hampshire (Mr. SUNUNU).

Mr. REID. I announce that the Senator from North Dakota (Mr. DORGAN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

The result was announced—yeas 69, nays 17, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—69

Alexander	Dole	McConnell
Allard	Domenici	Mikulski
Allen	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Fitzgerald	Nelson (NE)
Bingaman	Frist	Nickles
Bond	Graham (SC)	Pryor
Breaux	Grassley	Reid
Brownback	Hagel	Roberts
Bunning	Harkin	Santorum
Burns	Hatch	Schumer
Cantwell	Hutchison	Sessions
Chafee	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Stabenow
Conrad	Kyl	Stevens
Cornyn	Landrieu	Talent
Craig	Lieberman	Thomas
Crapo	Lincoln	Voinovich
Daschle	Lott	Warner
Dayton	Lugar	Wyden

NAYS—17

Akaka	Corzine	Kennedy
Biden	DeWine	Levin
Boxer	Dodd	Reed
Byrd	Durbin	Rockefeller
Carper	Feinstein	Sarbanes
Collins	Gregg	

ANSWERED ''PRESENT''—1

Kohl

NOT VOTING—13

Campbell	Hollings	Miller
Chambliss	Kerry	Specter
Dorgan	Lautenberg	Sununu
Edwards	Leahy	
Graham (FL)	McCain	

The conference report was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, there are a few of us who would like to be heard on different subject matters. Maybe we could work out some arrangement so we don't have to wait around. I have about 20 minutes to speak on the bill that was just agreed to. I know other colleagues will also request time on various matters.

I will ask unanimous consent that once matters of business are finished, I be recognized for 15 minutes in morning business.

GUARDSMEN AND RESERVISTS FINANCIAL RELIEF ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Finance Committee is discharged from further consideration of H.R. 1779, the Senate will proceed to the consideration of the amendment at the desk, which is agreed to, the motion to reconsider is laid on the table, the bill, as amended, is read a third time and passed, and the motion to reconsider is laid on the table.

The amendment (No. 4061) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (H.R. 1779), as amended, was read the third time and passed.

REFUNDABLE TAX CREDITS FOR MUNICIPALITIES

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of S. Res. 464, which the clerk will report by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 464) relating to refundable tax credits from municipalities.

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

The resolution (S. Res. 464) was agreed to.

The resolution reads as follows:

S. RES. 464

Whereas, the Senate today passed a free standing measure which is designed to address tax relief issues relating to Reservists and National Guardsmen;

Whereas, one of the provisions of the package provides tax relief to employers of Reservists and National Guardsmen;

Whereas, the employer provision is targeted to businesses and tax paying entities;

Whereas, State and local governments are facing budgetary pressures, particularly with regard to homeland security;

Whereas, many local first responders have been called to active duty in the National Guards and Reserves, and many state and local governments have continued to pay their salaries, thus increasing the budgetary pressure on state and local governments;

Whereas, the Senate recognized this pressure by including in the FSC–ETI bill a provision to compensate state and local governments for closing the pay gap of first responders who are called to active duty in the National Guards and Reserves: Now, therefore, be it

Resolved, That it is the Sense of the Senate that: